

APPROVED
BY THE CITY COUNCIL

JAN 27 1998

OFFICE OF THE
CITY CLERK



1.9

DEPARTMENT OF
POLICE

ARTURO VENEGAS, JR.
CHIEF OF POLICE

CITY OF SACRAMENTO
CALIFORNIA
January 16, 1998

Ref: 1-12

HALL OF JUSTICE
813 SIXTH STREET
SACRAMENTO, CA
95814-2495

PH 916-264-5121
FAX 916-448-4620
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City Council
Sacramento, California 95814

Honorable Members in Session:

SUBJECT: ORDINANCE TO AUTHORIZE THE CHIEF OF POLICE AND THE CHIEF OF CODE ENFORCEMENT OR THEIR AGENTS TO SUMMARILY ABATE VEHICLES FROM PRIVATE PROPERTY UNDER EXIGENT CIRCUMSTANCES WHICH POSE A PUBLIC SAFETY HAZARD.

LOCATION AND COUNCIL DISTRICT: City wide

RECOMMENDATION:

This report recommends that the City Council approve the attached ordinance to allow for summary abatement of dangerous vehicles by the Chief of Police, the Chief of Code Enforcement or their agents without preliminary review by the City Attorney's office. A post-tow hearing would be offered to those vehicle owners who do not believe their vehicles were in a dangerous condition.

CONTACT PERSON: Lieutenant Mike Uyeda, Sector 2 Command,
Police Department, 277-6130

FOR COUNCIL MEETING OF: January 27, 1998

SUMMARY:

This report recommends that the City Council approve the attached ordinance which would add Sections 61.06.612 through 61.06.620 to Title 61 of the Sacramento City Code relating to summary abatement of dangerous vehicles from public or private property. The ordinance would allow the Chief of Police, the Chief of Code Enforcement and their agents to have dangerous vehicles towed immediately from public and private property without a pre-tow hearing, but with notification to the owner at the time of the tow.

**EXIGENT TOW ORDINANCE
CITY COUNCIL
JANUARY 27, 1998
PAGE 2**

COMMITTEE/COMMISSION ACTION:

The ordinance was reviewed by the Law and Legislation Committee on June 3, 1997 and recommended for adoption by the City Council, subject to minor changes requested by staff. The Police Department requested that the ordinance be modified to eliminate the requirement for City Attorney pre-tow review. The City Attorney's Office reviewed this request and determined the removal of the requirement to be appropriate, and the language has been modified accordingly. The City Attorney's Office recommended that defined policy guidelines be adopted by the Police Department to apply the ordinance, and the Department is in the process of preparing those guidelines.

BACKGROUND:

Throughout the City of Sacramento there are individuals who store their vehicles in hazardous conditions on their private property, whether in a driveway or on open property. On many occasions these vehicles are propped up on milk crates or blocks of wood for days at a time. These vehicles could easily fall and injure their owners or other people visiting the property. Non-functioning vehicles are also left with exposed jagged glass or metal, or with flammable liquids stored in them for long periods of time. Situations such as these present an imminent public safety hazard and require summary abatement to protect the health and welfare of the citizens of Sacramento.

As the community becomes more involved with the Police Department, the concerns raised are often of the nature of public nuisances and hazards. The Police Department believes that the liability associated with being informed of these hazards but not taking action is far greater than the liability associated with towing away a vehicle at owner's expense. The Police Department already has a post-tow hearing process in place to review complaints of inappropriate or unnecessary towing and storage. The Police Department is also prepared to reimburse those few individuals whose vehicles were towed but were not imminent public safety hazards as defined in this ordinance.

ENVIRONMENTAL CONSIDERATIONS:

This activity does not constitute a "project" and is therefore exempt from the California Environmental Quality Act (CEQA), CEQA Guidelines Sections 15061 and 15378.

FINANCIAL CONSIDERATIONS:

This proposed amendment to the City Code may increase costs to the Police Department insignificantly if individuals request tow hearings when their vehicles are summarily abated. However, there may also be added revenue due to increased vehicle release fees.

**EXIGENT TOW ORDINANCE
CITY COUNCIL
JANUARY 27, 1998
PAGE 3**

POLICY CONSIDERATIONS:

The proposed ordinance amendment is consistent with City policy in providing a safe environment for our citizens by taking swift action to prevent property damage, injury or death by removing or isolating imminent public safety hazards on public and private property.

