

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, AMENDING THE MESQUITE CITY CODE BY REVISING CERTAIN SECTIONS IN CHAPTER 10 (OFFENSES – MISCELLANEOUS), ARTICLE VI (NUISANCES) FOR THE PURPOSE OF UPDATING THE CITY’S JUNKED AND ABANDONED VEHICLE REQUIREMENTS AND UPDATING PROVISIONS REGARDING NUISANCE PARTIES THEREBY ENSURING THE CITY’S ORDINANCE IS ALIGNED WITH RECENT CHANGES IN STATE LAW; AND PROVIDING FOR OTHER MISCELLANEOUS UPDATES AS NEEDED; PROVIDING A CONFLICTS RESOLUTION CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00); PROVIDING FOR PUBLICATION OF THE CAPTION HEREOF; AND PROVIDING 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 Council desires to revise the City Code for the purpose of updating the provisions related to junked vehicle requirements, and making other general organizational updates; 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, upon full review and consideration of all matters attendant and related thereto, the City Council is of the opinion this ordinance should be approved and adopted.

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 10; by revising Article VI (Nuisances).

The Mesquite City Code is hereby amended as identified in **EXHIBIT A**, and said **EXHIBIT A** 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.

The descriptive caption of this ordinance shall be published in the City's official newspaper in accordance with Mesquite City Charter, Article IV, [Section 24](#); and Texas Local Government Code, Chapter 52, [§ 52.013](#).

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 1st DAY OF APRIL, 2024.

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 10 - OFFENSES – MISCELLANEOUS
ARTICLE VI. – NUISANCES

MESQUITE CITY CODE

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Chapter 10 – OFFENSES – MISCELLANEOUS

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ARTICLE VI - NUISANCES

[Editor's Note: Where applicable, please make the following revisions with additions identified in green font and underlined, and deletions identified in ~~red font with strikethrough~~.]

DIVISION 1. – GENERALLY.

Sec. 10-156. – Declaration of nuisance.

The acts, matters and things prohibited by this article are hereby declared to be nuisances. A person who violates a provision of this article, or who fails to perform an act required of him/her by this article, commits an offense. An offense under this article is a Class C misdemeanor subject to a fine in accordance with Chapter 1, Sec. 1-6 (General penalties). ~~Any person violating any of the provisions of this article shall be deemed guilty of a misdemeanor.~~

(Code 1960, § 11-1)

* * *

Sec. 10-164. Certain motor vehicles parked in yards.

- (a) It shall be unlawful and a nuisance for any person to suffer and permit upon any real property owned, controlled or occupied by said person within the city for a period in excess of seven (7) days any motor vehicle in a condition such as to make it incapable of being operated or incapable of being lawfully operated upon the public streets and highways of the state or in a condition of partial dismantlement such as without a fender or fenders, hood, windshield or other major part hereof, though physically capable of being operated without such part unless such motor vehicle is screened from view on all sides by a solid wall or fence not less than six (6) feet high and is parked on an improved surface as required in section 10-14.
- (b) For the purpose of this section "incapable of being lawfully operated upon the public streets and highways of the state" means a motor vehicle that to be operated thereon is required to be registered and licensed by the state but does not have a current license plate displayed; ~~that is required to have a vehicle safety inspection but does not have a current vehicle inspection sticker;~~ or any other condition that would make it unlawful to operate said vehicle upon the public streets and highways of the state except that lack of proof of liability insurance of such vehicle shall not be considered.
- (c) Where a vehicle is in one (1) of the conditions described above and is located on real property owned or controlled by more than one (1) party or is owned or controlled by a party other than the owner or person in control of such vehicle, in such case the owner or person in control of the real property and the person or persons owning or having control of the vehicle both or all shall be deemed to be occupying the real property wherein such vehicle is situated and both or all parties shall be in violation of the foregoing provision.

(Code 1960, § 11-17; Ord. No. 3734, § 1, 6-6-05)

Cross reference(s)—Motor vehicles and traffic, Ch. 9.

Sec. 10-165. Junked vehicles—Definitions.

The following words, terms and phrases, when used in section 10-166, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning:

Antique auto means a passenger car or truck that is at least twenty-five (25) years old.

Junked vehicle means any vehicle as defined in V.T.C.A., Transportation Code § 683.071, that is self-propelled and:

- (1) Does not have lawfully attached to it: an unexpired license plate; or
 - a. ~~An unexpired license plate; and~~
 - b. ~~A valid motor vehicle inspection certificate.~~
- (2) Is wrecked, dismantled or partially dismantled, or discarded; or
- (3) Is and has remained inoperable for more than thirty (30) consecutive days, if the vehicle is on private property, or seventy-two (72) consecutive hours if the vehicle is on public property.

