

RESOLUTION OF THE BASTROP COUNTY COMMISSIONERS COURT REGARDING INAPPLICABILITY OF THE PRIVATE REAL PROPERTY RIGHTS PRESERVATION ACT TO THE COUNTY'S PROPOSED NUISANCE ABATEMENT ORDER

WHEREAS, the Bastrop County Commissioners Court will consider adoption of an Amended Order for Abatement of Public Nuisances, Junked Vehicles and Litter;

WHEREAS, the purpose of the Order is to protect the public health, safety, and welfare, to promote the economic welfare of the state, to decrease situations which are nuisances creating a greater likelihood of vandalism and fire, to prohibit activity which would cause, permit or allow a public nuisance.

IT IS, THEREFORE, RESOLVED BY THE COMMISSIONERS COURT OF BASTROP COUNTY, TEXAS THAT:

1. All of the above premises are hereby found to be true and correct legislative and factual findings of the Bastrop County Commissioners Court and are hereby approved and incorporated into the body of this Resolution as if copied in their entirety.

2. Pursuant to Texas Government Code §2007.003 (6), (7) and (13), the Private Real Property Rights Preservation Act does not apply to the County's consideration or passage of an Amended Order for Abatement of Public Nuisances, Junked Vehicles and Litter, as such action is taken in part (1) to prohibit or restrict the condition or use of private real property constituting a public nuisance under the laws of this state and under the County's Order for Abatement of Public Nuisances, Junked Vehicles and Litter, and/or (2) to avoid real and substantial threats to the public health and safety, is designed to significantly advance the health and safety purpose, and does not impose a greater burden than is necessary to achieve the health and safety purpose, and/or (3) to prevent or grave and immediate threats to life or property.

3. This Resolution shall take effect immediately from and after its passage and the publication of the caption, as the law and charter in such cases provide.

4. This Resolution is passed in a meeting of the Bastrop County Commissioners Court that was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Texas Open Meetings Act, Chapter 551 of the Texas Government Code.

Adopted and effective on this the 14th day of May, 2012 by the Commissioners Court of Bastrop County.



Jim Wither, County Judge




William Piña, Commissioner Pct. 1



John Klaus, Commissioner Pct. 3



Clara Beckett, Commissioner Pct. 2



Vivian Dildy, Commissioner Pct. 4

**BASTROP COUNTY ORDER FOR ABATEMENT OF
PUBLIC NUISANCES, JUNKED VEHICLES AND LITTER**
Adopted and Effective December 18, 2000
Amended Effective May 14, 2012

DEFINITIONS:

- Abate to eliminate or remedy by removal, repair, rehabilitation, or demolition
- Antique Auto passenger car or truck that was manufactured in 1925 or before OR a passenger car or truck that is at least 35 years old
- Building a structure built for support, shelter, or enclosure of a person, animal, chattel, machine, equipment, or other movable property
- Collector the owner of one or more antique autos or special interest vehicles who collects, purchases, acquires, trades, or disposes of special interest or antique vehicles or parts of them for personal use in order to restore, preserve, and maintain an antique or special interest vehicle for historic interest
- Commissioners Court the Bastrop County Commissioners Court, the governing body of Bastrop County
- County Employee any authorized employee of the Bastrop County Health, Sanitation and Environmental Department acting on behalf of Bastrop County and any authorized employee of the Health, Sanitation and Environmental Enforcement Department acting on behalf of Bastrop County
- Demolisher a person whose business is to convert a motor vehicle into processed scrap or scrap metal or to otherwise wreck or dismantle a motor vehicle
- Environmental Authority any authorized employee of the Bastrop County Health, Sanitation and Environmental Enforcement acting on behalf of the County
- Flea Market an outdoor or indoor market, conducted on non-residential premises for selling secondhand articles or antiques, unless conducted by a religious, educational, fraternal, or charitable organization
- Garbage a decayable waste from a public or private establishment or restaurant. The term includes vegetable, animal, and fish offal and animal and fish carcasses, but does not include sewage, body waste, or an industrial by-product

Health, Sanitation
And Environmental
Authority

The Bastrop County Health, Sanitation and Environmental Enforcement Department and his/her authorized representative