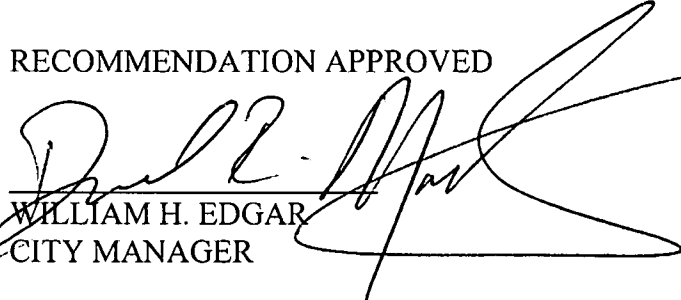
MBE/WBE CONSIDERATIONS:

None

Respectfully submitted,


ARTURO VENEGAS, JR.
CHIEF OF POLICE

RECOMMENDATION APPROVED


WILLIAM H. EDGAR
CITY MANAGER

Attachment: Draft Ordinance Amendment

APPROVED
BY THE CITY COUNCIL

JAN 27 1998

OFFICE OF THE
CITY CLERK

ORDINANCE NO. 98-004

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

**AN ORDINANCE ADDING SECTIONS 61.06.612 THROUGH
61.06.620 TO THE SACRAMENTO CITY CODE, RELATING
TO SUMMARY ABATEMENT OF DANGEROUS VEHICLES
FROM PUBLIC OR PRIVATE PROPERTY**

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Sections 61.06.612 through 61.06.620 of the Sacramento City Code are hereby added to read as follows:

61.06.612 Vehicles in a Dangerous Condition.

The City Council finds and declares that vehicles which are on public or private property and which are in such a condition so as to constitute an imminent danger to the public are a public nuisance and a nuisance *per se* and should be removed by summary abatement to avoid injury to the public. Conditions which warrant summary abatement include, but are not limited to, permitting a vehicle to remain unattended on blocks, jacks or other means of raising the vehicle; broken glass and other sharp objects on the vehicle; flammable or other hazardous substances in or around the vehicle; and other conditions where an unattended vehicle or parts thereof pose an imminent danger to health, safety, or welfare of the public. For purposes of this section, "unattended" is defined as a vehicle

- 1 -

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

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upon which work is not actively being performed at the time the condition constituting a danger is observed.

61.06.613 Summary Abatement of Certain Vehicles.

Notwithstanding any other provision of this title, the Chief of Police, the Manager of Code Enforcement or their designees may summarily abate, without compliance with other provisions of this title, any vehicle from public or private property when the vehicle poses an imminent danger to the public health, safety or welfare which, if not summarily abated, would, during the pendency of the standard abatement proceedings, subject the public to potential harm of a serious nature. Summary abatement may include removal of the vehicle or any of its component parts so as to remove the imminent hazard.

61.06.614 Procedure for Summary Abatement.

The Chief of Police, the Manager of Code Enforcement or their designees shall cause any vehicle which is to be summarily abated to be towed and stored by a tow company who shall follow the lien sale procedures provided in the Vehicle Code for removal and storage of vehicles from public or private property. Any tow company which tows and/or stores a vehicle pursuant to the summary abatement provisions of this title shall be entitled to recovery of towing and storage charges from the registered or legal owner of the vehicle as provided in the Vehicle Code.

61.06.615 Notice of Summary Abatement; Supplemental Notice.

(a) Whenever a vehicle is towed pursuant to the summary abatement authority provided in this chapter, the officer effecting the summary abatement shall, immediately after the vehicle is removed, post a copy of the Notice of Summary Abatement conspicuously in close proximity to the location of the removed vehicle. Notice of Summary Abatement shall state the pre-tow location of the vehicle, the date and time of removal, and the name of the officer who caused the vehicle to be removed.