Junked vehicle also includes self-propelled vehicles ~~not subject to state motor vehicle inspection~~, including but not limited to off-road vehicles designed and intended to be operated in places other than on public streets, race cars, dirt track vehicles, all-terrain vehicles and golf carts. For these self-propelled vehicles ~~not subject to state motor vehicle inspection~~, the term "inoperable" means not usable for the vehicle's designed and intended purpose.

Motor vehicle collector means a person who:

- (1) Owns one (1) 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.

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

(Ord. No. 3952, § 1, 5-19-08)

Cross reference(s)—Motor vehicles and traffic, Ch. 9; solid waste, Ch. 14.

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Sec. 10-166. – ~~Same~~ Junked Vehicles—Abatement; removal.

- (a) *Declared to be a public nuisance.* A junked vehicle, including a part of a junked vehicle that is visible at any time of the year from a public place or public right-of-way:
- (1) Is detrimental to the safety and welfare of the public;
 - (2) Tends to reduce the value of private property;
 - (3) Invites vandalism;
 - (4) Creates a fire hazard;
 - (5) Is an attractive nuisance creating a hazard to the health and safety of minors;
 - (6) Produces urban blight adverse to the maintenance and continuing development of the municipality; and
 - (7) Is a public nuisance.
- (b) *Offense.* A person commits an offense if the person maintains a public nuisance described in Section 10-166. An offense under this section is a Class C misdemeanor subject to a fine not to exceed two hundred dollars (\$200.00). punishable by a fine. The Mesquite Municipal Court shall order abatement and removal of the nuisance on conviction. ~~See Appendix D for applicable fees.~~

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(Code 1960, § 11-18; Ord. No. 3952, § 1, 5-19-08; Ord. No. 4701, § 1(Exh. A(X.E.)), 8-19-19)

State law reference(s)—

~~Abandoned motor vehicles, Vernon's Ann. Civ. St. art. 4477-9a, § 5.01 et seq.;~~

Abandoned Motor Vehicles, V.T.C.A. Transportation Code, Title 7, Subtitle H, Chapter 683.

Offense, V.T.C.A. Transportation Code, Title 7, Subtitle H, Chapter 683, §683.073.

Miscellaneous liens, V.T.C.A. Property Code, § 70.001 et seq.

Cross reference – General penalties, Chapter 1, Sec. 1-6.

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DIVISION 2. – CERTAIN NUISANCES IN PUBLIC PLACES

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Sec. 10-187. – ~~Same~~ Impoundment – Procedure for motor vehicles.

- (a) Immediately upon the impoundment of any motor vehicle, the chief of police shall submit to the state highway department, or similar agency of the proper state when the vehicle is from another state, all information in his possession concerning such vehicle and to request that such department supply to him all information the records of such department contain on such vehicle. Immediately upon the receipt of such information the chief of police shall notify the owners and lien holders, via return receipt requested mail, according to highway department records, that such vehicle has been impounded, the date and place of such impoundment, the procedure for redemption of the vehicle, and that such vehicle will be subject to public sale upon the expiration of thirty (30) days from the return of the receipt for the receipted mail.
- (b) Immediately upon the return of such receipt for receipted mail, it shall be the duty of the chief of police to turn the vehicle over to the city manager or his designated representative for sale in accordance with the provisions of sections 10-190 (Sale – Length of time articles to be kept prior to sale) and 10-193 (Same – Delivery of list of property subject to sale to director of finance).

(Code 1960, § 11-12)

Cross reference— Motor vehicles and traffic, [Ch. 9](#).

State law references –

V.T.C.A. Transportation Code, Title 7, Subtitle H, Chapter 683, Subchapter E (Junked Vehicles: Public Nuisance; Abatement), § 683.001 et seq.

Abandoned Motor Vehicles, V.T.C.A. Transportation Code, Title 7, Subtitle H, Chapter 683.

~~State Law reference— Junked vehicle as public nuisance, Vernon's Ann. Civ. St. art. 4477-9a, § 5.08.~~

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DIVISION 3. – NUISANCE PARTIES

Sec. 10-194.1. – Definitions.

The following words, terms, and phrases when used in this division shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

~~The following definitions apply in this division:~~

~~Curfew violation means any offense provided in Chapter 10, Article VII – Curfew Hours for Minors.~~

Nuisance Party means a gathering of ten (10) or more persons on any private property, including property used to conduct business, in a manner that causes a disturbance of the quiet enjoyment of neighboring private or public property due to criminal behavior under provisions of this code or the Texas Penal Code. Such a disturbance shall include the occurrence of any or any combination of the following offenses in a manner that interferes with the public health, safety or welfare by creating disorder in the locality: excessive noise, obstruction of public streets by crowds or vehicles, assault, disorderly conduct, ~~curfew violation~~, public intoxication, minor in possession of alcohol, minor in consumption of alcohol, possession or use of illegal drugs or littering.