Junked Vehicle

a motor vehicle as defined in Texas Transportation Code section 683.071. It is a vehicle that is self-propelled and is wrecked, dismantled or partly dismantled, or discarded or is inoperable and has remained inoperable for more than 72 consecutive hours, if the vehicle is on public property, or 30 consecutive days, if the vehicle is on private property. "Junked vehicle" includes a motor vehicle, aircraft, or watercraft. A "junked vehicle" can only be a motor vehicle that does not have lawfully affixed to it an unexpired license plate and a valid motor vehicle safety inspection certificate; an aircraft that does not have lawfully printed on the aircraft an unexpired federal aircraft identification number registered under Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; or a watercraft that does not have lawfully on board an unexpired certificate of number and is not a watercraft described by Texas Parks and Wildlife Code section 31.055.

Litter

decayable waste from a public or private establishment, residence, or restaurant, including animal and vegetable waste material from a market or storage facility handling or storing produce or other food products, or the handling, preparation, cooking or consumption of food, but not including sewage, body waste, or industrial by-products; OR

non-decayable solid waste, except ashes, that consists of:

- A. combustible waste material, including rags, paper, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, or similar materials;
- B. noncombustible waste material including glass, crockery, tin or aluminum cans, metal furniture, and similar materials that do not burn at ordinary incinerator temperatures of 1800 degrees Fahrenheit or less; and
- C. discarded or worn-out manufactured materials and machinery, including motor vehicles and parts of motor vehicles, tires, aircraft, farm impellers, building or construction materials, appliances, and scrap metal.

The term does not include equipment being used for agricultural purposes.

Motor Vehicle

Any motor driven or propelled vehicle required to be registered under the laws of this state; a trailer or semitrailer, other than manufactured housing, that has a gross vehicle weight that exceeds 4,000 pounds; a

travel trailer; an all-terrain vehicle or a recreational off-highway vehicle, as those terms are defined by Texas Transportation Code section 502.001, designed by the manufacturer for off-highway use that is not required to be registered under the laws of this state; or a motorcycle, motor-driven cycle, or moped that is not required to be registered under the laws of this state.

Neighborhood a platted subdivision or property contiguous to and within 300 feet of a platted subdivision

Order the Bastrop County Order for Abatement of Public Nuisances, Junked vehicles and litter

Platted Subdivision a subdivision that has or is required to have its approved or unapproved plat recorded with the county clerk of the county in which the subdivision is located

Person an individual, corporation, association, business trust, estate, trust, partnership, and any other legal entity

Premises all privately owned property, including vacant land, or a building designed or used for residential, commercial, business, industrial or religious purposes. The term includes a yard, ground, walk, driveway, fence, porch, step, or other structure appurtenant to the property

Public Nuisances

- A. keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle;
- B. keeping, storing or accumulating rubbish, including newspapers, abandoned vehicles, abandoned manufactured, mobile and modular homes, refrigerators, stoves, furniture, tires and cans, on premises in a neighborhood or within 300 feet of a public street for ten days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street;
- C. maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease carrying pests;
- D. allowing weeds to grow on premises in a neighborhood if the weeds are located within 300 feet of another residence or commercial establishment;
- E. maintaining a building in a manner that is structurally unsafe or constitutes a hazard to safety, health, or public welfare because of inadequate maintenance, unsanitary conditions, dilapidation,

- obsolescence, disaster, damage, or abandonment or because it constitutes a fire hazard;
- F. maintaining an abandoned and unoccupied property in a neighborhood swimming pool that is not protected with:
 - 1. a fence that is not at least four feet high and that has a latched and locked gate that cannot be opened by a child; or
 - 2. a cover over the entire swimming pool that cannot be removed by a child;
 - G. maintaining a flea market in a manner that constitutes a fire hazard;
 - H. discarding refuse or creating a hazardous visual obstruction on county-owned land or land or easements owned or held by a special district that has the commissioners court of the county as its governing body;
 - I. discarding refuse on the smaller of the area that spans 20 feet on each side of a utility line or the actual span of the utility easement;
 - J. filling or blocking a drainage easement, failing to maintain a drainage easement, maintaining a drainage easement in a manner that allows the easement to be clogged with debris, sediment, or vegetation, or violating an agreement with the County to improve or maintain a drainage easement; or
 - K. discarding refuse on property that is not authorized for that activity.