(b) A copy of the Notice of Summary Abatement and a Supplemental Notice shall be mailed to the owner of the premises from which the vehicle was removed, and to the registered and legal owners of the vehicle no later than the close of business of the third business day after the day of removal of the vehicle. The Supplemental Notice shall contain:

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

- (1) A statement that the vehicle(s) or parts thereof have been found to be an imminent danger to public health, safety or welfare as specified in Section 61.06.612, including sufficient detail to provide the owner with information as to the conditions constituting the alleged danger.
- (2) A statement that a hearing will be provided by hearing examiner upon written request by the owner of the premises on which the vehicle(s) or parts thereof is located, or by the registered or legal owner of the vehicle(s) or parts thereof, and that the request for hearing must be made within thirty (30) days after the mailing of the notices.
- (3) A statement that failure to request a hearing within the thirty (30) day period shall constitute a waiver of such rights.

(c) The notices required by subsection (b) shall be sent in accordance with City Code section 61.06.603(b).

61.06.616 Same--Right of Owner of Premises to Disclaim Responsibility for Vehicle.

The notices required by Section 61.06.615 shall include the following statement:

"The owner of the premises from which the vehicles or parts thereof was removed may file with the hearing examiner a sworn written statement denying responsibility for the presence on the property of the vehicle(s) or parts thereof listed, together with reasons for such denial.

The statement shall be construed as a request for a hearing without the need for personal attendance. At the hearing, the statement will be considered by the hearing examiner in determining whether the cost of removing the vehicle(s) or parts thereof will be assessed against the property as a lien.

The owner of the premises need not file a sworn statement if the owner intends to attend the hearing, but may do so."

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

61.06.617 Hearing Notice.

Whenever the owner of the premises on which the vehicle(s) or parts thereof was located, or the registered or legal owner of the vehicle(s) or parts thereof requests a hearing (hereinafter called "requesting party"), a hearing notice shall be served upon the requesting party specifying the date, time and place of the hearing. The hearing notice shall be served upon the requesting party either personally or by mailing a copy of such notice by certified mail, postage prepaid, return receipt requested, not less than five (5) calendar days prior to the hearing date.

61.06.618 Hearing by Hearing Examiner.

At the time fixed in the notice required by Section 61.06.617, the hearing examiner shall hear the testimony of city officers and employees, the requesting party, and other competent persons regarding the condition of the vehicle(s) or parts thereof and other relevant facts concerning the matter.

61.06.619 Form and contents of decision; finality of decision.

- (a) If it is shown by a preponderance of all the evidence that the condition of the vehicle(s) or parts thereof constituted an imminent danger to public health, safety or welfare, the decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented. The hearing examiner shall issue an order that the vehicle(s) or parts thereof constituted a public nuisance, and that the abatement expense may be made a lien on the property involved, unless the hearing examiner finds that the owner of the premises was not responsible for the presence of the vehicle(s) or parts thereof on the premises.
- (b) The decision shall also inform the requesting party that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be served upon each requesting party and the City in accordance with the provisions of Section 61.06.603(b). The decision shall be final when signed by the hearing examiner and served as herein provided.

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

61.06.620 Costs of Abating Abandoned Vehicles.

Notwithstanding any other provision of this code, the costs of summarily abating any vehicle, or parts thereof, including the actual tow costs, plus an administrative fee covering all city direct and indirect costs and expenses to be set by resolution of the city council, is the joint and several personal obligation of the owner of the premises and the registered owner; provided, however, that a property owner who establishes lack of responsibility for the presence of the vehicle or parts on the property as permitted by Sections 61.06.616 and 61.06.619 shall not be liable for the costs or the administrative fee; and provided, further, that a last registered owner who can satisfy the requirements of Vehicle Code section 22524(b) shall not be personally liable for the costs or the administrative fee.

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____



*Withdrawn
by
staff*

DEPA
POLK

ARTU
CHIEF

SACRAMENTO
CALIFORNIA
January 8, 1998

HALL OF JUSTICE
813 SIXTH STREET
SACRAMENTO, CA
95814-2495

Page 1-12

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Sa
Hoi
SUE

*New report
will be forthcoming
to be adopted
on 1/27/98 consensus*

**TO AUTHORIZE THE CHIEF OF POLICE AND THE CHIEF OF
CODE ENFORCEMENT OR THEIR AGENTS TO SUMMARILY ABATE VEHICLES
FROM PRIVATE PROPERTY UNDER EXIGENT CIRCUMSTANCE WHICH POSE
A PUBLIC SAFETY HAZARD.**

LOCATION AND COUNCIL DISTRICT: City wide

RECOMMENDATION:

This report recommends that the City Council change the attached ordinance to allow for summary abatement of dangerous vehicles by the Chief of Police, the Chief of Code Enforcement or their agents without preliminary review by the City Attorney's office. A post-tow hearing would be offered to those vehicle owners who do not believe their vehicles were in a dangerous condition.

