

STATE OF TEXAS

COUNTY OF BANDERA

**Commissioners' Court Order Adopting Regulations for
Abating Litter as a Public Nuisance Pursuant to
Title 5. Sanitation and Environmental Quality, Chapter 365. Litter
TEXAS LITTER ABATEMENT ACT**

WHEREAS, the 71st Texas Legislature of the State of Texas has enacted the Texas Litter Abatement Act Title 5. Sanitation and Environmental Quality, Chapter 365. Litter; and

WHEREAS, that statute authorizes county commissioners courts of this state to adopt procedures for the abatement of litter as a public nuisance (§365.034);

WHEREAS, the Commissioners' Court of Bandera County, Texas, finds that abating litter as a public nuisance will allow the agency to protect the health, safety, and welfare of the general public; and

WHEREAS, the Commissioners' Court of Bandera County, Texas, has considered the matter and deems it appropriate to adopt procedures for abating litter as a public nuisance pursuant to said Litter Abatement Act (§365.);

NOW, THEREFORE, IT IS HEREBY ORDERED BY THE COMMISSIONERS' COURT OF BANDERA COUNTY, TEXAS:

That the regulations attached and appended hereto, entitled Commissioners' Court Order Adopting Regulations for Abating Litter as a Public Nuisance Pursuant to Texas Litter Abatement Act (§365.) are made a part of this Order, and are adopted as the regulations of Bandera County, Texas, and all officials of Bandera County are **DIRECTED** to perform such duties as required of them under said Regulations.

Ray F. Mauer
RAY F. MAUER, COUNTY JUDGE

Bennie Barker
BENNIE BARKER, COMMISSIONER
PRECINCT 1

Dan C. Alanis, III
DAN C. ALANIS, III, COMMISSIONER
PRECINCT 2

Ralph Chancy
RALPH CHANCY, COMMISSIONER
PRECINCT 3

Absent
BUD THOMPSON, COMMISSIONER
PRECINCT 4

APPROVED in open session by Commissioners' Court this the 11TH day of
September, 1996.

ATTEST:

Bernice Bates
BERNICE BATES
COUNTY CLERK

Article I: Definitions

Section 1.01

In this Order:

- (a) "Antique Auto" means a passenger car or truck that was manufactured in 1925 or before, or a passenger car or truck that is at least 35 years old.
- (b) "Automobile Graveyard" means an establishment or place of business that is maintained, used, or operated for storing, keeping, buying, or selling wrecked, scrapped, ruined, or dismantled motor vehicles or motor vehicle parts.
- (c) "Collector" means the owner of one or more antique 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.
- (d) "County" means Bandera County, Texas.
- (e) "Demolisher" means a person whose business is to convert a motor vehicle into processed scrap metal or to otherwise wreck or dismantle a motor vehicle.
- (f) "Department" means the Bandera County Precinct 2 Constable's Office.
- (g) "Junked Vehicle" means a self-propelled mechanical device, in, upon, or by which any person or property is or may be transported or drawn upon any road, street, way, thoroughfare or bridge not privately owned or controlled for the use of vehicles over which the State has legislative jurisdiction under its police power, excepting devices moved by human power or used exclusively upon stationary rails or tracks:
 - (1) that is inoperative; and
 - (2) that does not have lawfully affixed to it either an unexpired license plate or a valid motor vehicle safety inspection certificate that is wrecked, dismantled, partially dismantled, or discarded, or that remains inoperable for a continuous period of more than 45 days.

- (h) "Junk" means old or scrap copper, brass, rope, rags, batteries, paper, trash, rubber, debris, or waste, or junked, dismantled, or wrecked automobiles or automobile parts, or iron, steel, and other old or scrap ferrous or nonferrous material.
- (i) "Junkyard" means an establishment or place of business maintained, used, or operated for storing, keeping, buying, or selling junk, for processing scrap metal, or for maintaining or operating an automobile graveyard. The term includes garbage dumps and sanitary fills.
- (j) "Litter" means:
- (A) 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 wastes, or industrial by-products; or
 - (B) nondecayable solid waste, except ashes, that consists of:
 - (1) combustible waste material, including paper, rags, cartons, wood, excelsior, furniture, rubber, plastics, yard trimmings, leaves, or similar materials;
 - (2) 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
 - (3) discarded or worn-out manufactured materials and machinery, including motor vehicles and parts of motor vehicles, tires, aircraft, farm implements, building or construction materials, appliances, and scrap metal.
- (k) "Motor Vehicle" has the meaning assigned by Section 2(b), Uniform Act Regulating Traffic on Highways (6701d, Vernon's Texas Civil Statutes).
- (l) "Public highway" means 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:
- (A) is opened to the public for vehicular traffic;
 - (B) is used as a public recreational area; or
 - (C) is under the state's legislative jurisdiction through its police power.
- (m) "Special Interest Vehicle" means 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 hobbyists.