The definition of "Public Nuisance" does not apply to a site or facility that is permitted and regulated by a state agency for the activity described in this definition or licensed or permitted under Chapter 361 of the Texas Health and Safety Code for the activity described in this definition.

Public Street or
Public Highway

the entire width between property lines of a road, street, way, thoroughfare, bridge, public beach, or park in this state not privately owned or controlled if any part of the road, street, way, thoroughfare, bridge, public beach or park is: open to the public for vehicular or pedestrian traffic; used as a public recreational area; or is under the state's legislative jurisdiction through its police power

Receptacle

a contained that is composed of durable material and designed to prevent the discharge of its contents and to make its contents inaccessible to animals, vermin or other pests

Refuse

garbage, rubbish, paper, and other decayable and non-decayable waste, including vegetable matter and animal and fish carcasses

Review Board

a three person panel to review hearings requested by a charged citizen to the abatement of a public nuisance, designated by the Commissioners Court

- Rubbish non-decayable waste from a public or private establishment or residence
- Special Interest Vehicle a motor vehicle of any age that has not been altered or modified from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist
- Storage Facility a garage, parking lot, or any type of facility or establishment for the servicing, repairing, storing, or parking of motor vehicles
- Weeds all rank and uncultivated vegetable growth or matter that:
A. has grown to more than 36 inches in height; or
B. may create an unsanitary condition or become a harborage for rodents, vermin, or other disease carrying pests, regardless of the height of the weeds

SECTION I ESTABLISHMENT AND GENERAL PROVISIONS – AUTHORITY

The Bastrop County Order for Abatement of Public Nuisances, ("Order") is adopted by the Commissioners Court acting in its capacity as the governing body of Bastrop County under the authority of the Litter Abatement Act, Chapter 365 of the Texas Health and Safety Code, Chapter 683 of the Texas Transportation Code, and Chapters 343 and 365 (Texas Litter Abatement Act) of the Health and Safety Code, and other applicable statutes.

SECTION II PURPOSE

The purpose of this Order is to protect the public health, safety, and welfare, to promote the economic welfare of the state, to decrease situations which are nuisances creating a greater likelihood of vandalism and fire, to prohibit activity which would cause, permit or allow a public nuisance.

SECTION III AREA OF JURISDICTION

- A. Bastrop County. This Order shall apply to all of the areas of Bastrop County except for the areas within the boundaries of the incorporated cities and towns of Bastrop County
- B. Incorporated areas. This Order shall also apply to those incorporated cities and towns or villages that have adopted this Order and executed cooperative agreements with Bastrop County for their enforcement
- C. Reference. The area of jurisdiction as described in A and B may be referred to herein as Bastrop County.

SECTION IV EFFECTIVE DATE

This Order shall become effective upon adoption by the Commissioners Court

SECTION V CONSTRUCTION, PRECEDENTS, AND INTERPRETATION

- A. Liberal Construction. This Order shall be construed liberally to accomplish its purpose.
- B. Interpretation. The Commissioners Court shall ultimately resolve any question regarding any interpretation of the Order.
- C. Conflict. In the event of any conflict between the Order and a State Law, a rule adopted under a State Law, or a County Order, the stricter of the two provisions shall prevail.
- D. Number and Gender. The masculine, feminine, and neuter genders shall be construed to include the other genders as required. The singular and plural shall be construed to include the other number as required.
- E. Computation of Time. When any period of time is stated in this Order, the time shall be computed to exclude the first day and include the last day of the period. If the last day of any period falls on a Saturday, Sunday, or holiday, these days shall be omitted from the computation.

SECTION VI SEVERABILITY

If any provision of this Order or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, the validity of the remainder of this Order and the application thereof to other persons and circumstances shall not be affected.

SECTION VII ADMINISTRATION OF THE ORDER AND DESIGNATION OF AUTHORIZED PERSON

This Order may be administered by a person, board, commission or official designated by the Commissioners court.