CONTACT PERSON: Lieutenant Mike Uyeda, Sector 2, Command,
Police Department, 277-6130

FOR COUNCIL MEETING OF: January 20, 1998

SUMMARY:

This report recommends that the City Council amend and approve the attached ordinance as requested in this report. The proposed ordinance would add Sections 61.06.612 through 61.06.620 to Title 61 of the Sacramento City Code relating to summary abatement of dangerous vehicles from public or private property. The ordinance would allow the Chief of Police, the Chief of Code Enforcement and their agents to have dangerous vehicles towed immediately from public and private property without a pre-tow hearing, but with notification to the owner at the time of the tow.

**EXIGENT TOW ORDINANCE
CITY COUNCIL
JANUARY 20, 1998
PAGE 2**

COMMITTEE/COMMISSION ACTION:

This ordinance was originally forwarded with support by the Law and Legislation Committee on June 3, 1997. The City Attorney's Office felt additional revisions were necessary to eliminate any state preemption concerns. The Police Department is in agreement with the majority of this ordinance, but would like to see Section 61.06.13 amended to eliminate the requirement of a City Attorney review prior to abatement.

BACKGROUND:

Throughout the City of Sacramento there are individuals who store their vehicles in hazardous conditions on their private property, whether in a driveway or on open property. On many occasions these vehicles are propped up on milk crates or blocks of wood for days at a time. These vehicles could easily fall and injure their owners or other people visiting the property. Non-functioning vehicles are also left with exposed jagged glass or metal, or with flammable liquids stored in them for long periods of time. Situations such as these present an imminent public safety hazard and require summary abatement to protect the health and welfare of the citizens of Sacramento.

The Police Department respectfully requests that the City Council amend section 61.06.013 of the attached ordinance to allow for summary abatement of vehicles in these conditions without preliminary City Attorney review. Review of this nature would require a delay of 48 to 72 hours before abatement action could be taken. It would be extremely unfortunate if an injury or fatality were to occur while a summary abatement request was waiting to be reviewed by the City Attorney's office. Police Officers and their supervisors make life and death decisions frequently and often must decide when to infringe on individual rights to protect the public. They can also make decisions reasonably and responsibly whether a vehicle is an imminent public safety hazard.

As the community becomes more involved with the Police Department, the concerns raised are often of the nature of public nuisances and hazards. The Police Department believes that the liability associated with being informed of these hazards but not taking action is far greater than the liability associated with towing away a vehicle at owner's expense. The Police Department already has a post-tow hearing process in place to review complaints of inappropriate or unnecessary towing and storage. The Police Department is also prepared to reimburse those few individuals whose vehicles were towed but were not imminent public safety hazards as defined in this ordinance.

ENVIRONMENTAL CONSIDERATIONS:

This activity does not constitute a "project" and is therefore exempt from the California Environmental Quality Act (CEQA), CEQA Guidelines Sections 15061 and 15378.

**EXIGENT TOW ORDINANCE
CITY COUNCIL
JANUARY 20, 1998
PAGE 3**

FINANCIAL CONSIDERATIONS:

This proposed amendment to the City Code may increase costs to the Police Department insignificantly if individuals request tow hearings when their vehicles are summarily abated. However, there may also be added revenue due to increased vehicle release fees.

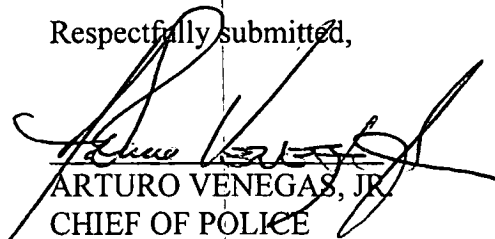
POLICY CONSIDERATIONS:

The proposed ordinance amendment is consistent with City policy in providing a safe environment for our citizens by taking swift action to prevent property damage, injury or death by removing or isolating imminent public safety hazards on public and private property.

