

ORDINANCE NO. 10102017

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF MUNDAY, TEXAS, ENTITLED "JUNK VEHICLE ORDINANCE" PROVIDING DEFINITIONS, PROVIDING FOR THE REGULATION AND REMOVAL OF JUNKED VEHICLES WITHIN THE CITY; PROVIDING FOR THE DELIVERY OF NOTICE TO THE OWNERS OF VEHICLES IN ACCORDANCE WITH STATE LAW, PROVIDING FOR A PUBLIC HEARING UPON THE REQUEST OF AN OWNER, PROVIDING FOR THE DEMOLITION OF VEHICLES; PROVIDING A SEVERABILITY CLAUSE; FOR THE REPEAL OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR PUBLICATION; AND PROVIDING AN EFFECTIVE DATE.

**WHEREAS**, the State of Texas has determined that junked vehicles constitute a public nuisance and a hazard to the public health, safety and welfare; and

**WHEREAS**, the City of Munday desires to enact procedures in accordance with state law for the abatement of junked vehicles; and

**WHEREAS**, 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 City of Munday; and
- (7) is a public nuisance; NOW THEREFORE,

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF MUNDAY, TEXAS AS FOLLOWS:**

**Part 1:**

That the Code of Ordinances, City of Munday, is hereby amended by adding this "Junked Vehicle Ordinance" which shall read as follows:

**Article 1**  
**JUNKED VEHICLES**

**Section 1.1 Definitions**

In this Article words and phrases shall be defined as follows:

- A. "City" shall mean the City of Munday, Texas.
- B. "City Council or Council" means the City Council of the City of Munday, Texas.
- C. "Department" means the Texas Department of Transportation.
- D. "Junked Vehicle" means a vehicle that is self-propelled and:
  - (1) displays an expired license plate or does not display a license plate; and
  - (2) is:
    - (A) wrecked, dismantled or partially dismantled, or discarded; or
    - (B) inoperable and has remained inoperable for more than:
      - (i) 72 consecutive hours, if the vehicle is on public property; or
      - (ii) 30 consecutive days, if the vehicle is on private property.

**Sec. 2.1 Miscellaneous Provisions Related to Abatement and Procedures**

- A. Junked vehicles or parts of junked vehicles within the City of Munday located on private property, public property or a public right-of-way are subject to abatement and removal by the City following compliance with the procedures established in this article.
- B. A junked vehicle removed or abated by the City may not be reconstructed or made operable after removal;
- C. Notice identifying the vehicle or part of the vehicle must be given to the Department not later than the fifth day after the date of removal.
- D. Procedures for abatement and removal of a junked vehicle or vehicle part must be administered by regularly salaried, full-time employees of the City, except that any authorized person may remove the nuisance.
- E. The City Manager or his designee is authorized to administer the provisions of this article. He may enter private property to examine a public nuisance, to obtain information to identify the nuisance, and to remove or direct the removal of the nuisance. In the event a junked vehicle or vehicle part is located in such a manner that the inspection of the vehicle would constitute an unreasonable intrusion, the City Manager or his designee is authorized to seek and obtain a search warrant under the provision of the Texas Code of Criminal Procedure Section 18.05.

- F. The relocation of a junked vehicle that is a public nuisance to another location in the City after a proceeding for the abatement and removal of the public nuisance has commenced has no effect on the proceeding if the junked vehicle constitutes a public nuisance at the new location.

### **Sec. 3.1. Notices**

- A. Upon determining that a vehicle is a junked vehicle, notice shall be provided as follows:
1. Prior to the removal or abatement of the junked vehicle not less than fourteen (14) days written notice of the nature of the public nuisance must be personally delivered or sent by certified mail with a five-day return requested to:
    - a. the last known registered owner of the nuisance;
    - b. each lienholder of record of the nuisance; and
    - c. the owner or occupant of:
      - i. the property on which the nuisance is located; or
      - ii. if the nuisance is located on a public right-of-way, the property adjacent to the right-of-way.
- B. The notice must state that:
- A. the nuisance must be abated and removed not later than the 14th day after the date on which the notice was personally delivered or mailed; and
  - B. any request for a hearing must be made before that 14-day period expires.
- C. If the post office address of the last known registered owner of the nuisance is unknown, notice may be placed on the nuisance or, if the owner is located, personally delivered.
- D. If notice is returned undelivered, action to abate the nuisance shall be continued to a date not earlier than the 15th day after the date of the return.

