

ORDINANCE NO. 004-2004

AN ORDINANCE OF THE TOWN OF BUFFALO GAP, TEXAS; PROVIDING FOR THE REGULATION OF JUNKED VEHICLES OR A PART OF A JUNKED VEHICLE; MAKING FINDINGS OF FACT; PROVIDING DEFINITIONS; DECLARING JUNKED VEHICLES A PUBLIC NUISANCE; ADOPTING PROCEDURES FOR ABATEMENT OF THE NUISANCE; PROVIDING FOR PENALTIES AND FINES; PROVIDING FOR EXCEPTIONS; PROVIDING FOR DISPOSAL OF JUNKED VEHICLES; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE; AND PROVIDING AN OPEN MEETING CLAUSE.

WHEREAS, the Board of Aldermen of the Town of Buffalo Gap recognizes the need to regulate junked vehicles or a part of junked vehicles within the Town in order to preserve and protect the public health and safety and to preserve the quality of life and property values;

WHEREAS, the provisions of this Ordinance are consistent with Chapter 683, Texas Transportation Code;

WHEREAS, the Board of Aldermen seeks to adopt such regulations and give additional emphasis to the regulation of junked vehicles by providing procedures for the abatement and removal from private or public property or a public right-of-way of a junked vehicle or part of a junked vehicle as a public nuisance, in order to maintain the health, safety and welfare of the City; and

WHEREAS, the Board of Aldermen has held a public hearing to consider the voice and views of the citizens regarding the process, procedures, requirements and conditions provided in this ordinance;

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE TOWN OF BUFFALO GAP, TEXAS, THAT:

Section 1. Finding of Fact. The above and foregoing recitals are hereby found to be true and correct and are incorporated herein as findings of fact. The Board of Aldermen hereby further finds and determines that the rules, regulations, terms, conditions, provisions and requirements of this ordinance are reasonable and necessary to protect the public health, safety and quality of life.

Section 2. Junked Motor Vehicle Regulations Adopted. The Board of Aldermen of the Town of Buffalo Gap hereby adopts the "Junked Motor Vehicle Regulations" for the control and regulation of junked vehicles or a part of a junked vehicle within the Town of Buffalo Gap to read as set forth in the attachment hereto entitled "Junked Motor Vehicles", attached to and incorporated in this ordinance as though fully transcribed herein for all purposes.

Section 3. Effective Date. This ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Texas Local Government Code.

Section 4. Severability. It is hereby declared to be the intention of the Board of Aldermen that the sections, paragraphs, sentences, clauses, and phrases of this Ordinance are severable and, if any phrase, sentence, paragraph or section of this Ordinance should be declared invalid by the final judgment or decree of any court of competent jurisdiction, such invalidity shall not affect any of the remaining phrases, clauses, sentences, paragraphs and sections of this Ordinance, since the same would have been enacted by the Board of Aldermen without the incorporation of this Ordinance of any such invalid phrase, clause, sentence, paragraph or section. If any provision of this Ordinance shall be adjudged by a court of competent jurisdiction to be invalid, the invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision, and to this end the provisions of this Ordinance are declared to be severable.

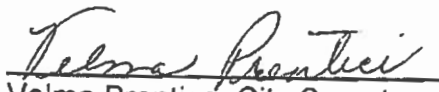
Section 5. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and the public notice of the time, place and purpose of said meeting was given by the Open Meetings Act.

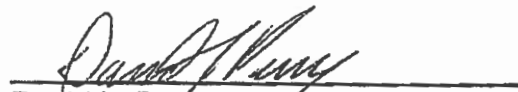
PASSED AND APPROVED on first reading this 1 day of April, 2004.

FINALLY PASSED AND APPROVED this 6 day of May, 2004.

ATTEST:

TOWN OF BUFFALO GAP, TEXAS


Velma Prentice, City Secretary


David L. Perry, Mayor
Town of Buffalo Gap, Texas



Junked and Abandoned Motor Vehicles

Subchapter A. General Provisions

- 1.001 State Law Applicable
- 1.002 Definitions
- 1.003 Enforcement
- 1.004 Effect on Other Statutes of Ordinances
- 1.005 Penalties

Subchapter B. Junked Vehicles

- 1.020 Junked Vehicles a Public Nuisance.
- 1.021 Maintaining a Public Nuisance.
- 1.022 Procedures for Abatement of Public Nuisance.
- 1.023 Exception to Junk Vehicles.
- 1.024 Disposal of Junked Vehicles.

SUBCHAPTER A. GENERAL PROVISIONS

1.001 State Law Applicable

The Texas Transportation Code Chapter 683, as amended is adopted by reference and the provisions of said Chapter shall control and take precedence over any conflicting provisions of this Chapter.

1.002 Definitions

As used in this Ordinance, the following terms shall have the meaning indicated below:

(a) Junked Vehicle means a vehicle that is self propelled and:

(1) does not have lawfully affixed to it:

(A) an unexpired license plate,; or

(B) a valid motor vehicle safety inspection certificate; and

(2) is

A. wrecked, dismantled, partially dismantled, or discarded; or

B. inoperable and has remained inoperable for more than:

(i) 72 consecutive hours, if on public property; or

(ii) 30 Consecutive days, if on private property.

