

CITY OF HAWK COVE, TEXAS

ORDINANCE NO. 99-4

AN ORDINANCE OF THE CITY OF HAWK COVE RELATIVE TO THE REGULATION OF JUNKED VEHICLES; PROVIDING DEFINITIONS; DECLARING JUNKED VEHICLES TO BE A PUBLIC NUISANCE; PROVIDING FOR AN OFFENSE; ESTABLISHING AUTHORITY TO ABATE NUISANCE AND ASSOCIATED PROCEDURES, INCLUDING NOTICE AND A HEARING; PROVIDING EXCEPTIONS; PROVIDING FOR A PENALTY FOR THE VIOLATION HEREOF; PROVIDING A SEVERABILITY CLAUSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, State law provides for the regulation and abatement of junked vehicles as public nuisances and established procedures for declaring junked vehicles to be a public nuisance; and

WHEREAS, the City Council has determined that it is in the best interest of the health, safety and welfare of the citizens of Hawk Cove to enact an ordinance to reflect such definitions and procedures.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF HAWK COVE, TEXAS, THAT:

SECTION 1

The City Council for the City of Hawk Cove hereby adopts the following ordinance entitled "Junked Vehicles" which shall read as follows:

"JUNKED VEHICLES"

Sec. 1.01. Definitions.

A. *Antique vehicle* means a passenger car or truck that is at least 35 years old.

B. *Junked vehicle* means a vehicle that is self-propelled and:

- (1) does not have lawfully attached to it;
 - (a) an unexpired license plate; or
 - (b) a valid motor vehicle inspection certificate;
- (2) is wrecked, dismantled or partially dismantled, or discarded; or

- (3) is inoperable and has remained inoperable for more than:
 - (a) 72 consecutive hours, if the vehicle is on public property; or
 - (b) 30 consecutive days, if the vehicle is on private property.

C. ***Motor vehicle collector*** means a person who:

- (1) owns one or more antique or special interest vehicles; and
- (2) acquires, collects, or disposes of an antique or special interest vehicle or part of an antique or special interest vehicle for personal use to restore and preserve an antique or special interest vehicle for historic interest.

D. ***Special interest vehicle*** means a motor vehicle of any age that has not been changed from original manufacturer's specifications and, because of its historic interest, is being preserved by a hobbyist.

E. ***Inoperable*** means not capable of being used or operated due to legal or mechanical incapability.

Sec. 1.02. *Junked Vehicle Declared to Be Public Nuisance.*

A junked vehicle, including a part of a junked vehicle, that is visible from a public place or public right-of-way:

- A. is detrimental to the safety and welfare of the public;
- B. tends to reduce the value of private property;
- C. invites vandalism;
- D. creates a fire hazard;
- E. is an attractive nuisance creating a hazard to the health and safety of minors;
- F. produces urban blight adverse to the maintenance and continuing development of municipalities; and
- G. is a public nuisance.

Sec. 1.03. *Offense.*

- A. A person commits an offense if the person maintains a public nuisance described by Sec. 1.02.

- B. An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.
- C. The court shall order abatement and removal of the nuisance on conviction.

Sec. 1.04. *Authority to Abate Nuisance; Procedures.*

A. General.

- (1) The City, by this subsection, is adopting 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.
- (2) This ordinance shall be administered by the City Marshal, or his designee provided the same is a regularly salaried, full-time employee of the City. Any authorized person may remove the nuisance.
- (3) A person authorized to administer these procedures may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance.

B. Notice.

- (1) Notice of the nature of the nuisance must be sent by certified mail with a five-day return requested to:
 - (a) the last known registered owner of the nuisance;
 - (b) each lienholder of record of the nuisance; and
 - (c) the owner or occupant of:
 - i. the property on which the nuisance is located; or
 - ii. if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
 - (d) The notice must state that:
 - i. the nuisance must be abated and removed not later than the 10th day after the date on which the notice was mailed; and
 - ii. any request for a hearing must be made before that 10-day period expires.

- (e) If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, hand delivered.
- (f) If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 11th day after the date of the return.
- (g) No notice is required for issuance of a citation for an offense under this ordinance.

C. Hearing.

- (1) The municipal court judge shall conduct hearings relative to the abatement of junked vehicles.
- (2) A public hearing must be conducted prior to the removal of the public nuisance not earlier than the 11th day after the date of service notice.
- (3) If a hearing is requested by a person for whom notice is required under Section 1.04 (B)(1), the hearing shall be held not earlier than the 11th day after the date of the service of notice.
- (4) At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- (5) If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicle's:
 - (a) description;
 - (b) vehicle identification number; and
 - (c) license plate number.
- (6) As part of the order authorizing removal or abatement of the public nuisance, the court shall:
 - (a) prohibit a vehicle from being reconstructed or made operable after removal; and
 - (b) require that notice identifying the vehicle or part of the vehicle be given to the Department of Public Safety not later than the fifth day after the date of removal. On receipt of notice of removal, the

Department shall immediately cancel the certificate of title issued for the vehicle.

- (7) The municipal court shall have full authority to enforce the abatement procedures, including but not limited to issuing all necessary orders.
- D. The relocation of the junked vehicle that is a public nuisance to another location within the City, after a proceeding for the abatement and removal of the public nuisance has commenced, has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

Section 1.05. *Exceptions.*

- A. Procedures adopted herein shall not apply to a vehicle or vehicle part thereof:
 - (1) that is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
 - (2) that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part, thereof, and the outdoor storage area, if any, is:
 - (a) maintained in an orderly manner;
 - (b) does not constitute a health hazard; and
 - (c) is screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery. A vehicle or part thereof, covered by a tarp, car blanket, or similar covering does not meet the requisite screening requirements of this ordinance.
 - (3) For purposes of this section, 'ordinary public view' means the view from private or public property, or public right-of-way from average grade of the surrounding property."

SECTION 2

Penalty. Any person violating the terms and provisions of this ordinance shall, upon conviction, be punished by a fine of not more than Two Hundred Dollars (\$200.00) and each and every day this ordinance is violated shall constitute a separate offense.

SECTION 3

Severability. If any word, section, article, phrase, paragraph, sentence, clause, or portion of this ordinance or application thereto to any person or circumstance is held to be invalid or unconstitutional by a court of competent jurisdiction, such holding shall not affect the validity of the remaining portion of this ordinance; and the City Council hereby declares it would have passed such remaining portions of this ordinance despite such invalidity which remaining portions shall remain in full force and effect.

SECTION 4

Effective Date. This ordinance shall become effective upon passage, approval and adoption.

PASSED, APPROVED AND ADOPTED THIS 31st DAY OF AUGUST, 1999.



Ava Havens, Mayor

ATTEST:



Karen Parker
City Secretary

APPROVED AS TO FORM:

Robert F. Brown, City Attorney