

ORDINANCE #83-16

AN ORDINANCE REPEALING ORDINANCE NO. 78-33 CITED AS THE "JUNKED MOTOR VEHICLE" ORDINANCE AND AMENDING CHAPTER 18 OF THE CITY CODE TITLED "NUISANCES" BY AMENDING SECTION 18-21, DEFINITIONS; BY AMENDING SECTION 18-50, HEARING AND REMOVAL GENERALLY; BY AMENDING SECTION 18-51 FORM OF REMOVAL ORDER; BY AMENDING SECTION 18-52, NOTICE TO STATE OF REMOVAL; BY ADDING SECTION 18-55, PENALTY FOR VIOLATION; PROVIDING FOR A SAVINGS AND REPEAL CLAUSE; PROVIDING AN EFFECTIVE DATE.

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF MERCEDES, TEXAS:

SECTION 1: That Section 18-21, Definitions, be amended to include:

- (a.) Day: Shall mean one working day, exclusive of Saturdays and Sundays.
- (b.) Demolisher: Shall mean any person whose business it is to convert the motor vehicles into scrap metal or to otherwise dismantle or wreck motor vehicles.
- (c.) Police Department: Shall mean the Police Department of the City of Mercedes.

SECTION 2: That Section 18-50, Hearing and Removal Generally, be retitled "Nuisance Abatement Procedures" and shall be amended to read as follows:

- (a.) Should the methods mentioned in Section 18-48 or 18-49 prove to be inadequate due to inability to locate the violator, a public notice on the subject shall be published one time in the local newspaper, identifying the public nuisance and the time allowed to abate the nuisance.
- (b.) If after receipt of notice by the propertyowner, or publication of the notice as provided for by this section, the owner shall fail to abate said nuisance within the ten (10) day period or fail to request a hearing pursuant to Section 18-51, then the Police Department may issue instructions for the abatement of the public nuisance. In such correction, the Police Department may employ City personnel, equipment and facilities for the purpose of abating said public nuisance or may contract with a private entity for the abatement of such nuisance.
- (c.) When the City abates the nuisance, the vehicle shall be stored in a suitable storage area designated by the Police Department. Said vehicle shall be stored in such storage area for a period of not less than ten (10) days, during which period any party owning or claiming any right, title or interest therein shall be entitled to claim possession of same by the payment to the City of Mercedes, Texas, the actual cost to the City of abating such nuisance.
- (d.) When any junked vehicle has remained in the storage area for not less than ten (10) days, the Police Department shall dispose the same by removal to a scrap yard or by sale to a demolisher for the highest bid or offer received therefore or to remove same to any suitable site operated by the City for processing as scrap or salvage.
- (e.) Out of proceeds of same, the Police Department shall pay for cost of removal and storage. Any remainder from proceeds of the sale shall be held for the owner of the vehicle or entitled lien holder for ninety (90) days, and then shall be deposited in a special fund which shall remain available for the payment of towing, preserving, storage and all notices and publication costs which result from placing other junked vehicles in custody whenever the proceeds from a sale of other such junked vehicles are insufficient to meet these expenses and costs.

SECTION 3. That Section 18-51, Form of Removal Order, be retitled "Hearing Procedure" and be amended to read as follows:

- (a.) Request for an appeals hearing must be made within ten (10) days after the receipt of the notice of the public nuisance or within ten (10) days after the date of the public notice in the local newspaper.
- (b.) Should the owner of the vehicle request a hearing, then the City Manager shall set a hearing date and appoint a hearing board. Said board shall consist of at least three persons, of which one must be a City official and one a citizen of the City of Mercedes. The City shall notify the vehicle owner of the time, place and date of said hearing. The hearing board may modify or reverse the Police Department's decision.
- (c.) Any resolution or order requiring the removal of a junked vehicle or part thereof as a nuisance shall include a description of the vehicle, and the correct identification number and license number of the vehicle if available at the site.

SECTION 4. That Section 18-52, Notice to State of Removal, be amended to read as follows:

The Police Department shall give notice to the Texas Department of Highways and Public Transportation within five (5) days after the date of removal, identifying the vehicle or the part thereof.

SECTION 5. That Section 18-55 to be entitled, "Penalty for Violation," be added to read as follows:

- (a.) It shall be unlawful and a violation of the Ordinance for any person to whom an order is given to abate and rectify stated public nuisance pursuant to the terms of this Ordinance, to fail or refuse to comply with the order and to abate or rectify the said public nuisance within the time provided by said order.
- (b.) The Chief of Police may cause a complaint to be filed with the Municipal Court Judge if the nuisance is not removed and abated and a hearing is not requested within the ten (10) day period stated above.
- (c.) Any person who shall violate the terms and provisions of this Ordinance shall, upon conviction thereof, be guilty of a misdemeanor and shall be punished by a fine of not less than \$10.00 and not more than \$200.00, and each and every day that the terms of this ordinance shall be violated shall constitute a separate offense.


SECTION 6. Savings and Repeal Clause:

If any provision, exception, section, subsection, paragraph, sentence, clause or phrase of this Ordinance or the application of the same to any person or set of circumstances shall for any reason be held unconstitutional, void or invalid, such invalidity shall not affect the remaining provisions of this Ordinance or their application to other persons or sets of circumstances, and to this end, all provisions of this ordinance are declared to be severable, and all ordinances or parts thereof in conflict herewith are hereby repealed.

SECTION 7. Effective Date:

Said Ordinance shall become effective in accordance with the laws of the State of Texas and the City Charter of the City of Mercedes, Texas.

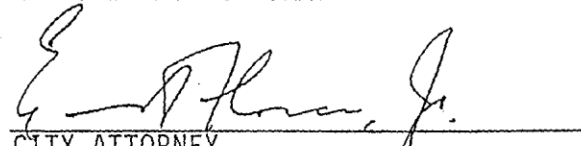
PASSED, APPROVED ON FIRST READING THIS THE 31ST DAY OF MAY, 1983. ADOPTED  
ON SECOND READING THE 7TH DAY OF JUNE, 1983.

  
GILBERTO DOMINGUEZ, MAYOR

ATTEST:

  
JANE LUERA, CITY SECRETARY

APPROVED AS TO FORM:

  
CITY ATTORNEY