

CHAPTER 2

REGULATION AND REMOVAL OF JUNK VEHICLES**352-1. DECLARATION OF POLICY.**

In addition to and in accordance with the determination made and the authority granted by the State of California under Section 22660 of the Vehicle Code to remove junk vehicles as public nuisances, the Board of Supervisors of the County of Humboldt hereby makes the following findings and declarations:

The accumulation and storage of junk vehicles on private or public property not including highways is hereby found to create a condition tending to reduce the value of 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 public health, safety and general welfare. Therefore the presence of a junk vehicle on private or public property not including highways, except as expressly hereinafter permitted, is hereby declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this chapter. (Ord. 746 § 1, 1/12/71)

352-2. DEFINITIONS.

(a) Vehicle. "Vehicle" means a device, whether or not operable, designed for the purpose of propelling, moving or drawing upon a highway any person or property, except a device designed to be moved by human power or used exclusively upon stationary rails or tracks.

(b) Highway. "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.

(c) Landowner. "Landowner" means the owner of the land shown by the last equalized assessment roll upon which a junk vehicle is located.

(d) Vehicle Owner. "Vehicle owner" means the last registered and legal owner of record of a junk vehicle.

(e) Junk Vehicle. "Junk vehicle" means any vehicle or part thereof which is either:

(1) Substantially wrecked, dismantled, or inoperative and its salvage value and cost of repair together exceed its market value if repaired; or

(2) Inoperative for a period of thirty (30) consecutive days or more. (Ord. 746, § 2, 11/12/71)

(f) Enforcement Official. "Enforcement Official" means the Sheriff or his/her designee who shall be a regularly salaried, full-time County employee, and/or the Code Enforcement Unit. (Ord. 2093, § 1, 10/17/95; Ord. No. 2270, 04/23/2002)

352-3. EXCLUSIONS.

(a) This chapter shall not apply to:

(1) A vehicle or part 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; or

(2) A vehicle or part 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 junk yard, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise. (Ord. 2332, § 1, 11/02/2004)

(b) Nothing in this section shall authorize the maintenance of a public or private nuisance.

(c) This chapter is not the exclusive regulation of junk vehicles within the unincorporated area of the County. It shall supplement and be in addition to the other regulatory codes, statutes and Code sections heretofore or hereafter enacted by the County, the State or any other legal entity or agency having jurisdiction (Ord. 746, § 3, 1/12/71)

352-11. ENFORCEMENT.

The provisions of this chapter shall be administered and enforced by the Enforcement Official. (Ord. 746, § 4, 1/12/71; Ord. 2093, § 1, 10/17/95)

352-12. ENTRY UPON PRIVATE OR PUBLIC PROPERTY.

(a) In the enforcement of this chapter the Enforcement Official may enter upon private or public property to the extent permissible by law to examine a vehicle or part thereof, or obtain information as to the identity of a vehicle and to remove or cause the removal of a junk vehicle pursuant to this chapter.

(b) When the Board of Supervisors has contracted with or granted a franchise to any person or persons for the removal of a junk vehicle, such person or persons shall be authorized to the extent permissible by law to enter upon private property or public property to remove or cause the removal of a junk vehicle designated for removal by the Enforcement Official. (Ord. 746, § 5, 1/12/71; Ord. 2093, § 1, 10/17/95)

352-13. BOARD TO FIX ADMINISTRATIVE COSTS.

(a) The Board of Supervisors shall from time to time determine and fix and amount to be assessed as administrative costs (excluding the actual cost of removal of any vehicle or part thereof) under this chapter.

(b) It is hereby determined that the administrative cost of vesting title to any vehicle in a licensed dismantler (other than a dismantler acting under a franchise with the County for the removal of abandoned vehicles) is Two Dollars (\$2.00) for each and every vehicle in which title is vested as hereinabove. Said Two Dollars (\$2.00) administrative cost shall be paid by the dismantler to the Enforcement Official on the demand of the Enforcement Official. Revenues collected pursuant to this subsection shall be deposited by the Enforcement Official in the general fund of the County of Humboldt. (Ord. 746, § 6, 1/12/71; Ord. 1212, § 1, 3/28/78; Ord. 2093, § 1, 10/17/95)

352-14. NOTICE OF INTENT TO ABATE AND REMOVE.

