

ORDINANCE NO. 382

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF SHELL ROCK, IOWA, BY AMENDING PROVISIONS PERTAINING TO JUNK AND JUNK VEHICLES

Be it Enacted by the City Council of the City of Shell Rock, Iowa:

SECTION 1. Chapter 51 of the Code of Ordinances of the City of Shell Rock, Iowa, as amended, is repealed and the following adopted in lieu thereof:

51.01 - PURPOSE.

The purpose of this ordinance is to protect the health, safety and welfare of the citizens and promote safety of property within the City by providing for the removal of junk and junk vehicles and the elimination of the open storage of junk and junk vehicles except in authorized places.

51.02 - DEFINITIONS.

(1) Junk Vehicle shall mean any vehicle located within the corporate limits of the City, and which does not properly display plates or stickers indicating current registration as required under Chapter 321 of the Code of Iowa, as amended, and/or which has any one or more of the following characteristics

- (A) A broken or cracked windshield, window, headlight, tail light, or any other broken glass.
- (B) A broken or loose fender, door, bumper, hood, roof, wheel, steering wheel, trunk top or exhaust system.
- (C) Lacking an engine, transmission, parts of the drive train, or one or more wheels, one or more inflated tires, or any structural parts, which renders such vehicle inoperable.
- (D) Any vehicle which is a habitat for rats, mice or snakes or any other vermin or insects.
- (E) Any vehicle that contains gasoline or any other flammable material;
- (F) Any vehicle being used for storage;
- (G) Any vehicle or part of a vehicle which, because of its defective or obsolete condition, constitutes a threat to the public health and safety.
- (H) Any vehicle that is not capable of running and moving by its own intended power source in both forward and reverse gears;
- (I) Any vehicle that has not been used as an operating, moving vehicle for a period of thirty (30) days or more.

(2) Vehicle means every "vehicle" as defined in Section 321.1 of the Code of Iowa, as amended, and every device in, upon, or by which a person or property is or may be transported or drawn upon a highway or street, except devices moved by human power or used exclusively upon stationary rails or tracks, and includes without limitation a motor vehicle, automobile, truck, motorcycle, tractor, farm machinery, or any combination thereof.

(3) Junk means all old or scrap copper, brass, lead, or any other non-ferrous metal; old or discarded rope, rags, batteries, paper, trash, rubber, debris, waste or used lumber, or salvaged wood; dismantled vehicles, machinery and appliances or parts of such vehicles, machinery or

appliances; iron, steel or other old or scrap ferrous materials; old or discarded glass, tinware, plastic or old or discarded household goods or hardware. Neatly stacked firewood located on a side yard or a rear yard is not considered junk.

(4) Nuisance is defined in Section 50.01 of this Code of Ordinances and in this Chapter.

51.03 – JUNK AND JUNK VEHICLES A NUISANCE.

Junk and every junk vehicle located upon public or private property within the corporate limits of the City constitutes a threat to the health and safety of the citizens, is offensive to the senses, and is hereby declared a nuisance. It is unlawful for any person to store, accumulate, or allow to remain on any private property within the corporate limits of the City any junk or junk vehicle. The owner and every person in control of private property upon which any junk or junk vehicle is located, and the title holder of any junk vehicle, shall each be liable for creating and maintaining such nuisance.

51.04 - EXCEPTIONS.

The provisions of this ordinance shall not apply to any junk vehicle located within a garage or other completely enclosed structure as long as the garage, structure or premises is not in violation of any provision of the Code of Ordinances including the Zoning Ordinance, or upon any of the following premises:

- (1) Licensed motor vehicle dealer; or
- (2) Bona fide motor vehicle service, repair, or auto body business; or
- (3) Bona fide salvage yard.

51.05 - RIGHT OF ENTRY.

The Chief of Police, the County Sheriff, his/her authorized representatives, and the person, firm or corporation designated to abate nuisances pursuant to the Code of Ordinances of the City of Shell Rock, are hereby authorized access to any property upon which a junk vehicle is located for the purpose of carrying out any and all actions required by this ordinance.

The police department and the sheriff's office shall have the right to be shown that the vehicle is capable of running and being operated under its own power in accordance with Section 51.02(1)(H).

51.06 - NOTICE TO ABATE.