MBE/WBE CONSIDERATIONS:

None

Respectfully submitted,


ARTURO VENEGAS, JR.
CHIEF OF POLICE

RECOMMENDATION APPROVED


WILLIAM H. EDGAR
CITY MANAGER

for: Attachment: Draft Ordinance Amendment

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADDING SECTIONS 61.06.612 THROUGH 61.06.620 TO THE SACRAMENTO CITY CODE, RELATING TO SUMMARY ABATEMENT OF DANGEROUS VEHICLES FROM PUBLIC OR PRIVATE PROPERTY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Sections 61.06.612 through 61.06.620 of the Sacramento City Code are hereby added to read as follows:

61.06.612 Vehicles in a Dangerous Condition.

The City Council finds and declares that vehicles which are on public or private property and which are in such a condition so as to constitute an imminent danger to the public are a public nuisance and a nuisance *per se* and should be removed by summary abatement to avoid injury to the public. Conditions which warrant summary abatement include, but are not limited to, permitting a vehicle to remain unattended on blocks, jacks or other means of raising the vehicle; broken glass and other sharp objects on the vehicle; flammable or other hazardous substances in or around the vehicle; and other conditions where an unattended vehicle or parts thereof pose an imminent danger to health, safety, or welfare of the public. For purposes of this section, "unattended" is defined as a vehicle upon which work is not actively being performed at the time the condition constituting a danger is observed.

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

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61.06.613 Summary Abatement of Certain Vehicles.

Notwithstanding any other provision of this title, the Chief of Police, the Manager of Code Enforcement or their designees may summarily abate, without compliance with other provisions of this title, any vehicle from public or private property when the vehicle poses an imminent danger to the public health, safety or welfare which, if not summarily abated, would, during the pendency of the standard abatement proceedings, subject the public to potential harm of a serious nature. Summary abatement may include removal of the vehicle or any of its component parts so as to remove the imminent hazard. No summary abatement shall be undertaken pursuant to this section unless it is first reviewed by the office of the City Attorney.

61.06.614 Procedure for Summary Abatement.

The Chief of Police, the Manager of Code Enforcement or their designees shall cause any vehicle which is to be summarily abated to be towed and stored by a tow company who shall follow the lien sale procedures provided in the Vehicle Code for removal and storage of vehicles from public or private property. Any tow company which tows and/or stores a vehicle pursuant to the summary abatement provisions of this title shall be entitled to recovery of towing and storage charges from the registered or legal owner of the vehicle as provided in the Vehicle Code.

61.06.615 Notice of Summary Abatement; Supplemental Notice.

(a) Whenever a vehicle is towed pursuant to the summary abatement authority provided in this chapter, the officer effecting the summary abatement shall, immediately after the vehicle is removed, post a copy of the Notice of Summary Abatement conspicuously in close proximity to the location of the removed vehicle. Notice of Summary Abatement shall state the pre-tow location of the vehicle, the date and time of removal, and the name of the officer who caused the vehicle to be removed.

(b) A copy of the Notice of Summary Abatement and a Supplemental Notice shall be mailed to the owner of the premises from which the vehicle was removed, and to the registered and legal owners of the vehicle no later than the close of business of the third business day after the day of removal of the vehicle. The Supplemental Notice shall contain:

- (1) A statement that the vehicle(s) or parts thereof have been found to be an imminent danger to public health, safety or welfare as specified in

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____



Section 61.06.612, including sufficient detail to provide the owner with information as to the conditions constituting the alleged danger.

- (2) A statement that a hearing will be provided by hearing examiner upon written request by the owner of the premises on which the vehicle(s) or parts thereof is located, or by the registered or legal owner of the vehicle(s) or parts thereof, and that the request for hearing must be made within thirty (30) days after the mailing of the notices.
- (3) A statement that failure to request a hearing within the thirty (30) day period shall constitute a waiver of such rights.

(c) The notices required by subsection (b) shall be sent in accordance with City Code section 61.06.603(b).

61.06.616 Same--Right of Owner of Premises to Disclaim Responsibility for Vehicle.

The notices required by Section 61.06.615 shall include the following statement:

"The owner of the premises from which the vehicles or parts thereof was removed may file with the hearing examiner a sworn written statement denying responsibility for the presence on the property of the vehicle(s) or parts thereof listed, together with reasons for such denial.

The statement shall be construed as a request for a hearing without the need for personal attendance. At the hearing, the statement will be considered by the hearing examiner in determining whether the cost of removing the vehicle(s) or parts thereof will be assessed against the property as a lien.