Unless the Commissioners Court designated otherwise, or unless otherwise required by statute, the Commissioners Court hereby orders that the Environmental Authority shall be the designated an authorized representative of the County in all matters concerning application and enforcement of this Order and thus have the duty and necessary powers to administer and enforce the provisions of this Order. Specifically, the Environmental Authority shall have the following duties and necessary concomitant powers:

- A. To enforce this Order and to make appropriate recommendations to proper County authorities when instances of noncompliance with this Order have been determined.
- B. To make inspections of any property, public or private, as requested or required to enforce this Order
- C. To assist as requested at a hearing conducted by the Review Board regarding violations of this Order, so that the Review Board may render determinations regarding violations under this Order
- D. To provide to the Commissioners Court any information concerning this Order and its implementation which may be requested by the Commissioners Court
- E. To perform all other duties necessary to meet the requirements of this Order

SECTION VIII NUISANCES. PROHIBITION. REMEDIES

The Commissioners Court hereby orders that it shall be unlawful for an owner, occupant, tenant, resident or person in control of any lot or parcel of ground within Bastrop County to:

- A. cause, permit, or allow a public nuisance on any premise; or
- B. fail to keep the property owned or occupied by him/her under his/her control free from stagnant water, weeds, rubbish, garbage, brush, trash or any other objectionable, unsightly, or unsanitary matter of whatsoever nature; or
- C. fail to fill up, drain or regrade any lots, ground, or yards or any other property owned or occupied by him/her or under his/her control which shall be unwholesome or have stagnant water thereon, or which from any other cause, is in such condition as to be liable to produce disease; or
- D. fail to keep any house, building, establishment, lot, yard or grounds owned or occupied by him/her or under his/her control at all times free from filth, carrion or impure or unwholesome matter of any kind
- E. accumulation of litter for more than thirty (30) days on a person's property within fifty (50) feet of a public highway in the County is prohibited.

The County may abate a nuisance under this order:

- A. by demolition or removal;
- B. in the case of a nuisance as defined in paragraphs (A), (H), and (I) of the definition of "Public Nuisance" herein, by prohibiting or controlling access to the premises;
- C. in the case of a nuisance as defined in paragraph (F) of the definition of "Public Nuisance" herein, by prohibiting or controlling access to the premises and installing a cover that cannot be opened by a child over the entire swimming pool or by draining and filling the swimming pool; or
- D. in the case of a nuisance as defined in paragraph (K) of the definition of "Public Nuisance" herein, by removal, remediation, storage, transportation, disposal, or other means of waste management authorized under Chapter 361 of the Texas Health and Safety Code.

SECTION IX GENERAL PROCEDURES – ABATEMENT PUBLIC NUISANCE
OTHER THAN JUNKED VEHICLES

- A. Application. The requirements of Section VIII shall apply to any public nuisance unless that public nuisance is a junked vehicle or vehicle part as addressed in Section XIV of this Order.
- B. Administration of Nuisance Procedures. County abatement procedures must be administered by a regularly salaried, full-time County employee, but the removal or demolition of the nuisance may be made by a person authorized by the person administering the abatement program.
- C. Authority to Enter Premises – Nuisance
Entry – A County official, agent, or employee charged with the enforcement of health, sanitation and environmental, safety, or fire laws, including the Health Authority, its authorized representative or other duly authorized person, may enter any premises in the

unincorporated area of the County at a reasonable time to inspect, investigate, or abate a nuisance or to enforce this Order.

Identification – Before entering the premises, the official, agent, or employee must exhibit proper identification to the occupant, manager, or other appropriate person.

- D. Injunction; right of access. The County may by injunction prevent, restrain, abate, or otherwise remedy a violation of this Order in the unincorporated area of the County. If injunctive relief is granted, the court may award the County reasonable attorney's fees and court costs. The County may also bring suit to prohibit or control access to the premises to prevent a continued or future violation a public nuisance as described in paragraphs (A), (F), (H), or (I) of the definition of "Public Nuisance" herein. The court may grant relief only if the County demonstrates that the person responsible for causing the public nuisance has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought prohibits or controls access of a person other than the owner, or the owner of the premises knew about the nuisance and has not responded sufficiently to previous attempts to abate a nuisance on the premises, if the relief sought controls access of the owner. In a suit brought under paragraph (H) of the definition of "Public Nuisance," the Court may not prohibit or control access by the owner or operator of a utility line or utility easement to that utility line or utility easement and may not prohibit the owner of the premises from accessing the property but may prohibit a continued or future violation.

