

ORDINANCE NO. 3601

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS, RE-ENACTING SECTION 8-826 OF THE CITY CODE THEREBY REINSTATING REGULATIONS RELATING TO THE TOWING OF VEHICLES FROM PRIVATE PROPERTY; PROVIDING A REPEALER CLAUSE; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY NOT TO EXCEED FIVE HUNDRED DOLLARS (\$500.00) FOR EACH OFFENSE AND DECLARING AN EMERGENCY.

WHEREAS, regulations relating to towing of vehicles from private property were deleted from the City Code on November 5, 2001; and

WHEREAS, since such time the United States Supreme Court in *Columbus v. Ours Garage and Wrecker Service*, 122 S.Ct. 2226 (2002), found that U.S.C. § 14501(c)(2)(A), which shields from preemption safety regulations relating to tow trucks, applies to local government as well as state regulation; and

WHEREAS, the City Council finds that it is in the best interest of the safety of the citizens of the City to reinstate regulations relating to towing of vehicles from private property to a location within the City.

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

SECTION 1. That the Code of the City of Mesquite, Texas, is hereby amended by re-enacting Section 8-826 of the City Code to read as follows, in all other respects said Code and Chapter to remain in full force and effect:

Sec. 8-826. Impoundment of vehicles towed from private property by private wrecker operators.

Impoundment of within city limits. In the event the owner or person in charge of private property has authority to and does seek removal of a motor vehicle from such private property, such owner or person in charge is authorized to secure a private wrecker service of his choice, either a standard duty wrecker or a heavy duty wrecker, provided that when such vehicle is removed from such private property for storage or impoundment, such storage or impoundment shall be in or upon an impoundment or storage lot within the corporate city limits of the City of Mesquite. It shall be unlawful and an offense for a private standard duty or heavy duty wrecker service to use the streets, highways, public thoroughfares or property of the City of Mesquite for transporting a private vehicle from private property at the direction of the owner or person in charge of such private property to any location outside the corporate limits of the City of Mesquite for storage or impoundment.

SECTION 2. That all ordinances or portions thereof in conflict with the provisions of this ordinance, to the extent of such conflict, are hereby repealed. To the extent that such ordinances or portions thereof are not in conflict herewith, the same shall remain in full force and effect.

SECTION 3. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional, the validity of the remaining provisions of this ordinance shall not be affected and shall remain in full force and effect.

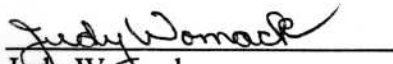
SECTION 4. That any person, firm, or corporation violating any of the provisions or terms of this ordinance shall be deemed to be guilty of a Class C Misdemeanor and upon conviction in the Municipal Court shall be punished by a fine not to exceed Five Hundred Dollars (\$500.00) for each offense.

SECTION 5. That the present ordinances of the City of Mesquite are inadequate to provide for the proper regulation of towing from private property by private wrecker operators within the City, creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.


DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 15th day of September, 2003.


Mike Anderson
Mayor

ATTEST:


Judy Womack
City Secretary

APPROVED:


B. J. Smith
City Attorney