The owner of the premises need not file a sworn statement if the owner intends to attend the hearing, but may do so."

61.06.617 Hearing Notice.

Whenever the owner of the premises on which the vehicle(s) or parts thereof was located, or the registered or legal owner of the vehicle(s) or parts thereof requests a hearing (hereinafter called "requesting party"), a hearing notice shall be served upon the requesting party specifying the date, time and place of the hearing. The hearing notice shall be served upon the requesting party either personally or by mailing a copy of such

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ORDINANCE NO. _____

DATE ADOPTED: _____

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notice by certified mail, postage prepaid, return receipt requested, not less than five (5) calendar days prior to the hearing date.

61.06.618 Hearing by Hearing Examiner.

At the time fixed in the notice required by Section 61.06.617, the hearing examiner shall hear the testimony of city officers and employees, the requesting party, and other competent persons regarding the condition of the vehicle(s) or parts thereof and other relevant facts concerning the matter.

61.06.619 Form and contents of decision; finality of decision.

- (a) If it is shown by a preponderance of all the evidence that the condition of the vehicle(s) or parts thereof constituted an imminent danger to public health, safety or welfare, the decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented. The hearing examiner shall issue an order that the vehicle(s) or parts thereof constituted a public nuisance, and that the abatement expense may be made a lien on the property involved, unless the hearing examiner finds that the owner of the premises was not responsible for the presence of the vehicle(s) or parts thereof on the premises.
- (b) The decision shall also inform the requesting party that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be served upon each requesting party and the City in accordance with the provisions of Section 61.06.603(b). The decision shall be final when signed by the hearing examiner and served as herein provided.

61.06.620 Costs of Abating Abandoned Vehicles.

Notwithstanding any other provision of this code, the costs of summarily abating any vehicle, or parts thereof, including the actual tow costs, plus an administrative fee covering all city direct and indirect costs and expenses to be set by resolution of the city council, is the joint and several personal obligation of the owner of the premises and the registered owner, provided, however, that a property owner who establishes lack of responsibility for the presence of the vehicle or parts on the property as permitted by Sections 61.06.616 and 61.06.619 shall not be liable for the costs or the administrative fee; and provided, further, that a last registered owner who can satisfy the requirements of Vehicle Code section 22524(b) shall not be personally liable for the costs or the administrative fee.

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

⑦

DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

- 5 -

FOR CITY CLERK USE ONLY

ORDINANCE NO. _____

DATE ADOPTED: _____

8



1.3 d.d

PASSED FOR
PUBLICATION
& CONTINUED
TO 1-20-98

DEPARTMENT OF
POLICE

ARTURO VENEGAS, JR.
CHIEF OF POLICE

CITY OF SACRAMENTO
CALIFORNIA

December 29, 1997

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95814-2506

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FAX 916-448-4620
E-MAIL
spdcau@sacpd.org
www.sacpd.org

City Council
Sacramento, California 95814

Honorable Members in Session:

SUBJECT: AN ORDINANCE ADDING SECTIONS 61.06.612 THROUGH 61.06.620 OF THE SACRAMENTO CITY CODE RELATING TO SUMMARY ABATEMENT OF DANGEROUS VEHICLES FROM PUBLIC OR PRIVATE PROPERTY

LOCATION AND COUNCIL DISTRICT: City-wide

RECOMMENDATION:

This report recommends that the item be passed for publication of title, pursuant to City Charter Chapter 61, and continued to January 20, 1998.

CONTACT PERSON: Rhonda Matsuo, Office of the Chief, 264-7346
David Topaz, Office of Operations, 264-8478

FOR COUNCIL MEETING OF: January 13, 1998

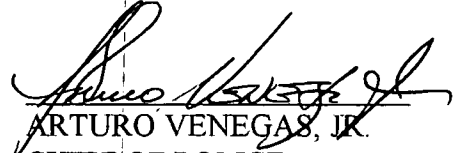
SUMMARY:

The Sacramento Police Department proposes the addition of Sections 61.06.612 through 61.06.620 to the Sacramento City Code relating to the summary abatement of dangerous vehicles from private property and the removal of hazardous vehicles. Certain vehicles located on private property which is accessible to the public create a hazardous condition and, in some instances, create an environmental hazard to the community. With the present Sacramento City Codes, the Abatement procedures are very time consuming, leaving the hazard in place for an unacceptable time period. The delay in removal of hazardous vehicles may be dangerous to the public and most certainly prolongs the neighborhood nuisance.