Upon discovery of any junk or junk vehicle located on private property in violation of this ordinance, the City may initiate abatement proceedings under Chapter 50 of the Code of Ordinances, or may notify, in writing, the owner or owners of the property upon which the junk or junk vehicle is located, the person or persons known to be in possession of the property upon which the junk or junk vehicle is located, and the owner of the vehicle, if known, that:

- (1) The junk or junk vehicle constitutes a nuisance under the provisions of the Code of Ordinances; and
- (2) The junk or junk vehicle must be removed in accordance with the provisions of this ordinance or repair the junk vehicle and properly display current registration plates or stickers for the vehicle, within 7 weekdays; and
- (3) Failure to abate said nuisance as prescribed by the notice shall be sufficient cause for removal of the junk vehicle by the City as set forth in Section 51.09, or for the City to pursue any of the other remedies under Section 51.09.

51.07 - SERVICE OF NOTICE.

Any notice shall be deemed to be properly served when a copy thereof is delivered to him/her personally, is deposited in the U.S. Mail by priority mail with delivery confirmation receipt or by certified mail with return receipt requested to his/her last known address. In the event of notification to the owner of a vehicle, the address in the records of the titling or registering jurisdiction shall be considered to be a correct address of the vehicle owner. All notices shall be deemed given when mailed.

51.08 - DUTY OF OWNER TO REMOVE OR REPAIR AFTER NOTICE.

The owner of a junk vehicle or the owner or person in control of the property upon which it is located shall within 7 weekdays after the certified letter is mailed or notice is received by personal service as provided in Section 51.07, as to each vehicle on the property that is the subject of the notice:

- (1) Immediately provide for the registration and display of current registration plates and stickers as required by the laws of the State of Iowa, including properly affixing the registration plate or sticker to the vehicle; and have the vehicle capable to move under its own power.
- (2) Repair any and all conditions as defined under Section 51.02(1) which cause such vehicle to be a nuisance as defined herein; or
- (3) Remove the vehicle or cause to have the vehicle removed to an authorized salvage yard or to any other location provided the same complies with all applicable provisions of the Code of Ordinances; or
- (4) Move the vehicle to within a garage or other completely enclosed structure as long as the garage, structure or premises is not in violation of any provision of the Code of Ordinances including the Zoning Ordinance.

Each such person who after being given notice under Section 51.07 contends he or she has complied with the requirement in this Chapter to abate the nuisance shall have the duty to comply with a request by the police department or sheriff's office to be shown that the vehicle is in compliance with this Chapter and specifically with Section 51.02(1) and that the vehicle is capable of running and being operated under its own power in accordance with Section 51.02(1)(H).

51.09 - ABATEMENT BY CITY; OTHER REMEDIES.

If the owner of the junk or junk vehicle or owner or person in control of the property upon which the junk or junk vehicle is located shall fail to abate the nuisance as required by Sections 51.06 and 51.08, the City may abate such nuisance by causing the vehicle to be removed and impounded and sold or disposed of as provided for abandoned vehicles under Chapter 80 of the City Code. The Council may also, by resolution, establish reasonable fees for any other costs incurred through the enforcement of this Chapter. All costs of such abatement and enforcement shall be charged to the owner of the vehicle, if known. All costs of such abatement and enforcement may also be charged to the owner of the property where such vehicle was located. All such costs may be assessed against the property and collected with the taxes. This Chapter is not the exclusive remedy for junk and junk vehicles. If the owner of the junk or junk vehicle or owner or person in control of the property upon which the junk or junk vehicle is located shall fail to abate the nuisance as required by Sections 51.06 and 51.08, the City shall also have available to it all remedies provided by law, including abatement under this Section, the procedures for nuisance abatement under Chapter 50, the procedures under Chapter 3 for municipal infractions, and the prosecution of simple misdemeanors under Section 1.14.

SECTION 2. WHEN EFFECTIVE. This ordinance shall be in effect immediately upon its final passage, approval, and publication as provided by law.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

Passed and approved this 18th day of May, 2021.

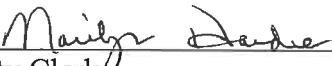
AYES: Bonzer, Holden, Klinefelter, and Krull.

NAYS: Schuldt.



Mayor

ATTEST:



City Clerk

Date of First Reading: April 6, 2021.

Date of Second Reading: May 4, 2021.

Date of Third Reading: May 18, 2021.

Rules suspended under Section 380.03, Code of Iowa, 2013, as amended.

I certify that the foregoing was published as Ordinance No. 382 on the 27th day of May, 2021.



CITY CLERK