SECTION X VIOLATION NOTICE

- A. Notice must be in writing and given to:
1. the owner, lessee, occupant, agent or person in charge of the premises; and
 2. the person responsible for causing a public nuisance on the premises when:
 - a. That person is not the owner, lessee, occupant, agent or person in charge of the premises; and
 - b. The person responsible can be identified
- B. The notice must state:
1. the specific condition that constitutes a nuisance;
 2. that the person receiving notice shall abate the nuisance before the thirty-first (31st) day after the date on which the notice is served or 10th business day after the date on which the notice is served if the person has previously received a notice regarding a nuisance on the premises;
 3. that failure to abate the nuisance may result in abatement by the County; assessment of costs to the person responsible for causing the nuisance when that person can be identified; and a lien against the property on which the nuisance exists, if the person responsible for causing the nuisance has an interest in the property;
 4. that the county may prohibit or control access to the premises to prevent a continued or future nuisance as described in paragraphs (A), (F), (H), and (I) of the definition of "Public Nuisance" herein;
 5. that the person receiving the notice is entitled to submit, before the thirty-first (31st) day after the date on which the notice is served or before the 10th business day after

the day on which notice is served if the person has previously received a notice regarding a nuisance on the property, a written request for hearing; and

6. that the person has 10 days from the time the notice is served to contact the Authority office and state their intent to clean the property
- C. The notice must be:
1. given by service in person by an officer or employee of the County; or
 2. sent by registered or certified United States mail, return receipt requested, addressed to such owner at his mailing address; or
 3. if personal service cannot be obtained, or the mailing address of the person to be notified is not known, then notice may be given by:
 - a. publishing a copy of the notice at least two times within ten consecutive days in some daily newspaper of general circulation published in the County addressed "Sanitary Improvements," "To Whom It May Concern," and such publication shall be deemed sufficient notice; and
 - b. posting a copy of the notice on or near the front door of each building on the property to which the violation relates, or, if the property contains no building, by posting a copy of the notice on a placard attached to a stake driven into the ground of the property to which the violation relates.

SECTION XI PUBLIC HEARING

- A. Public Hearing. Subject to Section VII of this Order, if a hearing is requested under Section 343.022(e), Texas Health and Safety Code, the County must conduct said hearing before the Review Board prior to abatement. In order to request such a hearing, the owner, lessee, agent, or person in charge of the property who has received notice that a public nuisance exists shall file a written request for same with the Environmental Authority before the thirty-first (31st) day after the date the notice is served or before the 10th business day after the date on which the notice is served if the person has previously received a notice regarding a nuisance on the premises, and the Environmental Authority may set a date for hearing without one being requested, and provide notice of that hearing to the person receiving notice under Section X. The County may, before conducting a hearing, abate a nuisance as described in paragraph (F) of the definition of "Public Nuisance" herein by prohibiting or controlling access to the premises on which the nuisance is located and installing a cover that cannot be opened by a child over the entire swimming pool so long as the County conducts a hearing under this Section after the nuisance is abated.
- B. Appeal. Within ten (10) days of the issuance of a determination by the Review Board after the public hearing under Section XI (A), the person receiving notice under Section XI may file a written request for appeal of that determination to the Commissioners Court, at which time a public hearing before the Commissioners Court will be scheduled. During the public hearing, the Commissioners Court will:
1. review the appeal of the determination by the Review Board; and, if the determination of the existence of a nuisance is confirmed then,
 2. review the issue of abatement, including the costs of such abatement, and make a final determination as to the actual course of action to be taken by the County

- C. Commissioners Court Action. In the event a hearing is not requested under Section XI or an appeal is not requested under Section XI (B), the Environmental Authority will present its determination and necessary information concerning the proposed abatement to the Commissioners Court in a regularly scheduled meeting for final decision by the Commissioners Court as to the action to be taken by the County
- D. Further Action. Final determinations by the Commissioners Court may be submitted for enforcement to any competent Court of jurisdiction within Bastrop County

