

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE CITY CODE BY MAKING CERTAIN ADDITIONS AND DELETIONS UNDER CHAPTER 9 “MOTOR VEHICLES AND TRAFFIC,” ARTICLE II, DIVISION 1, SECTION 9-38 (DESIGNATED ENFORCEMENT AGENTS AND DUTIES) THEREBY ADDING ADDITIONAL AUTHORIZED CITY ENFORCEMENT AGENTS RELATED TO PARKING VIOLATIONS; AND REVISING SECTION 9-41 (PRESUMPTIONS) TO MAKE GENERAL UPDATES AND REVISIONS TO THE EXISTING PRESUMPTION, AND ADD A NEW REBUTTABLE PRESUMPTION WHEREBY UNATTENDED VEHICLES ARE PRESUMED LEFT BY OWNER OF SAID VEHICLE; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY IN ACCORDANCE WITH MESQUITE CITY CODE, CHAPTER 1, SECTION 1-6 (GENERAL PENALTIES); PROVIDING FOR PUBLICATION; AND DECLARING AN EFFECTIVE DATE.

WHEREAS, it is the intent of the City Council of the City of Mesquite, Texas (“**City Council**”), to protect the public health, safety, and welfare; and

WHEREAS, the City of Mesquite, Texas (“**City**”), is a home-rule municipality acting under its Charter adopted, and amended, by the electorate pursuant to Article 11, [Section 5](#) of the Texas Constitution and [Chapter 9](#) of the Texas Local Government Code; and

WHEREAS, a home-rule municipality has full power of local self-government, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 51, [Section 51.072](#)(a); and

WHEREAS, the City shall have the power to enact and enforce ordinances necessary to protect health, life, and property and to prevent and summarily abate and remove all nuisances, and to preserve and enforce good government, order, and security of the City and its inhabitants, pursuant to Article III, [Section 2](#) of the Mesquite City Charter; and

WHEREAS, a home-rule municipality may enforce ordinances necessary to protect health, life, and property, and to preserve the good government, order, and security of the municipality and its inhabitants, pursuant to Texas Local Government Code, Title 2, Subtitle D, Chapter 54, [Section 54.004](#), as amended; and

WHEREAS, pursuant to Texas Transportation Code, [Section 311.001](#), a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality and the municipality may control, regulate, or remove an encroachment or obstruction on a public street or alley of the municipality; and

WHEREAS, pursuant to Mesquite City Charter, Article III, [Sec. 11](#), the City shall have the power to lay out, establish, open, alter, widen, lower, extend, grade, abandon and improve streets, alleys, sidewalks, squares, parks, public places and bridges and regulate the use thereof; and

WHEREAS, the City Council finds that it is in the best interests of the citizens of the City to amend the Mesquite City Code as herein provided.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS:

SECTION 1. Recitals Incorporated.

The City Council hereby finds and determines the recitals made in the preamble of this Ordinance are true and correct, and hereby incorporates such recitals here in the body of this Ordinance as if copied in their entirety.

**SECTION 2. MESQUITE CITY CODE TEXT AMENDMENT:
Amending Chapter 9 – Motor Vehicles and Traffic.**

The Mesquite City Code is hereby amended as identified in **EXHIBIT A**, and said exhibit is attached hereto and made a part hereof, and in all other respects, said Code, Chapters, and Articles shall remain in full force and effect.

SECTION 3. Conflicts Resolution Clause.

In the event of an irreconcilable conflict between the provisions of another previously adopted ordinance of the City of Mesquite and the provisions of this Ordinance, the provisions of this Ordinance shall be controlling.

SECTION 4. Severability Clause.

Should any word, sentence, paragraph, subdivision, clause, phrase, or section of this Ordinance be adjudged or held to be void or unconstitutional, the same shall not affect the validity of the remaining portions of said Ordinance and the Mesquite City Code, as hereby or previously amended, which shall remain in full force and effect.

SECTION 5. Penalty Clause.

Any violation of the provisions or terms of this Ordinance by any “person,” as defined in Mesquite City Code, Chapter 1, [Section 1-2](#), shall be deemed a Class C Misdemeanor criminal offense, and upon conviction thereof, shall be subject to a penalty of fine, or any other general penalties, as provided in Mesquite City Code, Chapter 1, [Section 1-6](#), as amended.