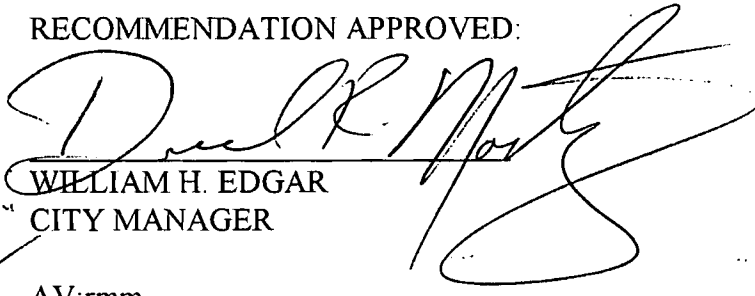
The mission of the Sacramento Police Department is to work in partnership with the Community to protect life and property; solve neighborhood problems, and enhance the quality of life in our City.

City Council
Ordinance Adding Sections to the City Code Relating to
Abatement of Dangerous Vehicles
December 29, 1997
Page 2

Respectfully submitted,


ARTURO VENEGAS, JR.
CHIEF OF POLICE

RECOMMENDATION APPROVED:


WILLIAM H. EDGAR
CITY MANAGER

AV: rmm
REF: 12-30

Attachments: Proposed Ordinance

ORDINANCE NO.

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF _____

AN ORDINANCE ADDING SECTIONS 61.06.612 THROUGH 61.06.620 TO THE SACRAMENTO CITY CODE, RELATING TO SUMMARY ABATEMENT OF DANGEROUS VEHICLES FROM PUBLIC OR PRIVATE PROPERTY

BE IT ENACTED BY THE COUNCIL OF THE CITY OF SACRAMENTO:

SECTION 1.

Sections 61.06.612 through 61.06.620 of the Sacramento City Code are hereby added to read as follows:

61.06.612 Vehicles in a Dangerous Condition.

The City Council finds and declares that vehicles which are on public or private property and which are in such a condition so as to constitute an imminent danger to the public are a public nuisance and a nuisance *per se* and should be removed by summary abatement to avoid injury to the public. Conditions which warrant summary abatement include, but are not limited to, permitting a vehicle to remain unattended on blocks, jacks or other means of raising the vehicle; broken glass and other sharp objects on the vehicle; flammable or other hazardous substances in or around the vehicle; and other conditions where an unattended vehicle or parts thereof pose an imminent danger to health, safety, or welfare of the public. For purposes of this section, "unattended" is defined as a vehicle upon which work is not actively being performed at the time the condition constituting a danger is observed.

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ORDINANCE NO. _____

DATE ADOPTED: _____

61.06.613 Summary Abatement of Certain Vehicles.

Notwithstanding any other provision of this title, the Chief of Police, the Manager of Code Enforcement or their designees may summarily abate, without compliance with other provisions of this title, any vehicle from public or private property when the vehicle poses an imminent danger to the public health, safety or welfare which, if not summarily abated, would, during the pendency of the standard abatement proceedings, subject the public to potential harm of a serious nature. Summary abatement may include removal of the vehicle or any of its component parts so as to remove the imminent hazard. No summary abatement shall be undertaken pursuant to this section unless it is first reviewed by the office of the City Attorney.

61.06.614 Procedure for Summary Abatement.

The Chief of Police, the Manager of Code Enforcement or their designees shall cause any vehicle which is to be summarily abated to be towed and stored by a tow company who shall follow the lien sale procedures provided in the Vehicle Code for removal and storage of vehicles from public or private property. Any tow company which tows and/or stores a vehicle pursuant to the summary abatement provisions of this title shall be entitled to recovery of towing and storage charges from the registered or legal owner of the vehicle as provided in the Vehicle Code.

61.06.615 Notice of Summary Abatement; Supplemental Notice.

(a) Whenever a vehicle is towed pursuant to the summary abatement authority provided in this chapter, the officer effecting the summary abatement shall, immediately after the vehicle is removed, post a copy of the Notice of Summary Abatement conspicuously in close proximity to the location of the removed vehicle. Notice of Summary Abatement shall state the pre-tow location of the vehicle, the date and time of removal, and the name of the officer who caused the vehicle to be removed.