SECTION XII ASSESSMENT OF COSTS AND EXPENSES

- A. Failure to Remedy. In the event any owner shall fail or refuse to remedy any of the conditions prohibited by Section XII after the thirtieth (30th) day after the receipt of the notice to do so, the County may abate such condition by demolition or removal, or cause the same to be done, and pay therefor, and charge the expenses in doing or having such work done, to the owner of the property, with such charge being a personal liability of such owner to the County.
- B. Assessed Against Property. In addition to other remedies provided herein, and cumulative thereto, the Environmental Authority, after giving thirty (30) days notice as specified in Section X, may cause any of the work mentioned in Section XII (A) to be done at the expense of the county, on the account of the owner of the property on which such work is done and cause all of the actual cost to the County to be assessed on the real estate or lot on account of which such expense is incurred.
- C. Assessment of Costs; Lien.
 - 1. Assessment. County may assess the cost of abating the nuisance, the cost of legal notification by publication, and an administrative fee of not more than \$100.00 on the person receiving notice or, by order or resolution, assess said costs against the property on which the nuisance exists. The County may not make an assessment against property unless the owner or owner's agent receives notice of the nuisance in accordance with Section X.
 - 2. Lien. To obtain a lien against the property to secure an assessment, the Environmental Authority shall cause a statement of the costs incurred in doing such work to be made out and certified to by the Environmental Authority and filed with the County Clerk, stating the legal description of the property upon which such work was done, the character of work done and the name of the owner of such property, and follow any other procedure required by law to secure a lien against the property
 - 3. Inferiority of Lien. The County's lien to secure an assessment is inferior to a previously recorded bona fide mortgage lien attached to the real property to which the County's lien attaches, if the mortgage was filed for record in the office of the County Clerk of the County in which the real property is located before the date on which the County files the notice of lien with the County Clerk.
 - 4. Interest. The County is entitled to accrued interest beginning on the thirty-first (31st) day after the date of the assessment against the property at the rate of ten (10) percent per year.
 - 5. Suit Against Owner. For any such expenditures and interest under Section XII, suit may be instituted and a personal judgment obtained against the owner of such property and recovery and foreclosure had in the name of the County against the

owner of such property in any court having jurisdiction, and the statement of expenditures so made and filed, or a certified copy thereof, shall be prima facie proof of the amount expended in any such work

SECTION XIII INJUNCTION

Prevention. A County or district court having jurisdiction may, by injunction, prevent or restrain a violation of this Order in the unincorporated area of the county.

Suit. A County or a person affected or to be affected by a violation under this Order, including a property owner, resident of a neighborhood, or organization of property owners or residents of a neighborhood, may bring suit under Section XIII (Prevention). If the court grants the injunction, that court may award the plaintiff reasonable attorney's fees and court costs.

SECTION XIV. CRIMINAL PENALTY

- A. Commission. A person commits an offense if:
 - 1. the person violates Section VII; and
 - 2. the nuisance remains unabated after the thirtieth (30th) day after the date on which a person receives notice from the Environmental Authority, or any duly authorized County official, agent, or employee to abate the nuisance.
- B. Misdemeanor; Fine. An offense under Section VIII is a misdemeanor punishable by a fine of not less than fifty dollars (\$50.00) or more than two hundred dollars (\$200.00).
- C. Previous Conviction. If it is shown on the trial of the defendant that the defendant has been previously convicted of an offense under this Order, the defendant is punishable by a fine of not less than two hundred dollars (\$200.00) or more than one thousand dollars (\$1000.00), confinement in jail for not more than six (6) months, or both.
- D. Separate Offense. Each day a violation occurs, starting with the thirty-first (31st) day, is a separate offense and shall be charged for each day at the court hearing.
- E. Order to Abate. The County or district court having jurisdiction shall order abatement of the nuisance if the defendant is convicted of an offense under this Order.

SECTION XVII DECLARTED TO BE A NUISANCE

A. Because junked vehicles are detrimental to the health, safety, and welfare of the general public, tending to reduce the value of private property to invite vandalism, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, they should be declared to be a nuisance. Because junked vehicles are detrimental to economic welfare of the city, county, and state by producing urban blight which is adverse to the maintenance and continuing development of the county, such vehicles that are visible from a public place or public right-of-way are hereby declared to be a public nuisance and subject to abatement as provided in these Rules.

