

ORDINANCE NO. 2795

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF GARDEN GROVE
AMENDING CHAPTER 28 OF TITLE 8 OF THE GARDEN GROVE MUNICIPAL CODE
RELATING TO ABATEMENT OF ABANDONED OR INOPERATIVE VEHICLES

City Attorney's Summary

This Ordinance amends Chapter 28 of Title 8 of the Garden Grove Municipal Code to modify City procedures relating to abatement of abandoned or inoperative vehicles.

WHEREAS, the City Council finds that the accumulation of wrecked, dismantled and abandoned vehicles, or part(s) thereof, on public or private property creates conditions that impede emergency services, reduces property values, promotes blight and deterioration, invites plundering, comprises an attractive nuisance, creates a harborage for rodents and insects, creates potential hazards to the health and safety of the community, and interferes with pedestrian and vehicular traffic within the City;

WHEREAS, the State of California collects a portion of vehicle registration fees to go toward reimbursing cities in their efforts to abate these vehicles;

WHEREAS, the reimbursement from the State is divided into two qualifiers, one by population count, and one by the amount of 10 (ten) day abatements performed;

WHEREAS, the amended provisions set forth below will allow the City to perform and receive remuneration for 10 (ten) day abatements;

WHEREAS, this Code Amendment is exempt from further environmental review under the California Environmental Quality Act pursuant to California Code of Regulations Title 14, Section 15060(c)(2) because the activity will not result in a direct or reasonably foreseeable indirect adverse physical change in the environment.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GARDEN GROVE DOES HEREBY ORDAIN AS FOLLOWS:

SECTION 1. Chapter 28 of Title 8 of the Garden Grove Municipal Code is amended in its entirety to read as follows:

CHAPTER 28: VEHICLES -- ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE*

*For provisions regarding sale of abandoned property, see Chapter 3.24.

Section 8.28.010: Chapter purpose – Nuisance

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 part(s) thereof as public nuisances, the City Council hereby makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or part(s) thereof on private or public property not including highways creates a condition tending to reduce the value of private property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to the health and safety of minors, to create a harborage for rodents and insects, and to be injurious to the health, safety, and general welfare. Therefore, the presence of an abandoned, wrecked, dismantled, or inoperative vehicle or part(s) thereof, on private or public property not including highways, except as expressly hereinafter permitted, is declared to constitute a public nuisance that may be abated as such in accordance with the provisions of this Chapter.

Section 8.28.020: Leaving on public or private property

It is unlawful and a misdemeanor for any person to abandon, park, store, or leave or permit the abandonment, parking, storing, or leaving of any licensed or unlicensed vehicle or part(s) thereof that 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 seven days unless such vehicle or part(s) 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.

Section 8.28.030: Removal required

It is unlawful and a misdemeanor for any person to fail or refuse to remove an abandoned, wrecked, dismantled, or inoperative vehicle or part(s) 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.

Section 8.28.040: Definitions

As used in this Chapter:

"Highway" means a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Highway" includes street.

"Inoperative vehicle" includes all vehicles which, through the absence or deteriorated condition of mechanical parts including engine, transmission, driving axle, tires, and wheels, is unable to be operated on a highway. Additionally, vehicles that are (1) without current registration pursuant to California Vehicle Code Section 4000.4 unless exempted therefrom; or (2) are without the safety equipment required by Division 12 of the California Vehicle Code shall also be considered "inoperative."

"Owner of the land" means the owner of the land on which the vehicle, or part(s) thereof, is located, as shown on the last equalized assessment role.

"Owner of the vehicle" means the last registered owner 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.

Section 8.28.050: Chapter exceptions

This Chapter shall not apply to:

- A.) A vehicle or part(s) thereof that is completely enclosed within a building in a lawful manner where it is not visible from the highway or other public or private property; or
- B.) A vehicle or part(s) thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise.

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.

Section 8.28.060: Non-exclusiveness of this Chapter

This Chapter is not the exclusive regulation of abandoned, wrecked, dismantled, or inoperative vehicles within the city. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereinafter enacted by the City, the State, or any other legal entity or agency having jurisdiction.

Section 8.28.070: Authority for contractor to enter property for removal

When the City Council has contracted with or granted a franchise to any person or persons to remove vehicles pursuant to this Chapter, such person or persons shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle or part(s) thereof declared to be a nuisance pursuant to this Chapter.

Section 8.28.080: Administrative costs

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 part(s) thereof) under this Chapter.

