Attachment 16

~~Chapter 10.36 ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES~~

~~§ 10.36.010. Definitions.~~

~~For the purpose of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this chapter:~~

~~"Appeals officer" means the city manager or his designee. "Hearing officer" means the chief of police or his designee.~~

~~"Highway" means and includes any publicly maintained or owned highway, street, road, alley, sidewalk, parkway, off-street parking lot or structure, bridge, culvert, drain and any facility or other area in the city necessary for the construction, improvement and maintenance of streets and roads.~~

~~"Owner of the land" means the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.~~

~~"Owner of the vehicle" means the last registered and legal owner of record. "Public property" does not include "highway."~~

~~"Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, except a device moved by human power or used exclusively upon stationary rails or tracks.~~

~~§ 10.36.020. Nuisance declared.~~

~~In addition to and in accordance with the determination made and the authority granted by the state under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the city council makes the following findings and declarations:~~

~~A. That the accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof on private or public property, promotes blight and deterioration, invites plundering, creates fire hazards, constitutes an attractive nuisance creating a hazard to the health and safety of minors, creates a harborage for rodents and insects and is injurious to the health, safety and general welfare.~~

~~B. Therefore, the presence of an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private or public property not including highways, except as expressly permitted in this chapter, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter.~~

~~§ 10.36.030. Unlawful keeping or permitting.~~

~~It is unlawful and a misdemeanor for any person to abandon, park, store, leave or permit the abandonment, parking, storing or leaving of any licensed or unlicensed vehicle or parts thereof which is in an abandoned, wrecked, dismantled or inoperative condition upon any private property or public property not including highways within the city for a period in excess of three days unless such vehicle or parts thereof is completely enclosed within a building in a lawful manner where it is not plainly visible from the street or other public or private property, or unless such vehicle is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junkyard.~~

~~§ 10.36.040. Failure to remove or abate.~~

~~It is unlawful and a misdemeanor for any person to fail to remove an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this chapter or state law where such state law is applicable.~~

~~§ 10.36.050. Administrative cost.~~

~~The city council shall from time to time determine and fix an amount to be assessed as administrative costs, excluding the actual cost of removal of any vehicle or parts thereof, under this chapter.~~

~~§ 10.36.060. Exceptions.~~

~~A. This chapter shall not apply to:~~

~~1. A vehicle, or parts thereof, which is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;~~

~~2. A vehicle, or parts thereof, which is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.~~

~~B. Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under provisions of law other than Chapter 10, commencing with Section 22650, of Division 11 of the Vehicle Code, and this chapter.~~

~~§ 10.36.070. Other provisions supplemented.~~

~~This chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the city. It supplements and is in addition to the other regulatory codes, statutes and ordinances enacted before or after the ordinance codified in this title by the city, the state or any other legal entity or agency having jurisdiction.~~

~~§ 10.36.080. Enforcement authority.~~

~~Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the city, the chief of police shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this chapter.~~

~~§ 10.36.090. Right of entry.~~

~~Except as otherwise provided in this chapter, the provisions of this chapter shall be administered and enforced by the chief of police. In the enforcement of this chapter such officer and his deputies may enter upon private or public property to examine a vehicle and to remove or cause the removal of a vehicle, or parts thereof, declared to be a nuisance pursuant to this chapter.~~

~~§ 10.36.100. Notice of intention to abate.~~

~~A ten-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by registered mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. The notices of intention shall be in substantially the following forms:~~

~~NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE.~~

~~(Name and address of owner of the land)~~

~~As owner shown on the last equalized assessment roll of the land located at (address), you are hereby notified that the undersigned pursuant to (section of ordinance or municipal code) has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to ____license number~~

~~_____, which constitutes a public nuisance pursuant to the provisions of (ordinance or municipal code chapter number.)~~

~~You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice, and upon failure to do so the same will be abated and removed by the (city or county) and the costs thereof, together with administrative costs, assessed to you as owner of the land on which said vehicle (or said parts of vehicle) is located. As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the (hearing body or officer) within such 10-day period, the (Chief of Police) shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle or, in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.~~

~~Notice Mailed (date)_____~~

~~S/_____ (Chief of Police)~~

~~NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE.~~

~~(Name and address of last registered and/or legal owner of record of vehicle—notice should be given to both if different)~~

~~As last registered (and/or legal) owner of record of (description of vehicle—make, model, license, etc.), you are hereby notified that the undersigned pursuant to (section of ordinance or municipal code) has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of (ordinance or municipal code chapter number).~~