Article II: Authority and Administration

Section 2.01

The Department is designated and authorized by the Commissioners' Court to abate Litter as a public nuisance in accordance with the rules and procedures set forth in this Order. The Department shall have all powers necessary to carry out the requirements and purposes of this Order. The Department shall have the following duties and concomitant powers:

- (a) To enforce this Order and to take appropriate actions necessary to perform functions set forth in this Order;
- (b) To enter onto public or private property for the purposes specified in this Order and the Texas Litter Abatement Act to examine Litter including a vehicle or vehicle part, obtain information as to the identity of the vehicle, and remove or cause the removal of the Litter, a vehicle or vehicle part that constitutes a nuisance. When necessary, the Department may seek the assistance of the Bandera County Sheriff's Office when entering onto public or private property for these purposes.
- (c) To collect all fees set by the Commissioners' Court as necessary to recover the reasonable costs incurred in enforcing the requirements of the Order;
- (d) To make reports to the Commissioners' Court on actions, including legal actions, taken concerning this Order;
- (e) To develop the necessary procedures, including the development of forms and establishment of reasonable record-keeping, to carry out the functions set forth in this Order;
- (f) To make reports of violations of the criminal provisions of Texas Litter Abatement Act to the Office of the Bandera County Attorney, the Bandera County Sheriff's Office, and other appropriate judicial offices or public authorities.
- (g) To perform all other duties necessary to meet the requirements of this Order.

Article III: Litter As a Public Nuisance

Section
3.01

A junked vehicle or other Litter that is located in a place where it is visible from a public place or within 50 feet of a public highway for more than 30 days is detrimental to the safety and welfare of the general public, tends to reduce the value of private property, invites vandalism, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, and is detrimental to the economic welfare of the County by producing urban blight adverse to the maintenance and continuing development of the County, and is a public nuisance. (§365.034)

Article IV: Procedures for Abating Nuisance

Section
4.01

When the Department discovers a nuisance on private property, the Department shall give not less than 10 days' notice stating the nature of the public nuisance on private property, that the public nuisance must be removed and abated within 10 days, and that a request for a hearing must be made before expiration of the 10-day period. The notice must be mailed by certified mail return receipt requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and to the owner or occupant of the private premises on which the public nuisance exists. 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 last known registered owner is physically located, the notice may be hand-delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than 10 days after the date of the return. (30 days minimum notice before action is taken)

4.02

When the Department discovers a nuisance on public property or a public right-of-way, the Department shall give not less than 10 days' notice stating the nature of the public nuisance on public property or on a public right-of-way, that the nuisance must be removed and abated within 10 days, and that a request for a hearing must be made before the expiration of the 10-day period. The notice must be mailed, by certified mail return receipt requested, to the last known registered owner of the junked motor vehicle, any lien holder of record, and to the owner or occupant of the public premises or to the owner or occupant of the premises adjacent to the public right-of-way on which the public nuisance exists. 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 last known registered owner is physically located, the notice may be hand-delivered. If any notice is returned undelivered by the United States Post Office, official action to abate the nuisance shall be continued to a date not less than 10 days after the date of the return. A junk vehicle located on a public roadway that constitutes obstruction of the public roadway or creates a traffic hazard may be removed at the owners expense at the discretion of the enforcement officer.

- 4.03 A public hearing shall be held before the removal of Litter or of a vehicle or vehicle part as a public nuisance. The hearing shall be held before the Justice of the Peace of the precinct in which the public nuisance is alleged to exist, if a hearing is requested by the owner or occupant of the public or private premises, or by the owner or occupant of the premises adjacent to the public right-of-way on which the vehicle is located within 10 days after service of notice to abate the nuisance. At the hearing it is presumed, unless demonstrated otherwise by the owner, that the vehicle is inoperable. An order requiring the removal of a vehicle or vehicle part must include a description of the vehicle and the correct identification number and license number of the vehicle if the information is available at the site.

Article V: Removal of Junked Motor Vehicles

Section

- 5.01 A vehicle may not be reconstructed or made operable after it has been removed.
- 5.02 The Department shall give notice of a removal to the Texas Department of Highways and Public Transportation no later than the fifth day after the date of removal. The notice shall identify the vehicle or vehicle part removed.
- 5.03 A junked vehicle or vehicle part may be disposed of by removal to a scrapyard , demolisher, or any suitable site operated by the County.

Article VI: Exemption

Section

- 6.01 The procedures set forth in this Order do not apply to:
- (a) a vehicle or vehicle part that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;

(b) a vehicle or vehicle part that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard;

(c) an unlicensed, operable or inoperable antique or special interest vehicle stored by a collector on the collector's property, if the vehicle and the outdoor storage area are maintained in a manner so 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.

Article VIII: Construction and Severability

Section

7.01 The provisions of this Order shall be construed liberally to accomplish its purpose. In construing this Order, all precatory words contained therein shall be deemed mandatory.

7.02 This Order applies only to those parts of Bandera County, Texas, that are not contained within the corporate limits of a city or town.

7.03 The Department shall, within the purposes of this Order, resolve any questions regarding any interpretation of this Order.

7.04 No requirement or standard set forth in this Order shall be construed as being less restrictive or less strict than any similar requirement or standard set forth in the Texas Litter Abatement Act.

7.05 If any provision of this Order or the application thereof to any purpose or circumstances is held invalid, the validity of the remainder of this Order and the application thereof to other persons and circumstances shall not be affected.

Article VIII: Effective Date

Section

8.01 This Order is effective _____.

APPROVED in open session by the Bandera County Commissioners' Court on the 11TH day of September, 1996, and entered into the minutes of said court at Book _____, Page _____, to certify which witness my hand and official seal.

HON. BERNICE BATES, COUNTY CLERK OF
BANDERA COUNTY, TEXAS

By: Bernice Bates
~~Deputy~~ Bandera County Clerk

File: Litter Resolution

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