

ORDINANCE NO. 13.02

JUNKED VEHICLES

AN ORDINANCE OF THE CITY OF MERTZON, TEXAS, PROMOTING PUBLIC HEALTH AND SANITATION THROUGH THE REGULATION OF JUNKED VEHICLES, REPEALING THE EXISTING ORDINANCE NUMBER 15.04 OF THE CITY OF MERTZON AND REPLACING IT WITH CHAPTER 13, ARTICLE 2 CONSISTING OF 14 SECTIONS ENTITLED 'JUNKED VEHICLES', PROVIDING FOR: FINDINGS OF FACT; A POPULAR NAME; PURPOSE; DEFINITIONS; REQUIREMENTS; INVESTIGATION AND NOTICE OF VIOLATIONS; ABATEMENT; ENFORCEMENT INCLUDING MAXIMUM FINE OF \$200.00; INJUNCTIVE RELIEF AND OTHER AVAILABLE REMEDIES; CONFLICTING PROVISIONS; SEVERABILITY; SAVINGS CLAUSE; EFFECTIVE DATE AND PROPER NOTICE AND MEETING.

WHEREAS, the City Council of the City of Mertzon ("City Council") seeks to promote the health, safety and general welfare of the citizens of the City of Mertzon ("City") by preventing death, injury, property damage and urban blight within the City limits; and

WHEREAS, the City Council finds that the existence of junked vehicles, as with other unsanitary conditions will harbor and attract rodents, insects and other pests and will result in disease, and decrease the aesthetics of the City; and

WHEREAS, the City Council finds that it is necessary to adopt an ordinance prohibiting the keeping of a junked vehicle upon a lot, tract or parcel of land within the City of Mertzon; and

WHEREAS, pursuant to section 51.001, Texas Local Government Code, the City Council is authorized to adopt an ordinance that is for the good government, peace or order of the City and is necessary for carrying out a power granted by law to the City; and

WHEREAS, pursuant to section 51.012, Texas Local Government Code, the City may adopt an ordinance, not inconsistent with state law, that is necessary for the government, interest, welfare or good order of the City as a body politic; and

WHEREAS, pursuant to Texas Transportation Code Chapter 683, the City has the authority to define and abate nuisance junked vehicles and impose fines against those responsible for creating or maintaining a nuisance; and

WHEREAS, the Council adopts the amendments contained herein, for the purpose of promoting the health, safety and general welfare of the community in order, among other things, to enable each resident to enjoy a safe and agreeable environment and protect the rural residential quality of the neighborhoods;

NOW THEREFORE, be it ordained by the City Council of the City of Mertzon, County of Irion, State of Texas that:

SECTION 1.0 FINDINGS OF FACT

All of the above statements are hereby found to be true and correct legislative and factual findings of the City of Mertzon and are hereby approved and incorporated into the body of this Ordinance as if copied in their entirety.

SECTION 2.0 POPULAR NAME

This Ordinance shall be commonly referred to as the City's "Junked Vehicle Ordinance."

SECTION 3.0 PURPOSE

This Ordinance is adopted so the City Council may promote the public health, safety and general welfare within the City through the regulation of junked vehicles in the City. By prohibiting the creation and maintenance of nuisance junked vehicles, the City Council seeks to protect property values and prevent bodily injury, death, and property damage within the City.

SECTION 4.0 DEFINITIONS

For the purpose of this Ordinance, the following terms, phrases and words shall have the meaning given in this Section. The words shall and will are always mandatory

- 4.1 Building: any structure of any kind or any part thereof, erected for the support, shelter or enclosure of persons, animals, chattel or property of any kind.
- 4.2 City: the City of Mertzon, Texas.
- 4.3 City Council: the governing body of the City of Mertzon, Texas.
- 4.4 Code Officer: the person or persons officially designated by the City to assist the City Council in implementing and enforcing this Ordinance. Such person may be a volunteer, member of the City Council, an employee of the City, a person contracted by the City or a person otherwise designated to serve in this capacity, and such assistance shall include, but is not limited to, investigating alleged violations of this Ordinance.

- 4.5 Person: an individual, corporation, organization, government agency, business, trust, partnership, association, or any other legal entity.