Notice of intention to abate and remove a junk vehicle or part thereof as a public nuisance and to assess the costs of removal shall be delivered by registered or certified mail to the landowner and to the vehicle owner if the owner is in such condition that identification numbers are available to determine ownership. Such notice shall contain a statement that the vehicle owner and the landowner may request a public hearing; that the landowner and the vehicle owner may appear in person at the hearing; that the landowner may present a sworn statement denying responsibility for the presence of the vehicle on the land with his reasons for denial in lieu of personally appearing; and that, if a request for a hearing is not delivered to the Enforcement Official within ten (10) days after the mailing of the notice, the Enforcement Official shall have authority to remove the junk vehicle and to assess the costs of removal, including administrative costs, against the land upon which the junk vehicle was located and against the vehicle owner. Such notice shall also contain a statement of the amount proposed to be assessed against the land and/or the vehicle owner for removal of the junk vehicle. (Ord. 746, § 7, 1/12/71; Ord. 2093, § 1, 10/17/95)

352-15. REQUEST FOR PUBLIC HEARING.

A public hearing shall be held upon request for such hearing by the vehicle owner or landowner. This request must be delivered to the Enforcement Official within ten (10) days after the mailing of notice of intention to abate and remove the vehicle. If the landowner submits a sworn statement denying responsibility for the presence of the vehicle on his land within such time period, such statement shall be construed as a request for hearing which does not require the presence of the landowner. (Ord. 746, § 8, 1/12/71; Ord. 2093, § 1, 10/17/95)

352-16. CONDUCT OF HEARING.

All hearing under this chapter shall be held before a hearing officer is appointed by the Enforcement Official who shall hear all relevant facts and testimony. Said facts and testimony may include testimony on the condition and value of the vehicle or part thereof and the circumstances concerning its presence on the land. The hearing officer shall not be limited by the technical rules of evidence. If an interested party makes a written presentation to the hearing officer but does not appear, he shall be notified in writing of the decision. (Ord. 746, § 9, 1/12/71; Ord. 2093, § 1, 10/17/95)

352-17. POWERS OF HEARING OFFICER.

(a) If at the conclusion of the public hearing the hearing officer finds that a vehicle or part thereof is a junk vehicle, he shall order the same removed from the property as a public nuisance and disposed of as hereinafter provided. The 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. The hearing officer may delay the time for removal of the vehicle or part thereof if, in his opinion, the circumstances justify it. The order requiring removal shall include a description of the junk vehicle and the identification number and license number of the junk vehicle if available.

(b) The hearing officer may assess the costs of administration and of removal of the junk vehicle against the parcel of land on which the junk vehicle is located; provided, however, that if the hearing officer finds that the junk vehicle was placed on the land without the consent of the landowner and the landowner has not subsequently acquiesced in the presence of the vehicle upon his land, no assessment of costs shall be made against the land upon which the junk vehicle was located or against the landowner.

(c) If the hearing officer finds that the junk vehicle was abandoned upon public or private property without the express or implied consent of the owner or person in lawful possession or control of the property, the hearing officer may assess the cost of administration and removal of the vehicle against the vehicle owner. (Ord. 746, § 10, 1/12/71)

352-21. REMOVAL OF VEHICLES.

(a) The Enforcement Official may remove a junk vehicle in accordance herewith if no request for hearing is received within the period prescribed by Section 352-15.

(b) The Enforcement Official shall have authority to remove a junk vehicle upon the order of the hearing officer five (5) days after the mailing of a copy of the decision and order of the hearing officer to the landowner and to the vehicle owner.

