ORDINANCE NO. 2015-04

AN ORDINANCE OF THE CITY OF BALCONES HEIGHTS, TEXAS AMENDING CHAPTER 94: JUNKED VEHICLES SECTION 94.01 DEFINITIONS AND SECTION 94.06 PROCEDURES FOR ABATING NUISANCE

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WHEREAS, in response to HB2305, that went into effective September 1, 2014, the City Council wishes to revise the definition of a Junked Vehicle by duplicating the language in Section 683.071 Transportation Code, thereby repealing the current definition and adopting a new definition; and

WHEREAS, City Officials have observed inoperable vehicles that have remained on private properties for more than 30 consecutive days; and

WHEREAS, City Officials would like to exclude that a public hearing be placed on the agenda for City Council determination.

THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BALCONES HEIGHTS, TEXAS THAT:

SECTION 1 FINDINGS. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made a part hereof for all purposes as findings of fact.

SECTION 2. AMENDMENT. Chapter 94, "JUNKED VEHICLES", Sections 94.01, 94.06 (B), 94.06 (C) and 94.06 (D are hereby amended to Chapter 94 and should read as follows:

1. Section 94.01 DEFINITIONS, JUNKED VEHICLE of the Code of Ordinances is repealed; and the revised DEFINITION, JUNKED VEHICLE, hereby reads as follows:

   ANTIQUE AUTO. *A passenger car or truck that was manufactured in 1925 or before or a passenger car or truck that is at least 25 years old.*

   JUNKED VEHICLE. *A vehicle that is self-propelled and;*
   (1) Does not lawfully have affixed to it an unexpired license plate; and
   (2) Is:
      a. *wrecked, dismantled or partially dismantled, or discarded; or*
      b. *inoperable and has remained inoperable for more than*
         i. *Seventy-two (72) consecutive hours, if the vehicle is on public property, or public right-of-way; or*

ii. Thirty (30) consecutive days, if the vehicle is on private property.

2. Section 94.06 (B) is repealed. New (B) hereby reads as follows: *Upon a request for a hearing, the municipal court clerk or authorized representative shall place the matter for the removal and abatement of the public nuisance on a court docket for a hearing before the municipal court judge. The public hearing shall be held not earlier than the 11th day after the date of the service of notice. At the public hearing, the junked vehicle or vehicle part is presumed, unless demonstrated otherwise by the owner, to be inoperable. If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include a description of the vehicle including the vehicle identification and license plate numbers.*

3. Section 94.06 (C) is repealed. New (C) hereby reads as follows: *If the nuisance is not removed or abated, and a hearing is not requested, within the ten-day period provided in subsection (A), the officer may remove or cause to be removed the vehicle which was the subject of such notice to a suitable city storage area.*

   Any person violating any provision of this article is subject to prosecution for maintaining a public nuisance. If under this subsection, a person is found guilty of maintaining a public nuisance as defined in this chapter, the person shall be punished by a fine not to exceed $200 and the court shall order removal and abatement of the nuisance. Each day the violation exists is a separate offense.

4. Section 94.06 (D) is repealed. After the hearing is held, if the judge finds that such a violation of this article exists, the court shall order the owner or occupant of the premises on which the vehicle is located to remove such junked vehicle within ten days after the order. The final order requiring the removal of the vehicle or a part thereof shall include a description of the vehicle, and the correct identification number and license number of the vehicle, if available at the site.

5. *Section 94.06 (G) (2) (c) is amended to read as follows: Screened from ordinary public view by an opaque fence, rapidly growing trees, shrubbery or vehicle is properly covered with a properly maintained car cover.*

SECTION 3 REPEALING ORDINANCES IN CONFLICT. All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION 4 SEVERABILITY. If any section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be unconstitutional or illegal, such decision shall not affect the validity of the remaining sections of this ordinance. The City Council hereby declares that it would have passed this ordinance, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases be declared void.

SECTION 5 SAVINGS CLAUSE. All ordinances or parts of ordinances, in conflict herewith are to the extent of such conflict hereby repealed. The balance of such ordinance is hereby saved from repeal.

SECTION 6. EFFECTIVE DATE. The Ordinance shall be effective immediately following its publication in the local newspaper as required by the Texas Local Government Code.

PASSED, APPROVED AND ADOPTED in Balcones Heights, Texas this the 23RD day of March, 2015.

Suzanne de Leon
MAYOR

ATTEST:

Delia Flores, TRMC
City Secretary

PUBLIC NOTICE

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