(b) A copy of the Notice of Summary Abatement and a Supplemental Notice shall be mailed to the owner of the premises from which the vehicle was removed, and to the registered and legal owners of the vehicle no later than the close of business of the third business day after the day of removal of the vehicle. The Supplemental Notice shall contain:

- (1) A statement that the vehicle(s) or parts thereof have been found to be an imminent danger to public health, safety or welfare as specified in

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Section 61.06.612, including sufficient detail to provide the owner with information as to the conditions constituting the alleged danger.

- (2) A statement that a hearing will be provided by hearing examiner upon written request by the owner of the premises on which the vehicle(s) or parts thereof is located, or by the registered or legal owner of the vehicle(s) or parts thereof, and that the request for hearing must be made within thirty (30) days after the mailing of the notices.
- (3) A statement that failure to request a hearing within the thirty (30) day period shall constitute a waiver of such rights.

(c) The notices required by subsection (b) shall be sent in accordance with City Code section 61.06.603(b).

61.06.616 Same--Right of Owner of Premises to Disclaim Responsibility for Vehicle.

The notices required by Section 61.06.615 shall include the following statement:

"The owner of the premises from which the vehicles or parts thereof was removed may file with the hearing examiner a sworn written statement denying responsibility for the presence on the property of the vehicle(s) or parts thereof listed, together with reasons for such denial.

The statement shall be construed as a request for a hearing without the need for personal attendance. At the hearing, the statement will be considered by the hearing examiner in determining whether the cost of removing the vehicle(s) or parts thereof will be assessed against the property as a lien.

The owner of the premises need not file a sworn statement if the owner intends to attend the hearing, but may do so."

61.06.617 Hearing Notice.

Whenever the owner of the premises on which the vehicle(s) or parts thereof was located, or the registered or legal owner of the vehicle(s) or parts thereof requests a hearing (hereinafter called "requesting party"), a hearing notice shall be served upon the requesting party specifying the date, time and place of the hearing. The hearing notice shall be served upon the requesting party either personally or by mailing a copy of such

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notice by certified mail, postage prepaid, return receipt requested, not less than five (5) calendar days prior to the hearing date.

61.06.618 Hearing by Hearing Examiner.

At the time fixed in the notice required by Section 61.06.617, the hearing examiner shall hear the testimony of city officers and employees, the requesting party, and other competent persons regarding the condition of the vehicle(s) or parts thereof and other relevant facts concerning the matter.

61.06.619 Form and contents of decision; finality of decision.

- (a) If it is shown by a preponderance of all the evidence that the condition of the vehicle(s) or parts thereof constituted an imminent danger to public health, safety or welfare, the decision of the hearing examiner shall be in writing and shall contain findings of fact and a determination of the issues presented. The hearing examiner shall issue an order that the vehicle(s) or parts thereof constituted a public nuisance, and that the abatement expense may be made a lien on the property involved, unless the hearing examiner finds that the owner of the premises was not responsible for the presence of the vehicle(s) or parts thereof on the premises.
- (b) The decision shall also inform the requesting party that the time for judicial review is governed by California Code of Civil Procedure Section 1094.6. Copies of the decision shall be served upon each requesting party and the City in accordance with the provisions of Section 61.06.603(b). The decision shall be final when signed by the hearing examiner and served as herein provided.

61.06.620 Costs of Abating Abandoned Vehicles.

Notwithstanding any other provision of this code, the costs of summarily abating any vehicle, or parts thereof, including the actual tow costs, plus an administrative fee covering all city direct and indirect costs and expenses to be set by resolution of the city council, is the joint and several personal obligation of the owner of the premises and the registered owner; provided, however, that a property owner who establishes lack of responsibility for the presence of the vehicle or parts on the property as permitted by Sections 61.06.616 and 61.06.619 shall not be liable for the costs or the administrative fee; and provided, further, that a last registered owner who can satisfy the requirements of Vehicle Code section 22524(b) shall not be personally liable for the costs or the administrative fee.

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DATE PASSED FOR PUBLICATION:

DATE ENACTED:

DATE EFFECTIVE:

MAYOR

ATTEST:

CITY CLERK

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