B. Prohibited on Private Property. The Commissioners Court hereby orders that the owner or occupant or person in control of any real property within the county shall keep such property free of, and shall not permit or suffer the presence of any junked vehicle on such property in violation of these Rules.

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SECTION XVI GENERAL PROCEDURES – JUNKED VEHICLE

- A. Administration by Authorized Person. The procedure herein shall be administered by a regularly salaried, full-time employee of Bastrop County, except that the removal of a vehicle or vehicle part from property may be any duly authorized person requested by the Environmental Department.
- B. Entry by Authorized Person. A person authorized by Bastrop County to administer the procedures authorized by this Order, including the Environmental Authority or its authorized representative, may enter private property for the purposes specified in the procedures to examine a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of a vehicle or vehicle part that constitutes a nuisance.

SECTION XVII EXEMPTIONS – JUNKED VEHICLE REQUIREMENTS

- A. Concealed or Special Vehicles. The provisions of this Section shall not apply to:
 - 1. a vehicle or part thereof which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
 - 2. a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a vehicle dealer or junkyard; or
 - 3. unlicensed, operable or inoperable antique and special interest vehicles stored by a collector on his property, provided that the vehicles and/or parts and the outdoor storage areas are maintained in an orderly manner, do not constitute a health hazard, and are screened from ordinary public view by means of a fence, rapidly growing trees, shrubbery or other appropriate means.
 - 4. no vehicle or parts of vehicles shall be “grandfathered” (exempt from new regulations)
- B. Obstruction of Traffic. This section does not affect a law authorizing the immediate removal, as an obstruction to traffic, of a vehicle left on public property or public right-of-way.

SECTION XVIII WRITTEN NOTICE TO ABATE – JUNKED VEHICLE

- A. Notice Requirements. Whenever any junked vehicle is located on any private property in violation of this Order, the Environmental Authority shall order the owner or the occupant of the premises whereon such public nuisance exists, to abate or remove the same. The notice shall:
 - 1. be in writing; and
 - 2. state the nature of the public nuisance and that it must be abated within ten (10) days after the service of notice; and
 - 3. state that a request for a hearing to determine whether or not the motor vehicle is a junked motor vehicle in violation of this Order must be made to the Environmental Authority, in writing and without the requirement of bond, before the expiration of said ten (10) day period from the date of service of the written notice.

4. state that in the event that no request for a hearing is received before the expiration of said ten (10) day period, it shall be conclusively presumed that said vehicle is a junked vehicle in violation of this Order.
5. be mailed by certified or registered United States Mail with a five (5) day return receipt requested or hand delivered by an official of the county to the last known registered owner of the junked motor vehicle, any lien holder of record, and the owner or occupant of the private premises on which the public nuisance exists or, if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way. If the post office address of the last known registered owner of the motor vehicle is unknown, notice to the last known registered owner may be placed on the motor vehicle or, if the owner is located, personally delivered. If any notice is returned undelivered by the United States Post Office or the county official, official action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.
6. Notice if Vehicle Owner Cannot be Found. If there is a junked vehicle, as herein defined, on premises are occupied or unoccupied, and neither the owner nor the occupant of the premises can be found and notified to remove same; or the notice required is returned undelivered by the U.S. Post Office or the county official, and ten (10) days after the return of such notice the nuisance has not been abated; then, upon showing of such facts by the Environmental Authority to the Commissioners Court, the Commissioner Court may issue an order directing the removal of the vehicle or vehicle part, and the Environmental Authority shall take responsibility of such junked vehicle and have it removed by an authorized person.

SECTION XIX VISIBLE NOTICE ON JUNKED VEHICLES.