Section 8.28.090: Public Hearing – Notice

A Public Hearing shall be held before the Police Department's Tow Hearing Officer upon a written request filed with the Police Department's Records Division by the owner of the vehicle or part(s) thereof or by the owner of the land on which such vehicle or part(s) thereof is located, within 10 (ten) days after mailing of the Notice of Intention to abate and remove the vehicle or part(s) thereof as required by this Chapter, or at the time of signing a release pursuant to Subsection 8.28.180(C). If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such 10 (ten) day period, said statement shall be construed as a request for a Public Hearing, which does not require his presence. Notice of the Public Hearing shall be mailed, by registered or certified mail, at least 10 (ten) days before the Public 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 Public Hearing is not received within 10 (ten) days after mailing of the Notice of Intention to abate and remove, the Chief of Police or his designee may abate and remove the vehicle, or part(s) thereof, as a public nuisance without holding a Public Hearing. Removal and disposal shall comply with the requirements set forth in Section 8.28.130. Upon any such request being so filed within such time period, the Police Tow Hearing Officer shall set the question of abatement and removal of the vehicle or part(s) thereof and the assessment of the administrative costs and the cost of removal for a Public Hearing before the Police Tow Hearing

Officer and mail, by registered or certified mail, to the person requesting such Public Hearing a notice of the time and place thereof not less than 10 (ten) days before the date set for such Public Hearing.

Section 8.28.110: Conduct of Public Hearing, findings, orders, and determinations

All Public Hearings under this Chapter shall be held before the Police Tow Hearing Officer, or his designee, who shall hear all facts and testimony he deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or part(s) thereof and the circumstances concerning its location on the private or public property. The Police Tow Hearing Officer shall not be limited by the technical rules of evidence. The owner of the land on which the vehicle is located may appear in person at the Public Hearing or present a written statement in time for consideration at the Public Hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial. The Police Tow Hearing Officer may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purpose of this Chapter. He may delay the time for removal of the vehicle or part(s) thereof if, in his opinion, the circumstances justify it. At the conclusion of the Public Hearing, the Police Tow Hearing Officer may find that a vehicle or part(s) 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 hereinafter provided and determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land on which the vehicle or part(s) thereof is located. The order requiring the removal shall include a description of the vehicle or part(s) thereof and the correct identification number and license number of the vehicle at the site, if available. The owner of the parcel of land shall be notified in writing of the decision. If it is determined at the Public Hearing that the vehicle was placed on the land without the consent of the land owner and that he has not subsequently acquiesced in its presence, the Police Tow Hearing Officer shall not assess 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 land owner.

If an interested party makes a written presentation to the Police Tow Hearing Officer but does not appear, he shall be notified in writing of the decision.

Section 8.28.120: Appeals – City Council Public Hearing

Any interested party may appeal the decision of the Police Tow Hearing Officer by filing a written Notice of Appeal with the City Clerk within five (5) days from the date of mailing of notice of the decision of the Police Tow Hearing Officer. Such appeal shall be heard by the City Council that may affirm, amend, or reverse the order or take other action deemed appropriate. The City Clerk shall give written notice of the time and place of the Public Hearing to the appellant and those persons specified in Section 8.28.090.

In conducting the Public Hearing, the City Council shall not be limited by the technical rules of evidence.

Section 8.28.130: Removal of vehicle

If no appeal is timely filed pursuant to Section 8.28.120, the Chief of Police or his designee may abate and remove the vehicle or part(s) thereof and dispose of same by delivery to a scrap yard or automobile dismantler's yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable, unless it is a vehicle that qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to California Vehicle Code Section 5004 or successor provisions, in which case the vehicle may be reconstructed or made operable. If the Chief of Police or his designee determines that the commercial channels of disposal are not available or are inadequate, he may dispose of such vehicle or part(s) thereof by removal to any suitable site contracted by the City. The Chief of Police or his designee may make final disposition of such vehicle or part(s) thereof or may transfer the same in any manner provided by law.

Section 8.28.140: Notice to Department of Motor Vehicles

Within five (5) days after the date of removal of the vehicle or part(s) thereof, notice shall be given to the Department of Motor Vehicles identifying the vehicles or part(s) 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.

Section 8.28.150: Assessment – Lien

If the administrative costs and the cost of removal that are charged against the owner of a parcel of land pursuant to Section 8.28.110 are not paid within thirty (30) 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. Said assessment shall have the same priority as other city taxes.

Section 8.28.160: Right of entry - Administration and enforcement

Except as otherwise provided herein, the provisions of this Chapter shall be administered by regularly salaried, full-time employees of the City, except that the removal of vehicles or part(s) thereof from property may be by any other duly authorized person. In the enforcement of this Chapter, such officer or his designee may enter upon private or public property to examine a vehicle or part(s) thereof, or obtain information as to the identity of a vehicle and/or to remove or cause the removal of a vehicle or part(s) thereof declared to be a nuisance pursuant to this Chapter.

Section 8.28.170: Authority to cause abatement and removal

Upon discovering the existence of an abandoned, wrecked, dismantled, or inoperative vehicle, or part(s) thereof, on private property or public property within the city, the duly authorized City employee shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein and to arrange with authorized private persons or City employees to accomplish such removal.

Section 8.28.180: Notice of Intention to abate and remove - Mailing form of notice

A. A ten (10) day Notice of Intention to abate and remove a vehicle or part(s) thereof, shall be mailed, by registered or certified mail, to the owner of the land on which the vehicle, or part(s) thereof, is located as shown on the last equalized assessment roll and to the last registered and legal owners of record of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership.