SECTION 6. Publication.

This Ordinance shall be published in the City’s official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#).

SECTION 7. Effective Date.

This Ordinance after its passage and publication shall take effect on, and be in force from and after, five (5) days after publication thereof, in accordance with Mesquite City Charter, Article IV, [Section 24](#), and it is accordingly so ordained.

DULY PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF MESQUITE, TEXAS, ON THE 20th DAY OF JUNE, 2022.

Daniel Alemán, Jr.
Mayor

ATTEST:

APPROVED AS TO LEGAL FORM:

Sonja Land
City Secretary



David L. Paschall
City Attorney

EXHIBIT A

To Ordinance No. _____

CITY OF MESQUITE, TEXAS
Mesquite City Code, Chapter 9 – Motor Vehicles and Traffic
Revising
Article II, Division 1, Sections 9-38 and 9-41.

MESQUITE CITY CODE

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Chapter 9 – MOTOR VEHICLES AND TRAFFIC

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ARTICLE II. – ADMINISTRATION AND ENFORCEMENT

DIVISION 1. – GENERALLY

* * *

[Editor's Note: Repeal the title and text of Sec. 9-38 and replace with the following new title and text.]

Sec. 9-38. – Designated enforcement agents and duties.

- (a) *Police Chief and police officers.* It shall be the duty of the Chief of Police and all other police officers of the City to enforce the street traffic regulations of the City and all of the state vehicle laws applicable to street traffic in the City, to make arrests for traffic violations, to investigate accidents and to carry out those duties especially imposed upon the Chief of Police by the provisions of this chapter, and other traffic laws.
- (b) *Additional authorized enforcement agents for parking violations.* City Field Inspectors, Code Enforcement Officers, any other employee designated by a Department Director as may be authorized by the City Manager, and any other person as may be authorized by State or other law having jurisdiction within the City of Mesquite, are hereby designated as additional authorized enforcement agents for this Chapter related to parking violations.

Cross reference – Authority to issue citations to appear in Municipal Court, Chapter 1, [Sec. 1-7](#).

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[The remainder of this page is intentionally left blank.]

[Editor's Note: Repeal the text of Sec. 9-41 and replace with the following text.]

Sec. 9-41. Presumptions.

(a) ***Operator of vehicle involved in accident failing to stop is presumed the registered owner of vehicle.***

- (1) *Presumption.* In cases in which the operator of a motor vehicle involved in an accident, or other incident, failed to stop and furnish his/her name, address, or other information required under V.T.C.A. Transportation Code, Title 7, Subtitle C, Chapter 550, Subchapter B (Duties Following Accident), or successor and as amended, it shall be presumed that the registered owner of the vehicle is the operator of such vehicle at the time of such accident, or other incident. This presumption is rebuttable and shall have the effects and consequences set forth in V.T.C.A., Penal Code [§ 2.05](#).
- (2) *Proof of ownership.* Proof of ownership of a vehicle may be made by a computer-generated record of the registration of the vehicle with the State Department of Highways and Public Transportation showing the name of the person to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the person to whom the certificate of registration was issued.

State law reference –

Duties Following Accident, V.T.C.A. Transportation Code, Title 7, Subtitle C, Chapter 550, Subchapter B, [§ 550.021](#) - § 550.026.

(b) ***Unattended vehicles presumed left by owner.***

- (1) *Presumption.* When a vehicle is found unattended or unoccupied upon a street, highway, alley, or other place in violation of any provision of this chapter regulating the stopping, standing, or parking of vehicles, it shall be presumed that the registered owner of the vehicle is the person who unlawfully stopped, stood, or parked the vehicle at the time and place the offense occurred. This presumption is rebuttable and shall have the effects and consequences set forth in V.T.C.A., Penal Code [§ 2.05](#).
- (2) *Proof of ownership.* Proof of ownership of a vehicle may be made by a computer-generated record of the registration of the vehicle with the State Department of Highways and Public Transportation showing the name of the person to whom state license plates were issued. This proof is prima facie evidence of the ownership of the vehicle by the person to whom the certificate of registration was issued.

State law reference –

Presumption, V.T.C.A. Transportation Code, Title 7, Subtitle C, Chapter 545, Subchapter G, [§ 545.308](#).

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