SECTION 5.0 JUNKED VEHICLES

Junked Vehicles as defined in the Abandoned Motor Vehicles Act, V.T.C.A., Transportation Code, section 683.071 located within the City of Mertzon in any place visible from a public place or public right-of-way are detrimental to the safety and general welfare of the public, tending to reduce the value of property, to invite vandalism, to create fire hazards, and to constitute an attractive nuisance creating a hazard to the health and safety of minors, and are detrimental to the economic welfare of the City by producing urban blight which is adverse to the maintenance and continuing development of the city, and such vehicles are therefore declared to be a public nuisance. To effectively deal with the nuisance of junk vehicles, the City hereby adopts the following procedures for abatement and removal of junk vehicles or parts of a junk vehicle and said procedures shall be followed by the City:

- 5.1 Private Property. For a nuisance on private property, there will be not less than ten (10) days notice stating the nature of the public nuisance on private property, the existence of a junked vehicle or vehicles, that it must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice must be mailed, by certified mail with a five (5) day return requested, to the last known registered owner of the motor vehicle and all lienholders of record and to the owner or occupant of the premises where the junked vehicle is found. If the notice is returned undelivered by the United States post office, official action to abate the nuisance shall be continued to date not less than ten (10) days after the date of the return.
- 5.2 Public Property. For a nuisance on public property, there will be not less than ten (10) days notice, stating the nature of the public nuisance, the existence of a junked vehicle or vehicles, on public property or on a public right-of-way, that the nuisance must be removed and abated within ten (10) days, and that a request for a hearing must be made before expiration of the ten (10) day period. The notice must be mailed, by certified mail with a five (5) day return requested, to the last known registered owner of the motor vehicle and all lienholders 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 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 ten (10) days after the date of the return.
- 5.3 Repair or Reconstruction Prohibited. Any vehicle removed under these procedures is hereby prohibited from being reconstructed or made operable after it has been removed.
- 5.4 Public Hearing. A public hearing must be held before the removal of the junk vehicle or junk vehicle part(s) as a public nuisance is ordered. The hearing shall be held before the Judge of the Municipal Court of the City, or if no Judge is then appointed by the Mayor. 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 or by the last known registered owner of the motor vehicle or a lienholder of record, the hearing will occur no earlier than the eleventh (11th) day after service of the notice to abate the nuisance. An order requiring the removal of the junk vehicle or parts must include a description of the vehicle and the correct identification number and license number of the vehicle, if the information is available, or sufficient other identifying information so as to make identification as certain as may be.

- 5.5 Notice to the State. Notice must be given to the State Department of Transportation no later than the fifth (5) day after the date of removal. The notice must identify the vehicle or the vehicle part or parts.
- 5.6 Exceptions to Prosecution. These procedures do not apply to a vehicle or vehicle part that is;
- (a) 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) or 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.
- 5.7 Removal. The removal of a vehicle ordered removed by the Municipal Court Judge or Mayor will be by the wrecking company with which the City contracts or such other authorized company able to comply with State Law if no such contract is awarded.
- 5.8 Criminal Complaint. If the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period provided by subsections 5.1 and 5.2 above, then a complaint concerning the public nuisance may be filed in the Municipal Court of the City.
- 5.9 Relocation within the City Prohibited. Relocation of a junked vehicle that is a public nuisance to another location within the City after the commencement of a proceeding for the abatement and removal of the vehicle shall have no legal effect if the vehicle constitutes a nuisance at the new location.

SECTION 6.0

REPEALER

All ordinances, or parts thereof, that are in conflict or inconsistent with any provision of this Ordinance are hereby repealed to the extent of such conflict, and the provisions of this Ordinance shall be and remain controlling as to the matters regulated, herein.

SECTION 7.0 SEVERABILITY CLAUSE

If any paragraph, clause, phrase or provision of this Ordinance shall be adjudged invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any other part of provision thereof, other than the part so decided to be invalid or unconstitutional.

SECTION 8.0 SAVINGS CLAUSE

The repeal of any ordinance or parts of ordinances effectuated by the enactment of amendments to this Ordinance shall not be construed as abandoning any action now pending under or by virtue of such Ordinance or as discontinuing, abating, modifying, or altering any penalty accruing or to accrue, or as affecting any rights of the City under any section or provision of any ordinance at the time of passage of this Ordinance.

SECTION 12.0 EFFECTIVE DATE

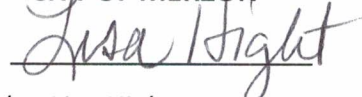
This Ordinance shall become effective up on passage and approval of the City Council of the City of Mertzon, Texas and after publication as may be required by governing law.

SECTION 14.0 PROPER NOTICE & OPEN MEETING

It is hereby officially found and determined that the meeting at which this Ordinance was passed was open to the public, as required by law, and that public notice of the time, place and purpose of said meeting was given as required by the Texas Open Meetings Act, Texas Government Code, Chapter 551.

PASSED AND APPROVED THIS DAY OF MAY 13, 2019, by a vote of
3 (ayes) to 0 (nays) and 2 (abstentions) of the City Council of the City of Mertzon, Texas.

CITY OF MERZON



by: Lisa Hight, Mayor

ATTEST



by: Sheri Benson, City Administrator