B. The Notice of Intention shall be given in substantially the following form:

Land Owner Notice:

**"NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,
WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE (OR PART(S)
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 Chapter 8.28, Section 8.28.170 of the Garden Grove Municipal Code has determined that there exists upon said land an abandoned, wrecked, dismantled, or inoperative (year, make, model) vehicle, or part(s) thereof, registered to [name and address of registered owner], license number [vehicle license number], vehicle identification number [VIN] that constitutes a public nuisance pursuant to the provisions of Chapter 9.32, Section 9.32.170 of the Garden Grove Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said part(s) of a vehicle) within ten (10) days from the date of mailing of this Notice. Upon your failure to do so the same will be abated and removed by the City and the costs thereof, together with administrative costs, will be assessed to you as owner of the land on which said vehicle (or said part(s) of a vehicle) is located.

As owner of the property on which the vehicle (or said part(s) of a vehicle) is located, you are hereby notified that you may, within ten (10) days after the mailing of this Notice of Intention, request a Public Hearing, and if such a request is not received by the City Manager or his designee within such ten (10) day period, the City Manager or his designee shall have the authority to abate and remove said vehicle (or said part(s) 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 ten (10) day period denying responsibility for the presence of said vehicle (or said part(s) of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for a Public Hearing at which your presence is not required. You may appear in person at any Public 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 Public Hearing.

Notice Mailed [date].

/s/signed _____

Chief of Police
Garden Grove Police Department"

Vehicle Owner Notice:

**"NOTICE OF INTENTION TO ABATE AND REMOVE AN ABANDONED,
WRECKED, DISMANTLED, OR INOPERATIVE VEHICLE (OR PART(S)
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 the last registered (and/or legal) owner of record of [description of vehicle or part(s) thereof – make, model, license, etc.], you are hereby notified that the undersigned pursuant to Chapter 8.28, Section 8.28.170 of the Garden Grove Municipal Code has determined that said vehicle (or said part(s) of a vehicle) exists as an abandoned, wrecked, dismantled, or inoperative vehicle at [describe location on public or private property], and which constitutes a public nuisance pursuant to the provisions of Chapter 9.32, Section 9.32.170 of the Garden Grove Municipal Code.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said part(s) of a vehicle) within ten (10) days from the date of mailing of this Notice.

As the registered (and/or legal) owner of record of said vehicle (or said part(s) of a vehicle), you are hereby notified that you may, within ten (10) days after the mailing of this Notice of Intention, request a Public Hearing or may submit a sworn written statement denying responsibility for the presence of the vehicle on the land, with your reasons for such denial, in lieu of appearing. If such request is not received by the City Manager or his designee within such ten (10) day period, the City Manager or his designee shall have the authority to abate and remove said vehicle (or said part(s) of a vehicle) as a public nuisance and assess the costs as aforesaid without a Public Hearing.

Notice Mailed [date]

/s/signed _____

Chief of Police
Garden Grove Police Department"

C. No Notice of Intention shall be required pursuant to this Section if the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part(s) thereof.

D. Provided that the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part(s) thereof, no Notice of Intention shall be required pursuant to this Section for removal of a vehicle or part(s) thereof that is:

1. Located upon a parcel zoned for agricultural use or not improved with a residential structure containing one or more dwelling units;
2. Inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed;
3. Valued at less than two hundred dollars (\$200) by a person specified in California Vehicle Code Section 22855, or successor provisions; and
4. Determined by the City to be a public nuisance presenting an immediate threat to public health or safety;

E. The Notice of Intention shall be provided, however, by the City to the registered and legal owners of the intent to dispose of the vehicle or part(s) thereof, prior to final disposition under California Vehicle Code Section 22662, or successor provisions, as required by and in accordance with the provisions contained therein.

SECTION 2. Severability. If any section, subsection, subdivision, sentence, clause, phrase, word, or portion of this Ordinance is, for any reason, held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance. The City Council hereby declares that it would have adopted this Ordinance and each section, subsection, subdivision, sentence, clause, phrase, word, or portion thereof, irrespective of the fact that any one or more sections, subsections, subdivisions, sentences, clauses, phrases, words or portions thereof be declared invalid or unconstitutional.

SECTION 3. The Mayor shall sign and the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same, or the summary thereof, to be published and posted pursuant to the provisions of law and this Ordinance shall take effect thirty (30) days after adoption.

The foregoing Ordinance was passed by the City Council of the City of Garden Grove on the ____ day of _____.

ATTEST:

MAYOR

CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF ORANGE) SS:
CITY OF GARDEN GROVE)

I, KATHLEEN BAILOR, City Clerk of the City of Garden Grove, do hereby certify that the foregoing Ordinance was introduced and presented on July 12, 2011, with a vote as follows:

AYES:	COUNCIL MEMBERS:	(5)	BEARD, BROADWATER, JONES, NGUYEN, DALTON
NOES:	COUNCIL MEMBERS:	(0)	NONE
ABSENT:	COUNCIL MEMBERS:	(0)	NONE