1.003 Enforcement

The administration of this Ordinance shall be the responsibility of the Police Department, or such department, officer, or employee of the Town, designated by the Board of Aldermen; provided that the Chief of Police, or other salaried, full time employee of the Town of Buffalo Gap, as designated by the Board of Aldermen, is authorized to administer and supervise the procedures, sections, and provisions of this Ordinance applying to junked vehicles. Whoever is so authorized may enter upon private property for the purposes specified in this Ordinance to examine motor vehicles and to remove or cause the removal of a motor vehicle or parts thereof declared to be a nuisance pursuant to this Ordinance. Upon request by the officer designated pursuant to this Section, the Board of Aldermen, serving in the capacity of the municipal court, may issue orders necessary to the enforcement of this Ordinance.

1.004 Effect on Other Statutes or Ordinances

Nothing in this Chapter shall affect statutes that permit immediate removal of vehicles left on public property that obstruct traffic or otherwise create an imminent threat to health and safety.

1.005 Penalties

Any person convicted of violating any provision of this ordinance shall be guilty of a misdemeanor and shall be subject to a fine in an amount not to exceed Two Hundred dollars (\$200.00) for each offense, and each day of such violation shall be a separate violation.

SUBCHAPTER B. JUNKED VEHICLES

1.020 Junked Vehicles A Public Nuisance.

Section 683.072, Texas Transportation Code, declares that a junked vehicle, including a part of a junked vehicle that is visible from a public place or a public right of way is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, and creates a fire hazard. It further declares that a junked vehicle, including a part of a junked vehicle is an attractive nuisance creating a hazard to the health and safety of minors; and produces urban blight adverse to the maintenance and continuing development of municipalities; and is a public nuisance. The Board of Aldermen of the Town of

Buffalo Gap, Texas hereby adopts such findings and declarations, and declares that a junked vehicle, including a part of a junked vehicle is a public nuisance.

1.021 Maintaining a Public Nuisance

It shall be unlawful for any person or property owner to maintain a public nuisance, as defined in Section 1.020 above, within the Town of Buffalo Gap. Any person or property owner who is guilty of creating and/or maintaining a public nuisance offense as defined in Section 1.020 shall be guilty of a misdemeanor and be subject to a fine not to exceed two hundred dollars (\$200.00) for each offense, and each day shall be a separate violation and, upon the Board of Aldermen, serving in the capacity of the municipal court, finding any person guilty of maintaining a public nuisance as defined in Section 1.020, the court shall order removal and abatement of the nuisance. The fine, penalties, and interest shall continue until the removal and abatement of the nuisance.

1.022 Procedures for Abatement of Public Nuisance.

The Police Department, Code Enforcement Officer, or other full time salaried person designated as administrator of the Ordinance, by the Board of Aldermen, when desiring to remove and dispose of junked vehicles from private property, public property, or public right-of-way shall comply with the following procedures:

(a) A written notice stating the nature of the public nuisance on private property and that it must be removed and abated within ten (10) days of the date the letter was mailed, and further stating that any request for a hearing must be made before the expiration of said ten(10) day period, shall be mailed by certified mail with a five (5) day return receipt requested or a personal delivery, to the last known registered owner of the junked vehicle, any lienholder of record and the owner or the occupant of the private premises whereupon such public nuisance exists. If the notice is returned undelivered by the United States Post Office, official action to abate such nuisance shall be continued to a date not less than ten (10) days from the date of such return;

(b) The requirements of subsection (a) above shall also apply to the case of public nuisance on public property and similar notice shall be sent to the owner or the occupant of the public premises and to the owner or the occupant of the premises adjacent to the public property whereupon such public nuisance exists.

(c) If sufficient information is not available to determine the registered owner of the nuisance, after reasonable effort to locate the owner, notice may be placed on the nuisance.

(d) Once a vehicle has been removed under the provisions of this subchapter, it shall not be reconstructed or made operable.

(e) If the vehicle is not removed or otherwise brought into compliance, a public hearing will be held after the expiration of ten (10) days, or more after mailing or personal delivery of notice to abate the nuisance. A hearing will be held prior to the removal of the vehicle, or part thereof as a public nuisance, before the Chief of Police, or the Mayor, should there be no Chief of Police. Should the Chief of Police, or the Mayor, should there be no Chief of Police, find that such vehicle is a public nuisance, as defined herein, he/she shall enter an order requiring the removal of the vehicle or part thereof from the public or private property or public right-of-way where it is situated, and such order shall include a description of the vehicle, identification number, and license number of the vehicle, if available. Any aggrieved city officer, owner, or lienholder may appeal any such decision of the Chief of Police, or Mayor, should there be no Chief of Police, to the Board of Aldermen.

(f) The Police Department, or if there is no Police Department, the full time salaried person designated as administrator of the Ordinance by the Board of Aldermen, shall give notice to the Texas Department of Transportation within five (5) days after the date of removal of a junked vehicle by the Town, identifying the vehicle or part thereof.

(g) The administration of the procedures of this section shall be carried out by regularly salaried, full time employees of the Town, except that the removal of vehicles, or parts thereof, from property may be accomplished by any other duly authorized person, including authorized wrecker service operators acting at the direction of the Town.

(h) If the nuisance is not removed and abated, and a hearing is not requested within the ten (10) day period provided, in addition to any other procedure authorized by the ordinance, a complaint may also be filed in municipal court for the violation of maintaining a public nuisance; provided that such notice shall not be a requirement for any such complaint being filed in municipal court.

1.023 Exception to Junked Vehicle

The procedures set out in this section shall not apply to 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; a vehicle or part thereof which is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or a junkyard; or to an antique and special interest vehicle stored by a collector on his property; provided that the vehicle and outdoor storage areas are maintained in such a manner that they 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.