Owner means the owner of any property, as well as any agent of an owner who acts on behalf of the owner to control or otherwise regulate the occupancy or use of the property.

Person means person as defined in [Section 1-2](#), "Rules of Construction," of Chapter 1 of this code.

Premise means the property that is the site of a *Nuisance Party*.

Responsible Adult means a person no less than twenty-one (21) years old.

Underage means a person under twenty-one (21) years old.

(Ord. No. 4573, § 2, 6-18-18)

Sec. 10-194.2. – Purpose; nuisance parties prohibited.

- (a) The purpose of this division is to prevent and abate Nuisance Parties by creating an offense to address the negligent conduct of persons responsible for a Nuisance Party, or responsible for the Premise.
- (b) Pursuant to the authority provided by Chapter 217.042 of the Texas Local Government Code, the Mesquite City Council hereby finds that Nuisance Parties, as defined in this division, constitute a nuisance and are prohibited within the city limits of the City and within five thousand (5,000) feet outside the limits.
- (c) In accordance with state law, a peace officer may abate a Nuisance Party by reasonable means, including, but not limited to, citation, arrest and/or ordering discontinuation of the criminal activities.
- (d) If there are any ~~u~~Underage participants at a ~~n~~Nuisance ~~p~~Party ~~and with no~~ and with no ~~r~~Responsible ~~a~~Addult ~~is~~ present, and ~~when~~ the peace officer determines that any violation of the following listed offenses has occurred, the peace officer shall order the party to disperse:
 - (1) Assault;
 - (2) Disorderly conduct;
 - (3) Public intoxication;
 - (4) Minor in possession of alcohol;
 - (5) Minor in consumption of alcohol; or
 - (6) Possession or use of illegal drugs ~~;~~ ; ~~or~~
 - ~~(7) — Curfew violation.~~

(Ord. No. 4573, § 2, 6-18-18)

Sec. 10-194.3. – Offenses; culpable mental state; penalty.

- (a) A person commits an offense under this division if the person is an Owner, landlord, occupant, or tenant of the Premise where the Nuisance Party occurs.
- (b) A person commits an offense under this division if the person fails to comply with a peace officer's order to disperse under Section 10-194.2(d).
- (c) An offense under this section is a Class C Misdemeanor subject to a [fine in accordance with Chapter 1, Sec. 1-6 \(General penalties\)](#). ~~See Appendix D for applicable fees.~~
- (d) In addition to the separate offenses recognized in Chapter 1, [Section 1-6](#) (c), ~~"General penalties; applicability; continuing violations,"~~ of this code, each separate response by an officer to a Premise for a Nuisance Party constitutes a separate offense, even if within the same twenty-four (24) hours.

~~(e) For a second and any subsequent offense within a six-month period, the violation is a Class C Misdemeanor subject to a higher fine. See Appendix D for applicable fees.~~

~~(e)(f)~~ A culpable mental state is not required for the commission of an offense under this section.

(Ord. No. 4573, § 2, 6-18-18; Ord. No. 4701, § 1(Exh. A(X.F.)), 8-19-19)

Sec. 10-194.4. – Defenses to prosecution.

- (a) It is an [affirmative](#) defense to prosecution [for a person not in attendance at the Premise](#) that the persons in attendance at the Nuisance Party obtained use of the Premise through illegal entry or trespassing.
- (b) For the first offense within a six-month period, it is an [affirmative](#) defense to prosecution that the unlawful conduct giving rise to the Nuisance Party could not be reasonably foreseen and the Owner, landlord, occupant, or tenant of the Premise took affirmative steps to prevent the Nuisance Party and, if applicable, to exclude uninvited persons from the Premise.
- (c) For the first offense within a six-month period, it is an [affirmative](#) defense to prosecution that the unlawful conduct giving rise to the Nuisance Party could not be reasonably foreseen nor reasonably controlled by the Owner, landlord, occupant, or tenant of the Premise without the intervention of the police.

(Ord. No. 4573, § 2, 6-18-18)

Sec. 10-194.5. – Other remedies.

Repeated violations at the same Premise shall be reported to the City Manager for consideration of additional responsive legal action, including enforcement of civil remedies and the exercise of other powers granted to the City to prevent and abate nuisances and violations of this code and state law.

(Ord. No. 4573, § 2, 6-18-18)

[Cross reference – General penalties; Chapter 1, Sec. 1-6.](#)

Sec. 10-194.6. – Other offenses.

Nothing in this division limits a person's criminal responsibility for the commission of other offenses at a Nuisance Party.

(Ord. No. 4573, § 2, 6-18-18)

Cross reference – General penalties; Chapter 1, [Sec. 1-6](#).

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