~~You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the mailing of this notice.~~

~~As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the (hearing body or officer) within such 10day period, the (locally designated officer) shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.~~

~~Notice Mailed (date): ____~~

~~S/_____ (Chief of Police)~~

~~§ 10.36.110. Public hearing—Denial of responsibility.~~

~~A. Upon request by the owner of the vehicle or owner of land received by the chief of police within ten days after the mailing of the notices of intention to abate and remove, a public hearing shall be held on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled or inoperative vehicle, and the assessment of the administrative costs and the cost or removal of the vehicle or parts thereof against the property on which it was located. Said public hearing shall be held before a hearing officer, who shall be the chief of police or his designee. The hearing officer shall possess the authority to recommend a final disposition of the matter.~~

~~B. If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his/her land within such ten-day period, such statement shall be construed as a request for a hearing which does not require his/ her presence. Notice of the hearing shall be mailed, by registered mail, at least ten days before the hearing to the owner of the land and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. If such a request for hearing is not received within such ten days after mailing of the notice of intention to abate~~

~~and remove, the city shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing.~~

~~§ 10.36.120. Conduct of hearings.~~

~~All hearings under this chapter shall be held before the hearing officer who shall hear all facts and testimony he or she deems pertinent. Such facts and testimony may include testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the private property or public property. The hearing officer shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his/ her reasons for such denial.~~

~~§ 10.36.130. Removal order.~~

~~The hearing officer may impose such conditions and take such other action as he or she deems appropriate under the circumstances to carry out the purpose of this chapter. The hearing officer may delay the time for removal of the vehicle or parts thereof if, in his/ her opinion, the circumstances justify it. At the conclusion of the public hearing, the hearing officer may find that a vehicle or parts thereof has been abandoned, wrecked, dismantled or is inoperative on private or public property and order the same removed from the property as a public nuisance and disposed of as provided in this chapter, and determine the administrative costs and the cost of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle or parts thereof and the correct identification number and license number of the vehicle, if available at the site.~~

~~§ 10.36.140. Innocence of landowner.~~

~~If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that the owner has not subsequently acquiesced in its presence, the hearing officer shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.~~

~~§ 10.36.150. Notice of decision.~~

~~If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his/her land but does not appear, or if an interested party makes a written presentation to the hearing officer but does not appear, such owner or party shall be notified in writing of the decision.~~

~~§ 10.36.160. Appeal.~~

~~A. Any interested party may appeal the decision of the hearing officer by filing a written notice of appeal with such hearing officer within ten days after his/her decision.~~

~~B. Such appeal shall be heard by an appeals officer who may affirm, modify or reverse the order or take other action deemed appropriate. The appeals officer shall be the city manager or his designee. The designated appeals officer shall not be the same person as the designated hearing officer. The decision of the appeals officer shall become final and conclusive as to all matters in controversy upon proof of service thereof by registered mail upon those persons aggrieved.~~

~~C. The clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 10.36.100.~~

~~D. In conducting the hearing the city shall be limited by the technical rules of evidence. (Ord. 1032 § 2, 1978; Ord. 1499 § 3, 1996)~~

~~§ 10.36.170. Removal by city—Disposition.~~

~~Ten days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, ten days from the date of mailing of the decision if such notice is required by Section 10.36.150, or fifteen days after such action of the appeals officer authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrap yard or automobile dismantler's yard.~~

~~§ 10.36.180. Reconstruction or repair.~~

~~A. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable, except for the following vehicles:~~

~~1. Vehicles which qualify for horseless carriage license plates; or~~

~~2. Vehicles which qualify for historical vehicle license plates.~~

~~B. Vehicles meeting the exceptions set out in subsection A of this section, as described in the Vehicle Code, may be reconstructed or made operable.~~

~~§ 10.36.190. Notice to state.~~

~~Within five days after the date of removal of the vehicle or parts thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicle or parts thereof removed. At the same time there shall be transmitted to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates.~~

~~§ 10.36.200. Assessment of costs.~~

~~If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 10.36.130 are not paid within thirty days of the date of the order, or the final disposition of an appeal therefrom, such costs shall be assessed against the parcel of land pursuant to Section 38773.5 of the Government Code and shall be transmitted to the tax collector for collection. Such assessment shall have the same priority as other city taxes.~~