(c) The Enforcement Official shall remove junk vehicles in accordance with the terms of any applicable franchise agreement entered into by the County. In the absence of such a franchise agreement the Sheriff may execute a contract for the removal of the vehicle in accordance with such terms and conditions as the Board of Supervisors may from time to time establish.

(d) Junk vehicles may be disposed of by removal to a scrap yard, automobile dismantler's yard, and other site designated by the Enforcement Official.

(e) After a junk vehicle has been removed, it shall not be reconstructed or made operable. (Ord. 746, § 11, 1/12/71; Ord. 2093, § 1, 10/17/95)

352-22. NOTICE OF REMOVAL.

Within five (5) days after the date of removal of the junk vehicle, the Enforcement Official shall notify the Department of Motor Vehicles of such removal. Said notice shall identify the junk vehicle and describe any evidence

or registration available, including but not limited to registration certificates of title or license plates. (Ord. 746, § 12, 1/12/71; Ord. 2093, § 1, 10/17/95)

352-23. NOTICE OF LIEN.

If assessment is ordered against the land on which the vehicle is located, the Enforcement Official shall cause a Notice of Lien to be prepared and recorded in the office of the County Recorder of the County of Humboldt. Said notice shall contain the following:

(a) An address, legal description or other description sufficient to identify the premises.

(b) A description of the proceedings under which the special assessment was made.

(c) The claim of lien upon the described premises. (Ord. 746, § 13, 1/12/71)

352-24. PRIORITY OF LIEN.

Upon the recordation of such Notice of Lien, the amount claimed shall constitute a lien upon the described premises. Such lien shall be on a parity with the liens of State and County taxes. (Ord. 746, § 13, 1/12/71)

352-25. COLLECTION BY AUDITOR.

The Notice of Lien, after recordation, shall be delivered to the County Auditor who shall enter the amount of lien on the assessment roll as a special assessment. Thereafter, the amount set forth shall be collected at the same time and in the same manner as ordinary County taxes are collected and shall be subject to the same penalties and interest, and to the same procedure for foreclosure and sale in case of delinquency as is provided for ordinary County taxes, and all laws applicable to the levy, collection and enforcement of County taxes are hereby made applicable to such assessment. (Ord. 746, § 15, 1/12/71)

352-26. PENAL PROVISIONS.

(a) It shall be 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 junk vehicle upon any private property or public property not including highways for a period in excess of five (5) days unless such junk vehicle 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 parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junk yard. (Ord 746, § 16, 1/12/71; Ord. 2332, § 1, 11/02/2004)

(b) Any person violating any provision of this chapter shall be punished by a mandatory fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the County jail for a period not to exceed six months, or by both such fine and imprisonment, and shall provide proof that the costs of removal and lawful disposition of the vehicle have been paid. Proof that the costs of removal and disposition of the vehicle have been paid shall not be required if proof is provided to the court that the vehicle was stolen prior to abandonment. That proof may consist of a police report or other evidence acceptable to the court. No part of any fine imposed shall be suspended. The fine may be paid in installments if the court determines that the defendant is unable to pay the entire amount in one payment. (Ord. 2332, § 1, 11/02/2004)

(c) The abandonment of any motor vehicle in any manner that violates this section shall constitute a rebuttable presumption affecting the burden of producing evidence that the last registered owner of record, not having complied with Section 5900 of the Vehicle Code, is responsible for such abandonment and is thereby liable for the cost of removal and disposition of the vehicle. The filing of a report of sale or transfer of the vehicle by a transferee pursuant to Section 5602, the filing of a vehicle theft report with a law enforcement agency, or the filing of a form or notice with the department pursuant to subdivision (b) of Section 4456 or Section 5900 or 5901 relieves the registered owner of liability under this subdivision. (Ord. 2332, § 1, 11/02/2004)

(d) An owner who has made a bona fide sale or transfer of a vehicle and has delivered possession of the vehicle to a purchaser may overcome the presumption appearing in subdivision (c) by demonstrating that he or she has complied with vehicle Code sections 5900 or 5602 or providing other proof satisfactory to the court. (Ord. 2332, § 1, 11/02/2004)