### **Sec. 4.1 Hearing**

- A. The Municipal Court of the City of Munday is designated by the City Council as the body who shall conduct hearings under the procedures adopted under this article.
- B. The hearing shall be held not earlier than the 15th day after the date of the service of notice.
- C. At the hearing, the junked motor vehicle is presumed, unless demonstrated otherwise by the owner, to be inoperable.
- D. Following a hearing, the Court may issue orders necessary for the abatement of the nuisance.

1. Additionally, if the municipal judge finds that the junked vehicle is a nuisance, he/she shall order the owner or occupant of the premises upon which the vehicle is located to remove such vehicle within such time as may be determined by the court.
- E. If the information is available at the location of the nuisance, a resolution or order requiring removal of the nuisance must include the vehicle's:
- (1) description;
  - (2) vehicle identification number; and
  - (3) license plate number.
- F. If the nuisance is removed from the property, notice shall be given to the Texas Department of Transportation not later than the fifth day following removal.

**Sec. 5.1 Additional Penalty:**

- A. A person commits an offense if the person maintains a public nuisance described by Section 683.072 of the Texas Transportation Code.
- B. An offense under this section is a misdemeanor punishable by a fine not to exceed \$200.
- C. The court shall order abatement and removal of the nuisance on conviction.

**Sec. 6.1 Inapplicability of Article**

- A. These procedures for abatement of junked vehicles do not apply to a vehicle or vehicle part:
- (1) that is completely enclosed in a building in a lawful manner and is not visible from the street or other public or private property; or
  - (2) that is stored or parked in a lawful manner on private property in connection with the business of a licensed vehicle dealer or junkyard, or that is an antique or special interest vehicle stored by a motor vehicle collector on the collector's property, if the vehicle or part and the outdoor storage area, if any, are:
    - a. maintained in an orderly manner;
    - b. not a health hazard; and
    - c. screened from ordinary public view by appropriate means, including a fence, rapidly growing trees, or shrubbery.
- (b) In this section:
- (1) "Antique vehicle" means a passenger car or truck that is at least 25 years old.
  - (2) "Motor vehicle collector" means a person who:
    - (A) owns one or more antique or special interest vehicles; and
    - (B) 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.

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

**Sec. 7.1 Disposal.**

- A. A junked vehicle, including a part of a junked vehicle, may be removed to a scrapyard, a motor vehicle demolisher, or a suitable site operated the City.
- B. The City may operate a disposal site if the City Council determines that commercial disposition of junked vehicles is not available or is inadequate. A City may:
  - (1) finally dispose of a junked vehicle or vehicle part; or
  - (2) transfer it to another disposal site if the disposal is for scrap or salvage only.

**Part 2: Severability.**

If any section, sub-section, clause, phrase or portion of this Ordinance shall be held unconstitutional or invalid by a court of competent jurisdiction, such section, sub-section, sentence, clause, phrase or portion shall be deemed to be a separate, distinct and independent provision and such invalidity shall not affect the validity of the remaining portions.

**Part 3: Repeal**

All ordinances or parts of ordinances in conflict herewith are hereby repealed to the extent of the conflict.

**Part 4: Publication**

The City Secretary is hereby authorized and directed to cause publication of the descriptive caption hereof together with the civil and criminal penalty provisions for violation thereof.

**Part 5: Effective Date.**

This ordinance shall be in force and effect from and after its publication as required by law.

PASSED AND APPROVED on this the 10 day of October, 2017.

**CITY OF MUNDAY, TEXAS**

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Robert Bowen, Mayor



ATTEST:

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Bianca Harrimon, City Secretary