- A. Contents of Notice. At the time notice is given under Section XVII regarding a vehicle which is in violation of this Order in addition to any other notices required herein, a visible notice, brightly colored, but of a color different from that used for notices of abandonment, may be securely affixed to such vehicle. Such notice shall:
 1. state that the vehicle is a public nuisance and that it must be abated within ten (10) days from the date on such notice;
 2. state that a request for a hearing to determine whether or not the motor vehicle is a junked vehicle as defined herein must be made to the Environmental Authority in writing and without the requirement of bond, before the expiration of said ten (10) day waiting period;
 3. state that in the event that no request for a hearing is received before the expiration of said ten (10) day period, it shall be conclusively presumed that said vehicle is a junked vehicle in violation of this Order as defined under county rules; and
 4. state the date it was affixed
- B. Failure to Affix. Affixing the notice set out herein shall not be a condition or requirement precedent to any proceeding or official action to abate such public nuisance, and such proceeding or action shall not be rendered void or voidable, nor in any way affected by failure to affix the visible notice prescribed herein.

SECTION XX PUBLIC HEARING

- A. Hearing Request. The owner or occupant of any premises on which a junked vehicle is located may, within ten (10) days after service of a notice to abate said nuisance, request of the Environmental Authority, in writing, and without the requirement of a bond, that a date and time be set when he/she may appear before the Review Board for a hearing to determine whether or not the motor vehicle is a junked vehicle in violation of this Order. The hearing shall be held not earlier than the 11th day after the date of service of the notice. If a hearing is not requested, one will be set by the Environmental Authority.
- B. Determination. The Review Board shall hear any case brought before it, as set out herein, and shall determine by a preponderance of the evidence whether or not the motor vehicle is a junked motor vehicle and in violation of this Order. At the hearing,
- C. it is presumed, unless demonstrated otherwise, by the owner, that the vehicle is inoperable. Such hearing shall not be criminal in nature and shall be a summary as due process and orderly procedure allows. Upon finding that such motor vehicle is in violation of this Order by the Review Board, the Review Board shall order such defendant to abate such nuisance within ten (10) days, the same being a reasonable time. If the defendant shall fail and/or refuse within the ten (10) days to abate the nuisance, or the owner or occupant does not request a public hearing, the Environmental Authority may issue an order to have the same removed, and the County shall take possession of such junked vehicle. Such order should include, if the information is available at the location of the nuisance: (1) for a motor vehicle, a description of the motor vehicle, the vehicle identification number, and the license plate number; (2) for an aircraft, the aircraft's description and federal aircraft identification number as described by Federal Aviation Administration aircraft registration regulations in 14 C.F.R. Part 47; and (3) for a watercraft, the watercraft's description and identification number as set forth in the watercraft's certificate of number.
- D. Authority to Abate. Public Hearing. In all cases, before the removal of a vehicle, or vehicle part as a nuisance by the County, a public hearing must be held before the governing body of the County or any board, commission, or official of the county as designated by the Commissioners Court pursuant to Section XX. The Commissioners Court hereby designates the Review Board to conduct these hearings.

SECTION XXI IMPOUNDMENT OF JUNKED VEHICLES

- A. Notice. Notice shall be given to the Texas Highway Department that a junked vehicle has been impounded within five (5) days after the removal of the junked motor vehicle as provided in this provision, identifying the vehicle or part thereof impounded.
- B. Disposition of Impounded Vehicles. The Environmental Authority shall dispose of all impounded junked vehicles in such manner as may be designated by the County, consistent with state law, provided such vehicle shall not be reconstructed or made operable. Disposal may be by removal or sale, with or without competitive bidding, to a scrapyard, to a demolisher, or to any suitable site operated by the City of the County for processing of scrap or salvage.

SECTION XXII PENALTY

If a person is found guilty of maintain a junked vehicle in violation of this Order, the person shall be guilty of a misdemeanor, and subject to a fine not to exceed two hundred dollars (\$200.00) and the Environmental Authority shall order abatement of the nuisance.

SECTION XXIII AMENDMENTS

This Order may be amended through action of the Bastrop County Commissioners Court after placing on the agenda for its regularly scheduled meeting.

Adopted and effective on this the 14th day of May, 2012 by the Commissioners Court of Bastrop County.



Jim Withers, County Judge



William Pifia, Commissioner Pct. 1



John Klaus, Commissioner Pct. 3



Clara Beckett, Commissioner Pct. 2



Vivian Dildy, Commissioner Pct. 4