

Article XII. - Abandoned, Wrecked, Dismantled or Inoperative Vehicles*

* Editor's note —Section 2 of Ord. 3824, adopted July 23, 2002, repealed §§ 14-51 —14-79. Formerly, such sections pertained to abatement and removal as public nuisances of abandoned, wrecked, dismantled or inoperative vehicles or parts thereof derived from Ord. No. 1861, § 1 adopted June 26, 1973. Section 3 of Ord. 3824 provided for the addition of Art. XII, §§ 14-51 — 14-74, as herein set out.

14-51 - Findings.

Pursuant to the authority granted by the state under sections 22660 through 22664, inclusive, of the state Vehicle Code to remove abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, as public nuisances, the Board of Supervisors of the County of Butte makes the following findings and declarations:

The accumulation and storage of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, on private or public property, including highways, is found to create a condition tending to reduce the value of private and public 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 parts thereof, on private or public property, except as expressly hereinafter permitted, is declared to constitute a public nuisance which may be abated as such in accordance with the provisions of this Article.

(Ord. No. 3824, § 3, 7-23-2002)

14-52 - Purpose.

- (a) The provisions of this Article are intended to provide a procedure for the abatement of nuisances consisting of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, and are enacted under the authority granted by the state, under sections 22660 through 22664 of the Vehicle Code.
- (b) It is the intent of the Board of Supervisors to provide that the abatement of public nuisances consisting of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof may be carried on either concurrently with or separately from the abatement of other conditions, if any, constituting a public nuisance on any premises within the county, as deemed appropriate under the circumstances.

(Ord. No. 3824, § 3, 7-23-2002)

14-53 - Scope.

The provisions specified in this Article shall be used in the case of a nuisance which consists solely of abandoned, wrecked, dismantled or inoperable vehicles or parts thereof.

(Ord. No. 3824, § 3, 7-23-2002)

14-54 - Definitions.

For the purposes of this Article, the following words and phrases shall have the meanings respectively ascribed to them by this section:

- (a) **Abandoned Vehicle.** A vehicle is considered to be abandoned if it is left on a highway, public property, or private property, in such inoperable or neglected condition that the owner's intention to relinquish all further rights or interests in it may be reasonably concluded.
 - (1) In reaching such a reasonable conclusion the following will be considered:
 - a. The amount of time the vehicle has been there without being moved.
 - b. The condition of the vehicle.
 - c. Statements from the owner and/or witnesses if available.
 - (2) In reference to highways or public rights-of-way, abandonment is presumed to have occurred if a vehicle is parked, resting, or otherwise immobilized on any highway or public right-of-way and lacks an engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely on the highway in this state. Such vehicles are presumed to be a hazard to public health, safety, and welfare and may be removed immediately upon discovery by a peace officer or other designated employee of the state, county, or city.
- (b) **Dismantled Vehicle.** Any vehicle that is partially or wholly disassembled.
- (c) **Department of Development Services.** The Department of Development Services of the County of Butte.
- (d) **Director of Development Services.** The Director of Development Services, his/her designee, or his/her authorized representative.
- (e) **Hearing Officer.** The Director of Development Services or his/her designee, unless the California Supreme Court rules in the case of *Haas v. County of San Bernadino*, 69 Cal.App.4th 1019, that unilateral selection of an administrative hearing officer by a county is unconstitutional, in which case the hearing officer shall be selected in a manner approved by the California Supreme Court.
- (f) **Highway.** 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.
- (g) **Inoperative Vehicle.** Any motor vehicle that cannot be moved under its own power.
- (h) **Owner of the Land.** The owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.
- (i) **Owner of the Vehicle.** The last registered owner and legal owner of record.
- (j) **Private Property.** Property that is owned by an individual, corporation, partnership or other entity, excluding public entities. Property of a specific, fixed and tangible nature, capable of being in possession and transmitted to another, such as houses, lands, vehicles, etc.
- (k) **Public Nuisance Vehicle.** Any vehicle that is abandoned, wrecked, dismantled, or inoperative, or parts thereof; that is or are on public or private property, including highways; and that creates a condition tending: to reduce the value of private and or public 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, or to be injurious to the health, safety and general welfare.
- (l) **Public Property.** This term means a designation of those things which are considered as being owned by "the public," the entire state or community, and not restricted to dominion of a private person or entity. It may also apply to any property owned by the state, nation, county, municipality, or other public entity. Public Property includes highways, roadways, roads and streets.

- (m) Vehicle. 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.
- (n) Wrecked Vehicle. Any vehicle that is damaged to such an extent that it cannot be operated upon the highway is termed a wrecked vehicle.
 - (1) A vehicle which has been wrecked in a traffic accident, and which has been removed from the roadway to a storage facility, but which has not been claimed by its owner will not be considered an abandoned vehicle for the purposes of this program.

(Ord. No. 3824, § 3, 7-23-2002)

14-55 - Abandonment, of wrecked, dismantled vehicles prohibited.

It is unlawful 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, within the county for a period in excess of ten (10) days.

(Ord. No. 3824, § 3, 7-23-2002)

14-56 - Applicability of Article.

(a) This Article 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 a street, public waterway or other public or private property, or lawfully stored for a lawful business purpose on the premises of a junk dealer holding a current, valid license issued pursuant to the provisions of Chapter 11 of this Code, and enclosed by a fence of a type and height recommended by the Planning Commission and included in their instructions to applicant, as provided in Section 11-13, and as finally determined by the Board of Supervisors; or
- (2) One (1) single vehicle, or parts thereof, covering not more than one hundred (100) square feet of the area of any parcel.
- (3) 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 agricultural activities, operations or facilities, or appurtenances thereof, as defined in Section 32A-2(b)(5), or 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 state Vehicle Code and this Article.

(Ord. No. 3824, § 3, 7-23-2002)

14-57 - Concurrent authorities.

This Article is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the unincorporated area of the county. It shall supplement, complement, and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the county, the state or any other legal entity or agency having jurisdiction.

(Ord. No. 3824, § 3, 7-23-2002)

14-58 - Administration and enforcement.

Except as otherwise provided herein, the provisions of this Article shall be administered and enforced by the Director of Development Services or his/her designee. In the enforcement of this Article, such officer, or his/her authorized representative(s), may enter upon private or public property to examine a vehicle, or parts thereof, or obtain information as to the identity of a vehicle, or appraise a vehicle, and to remove or cause the removal of a vehicle, or parts thereof, declared to be a nuisance pursuant to this Article.

(Ord. No. 3824, § 3, 7-23-2002; Ord. No. 3972, § 2, 12-11-07)

14-59 - Authority to remove vehicles.

When the Board of Supervisors has contracted with or granted a franchise to any person or entity, such person or the authorized representative(s) of such entity shall be authorized to enter upon private property or public property to remove or cause the removal of a vehicle, or parts thereof, declared to be a nuisance pursuant to this article.

(Ord. No. 3824, § 3, 7-23-2002)

14-60 - Notification of department of motor vehicles.

- (a) Within five (5) days after the county or any officer thereof removes, pursuant to this Article, any vehicle or any part thereof, the Director of Development Services or his/her designee shall so notify the Department of Motor Vehicles in writing identifying the vehicle or part thereof.
- (b) If any vehicle is removed pursuant to this Article, the Director of Development Services shall forward to the Department of Motor Vehicles any evidence of registration available, including registration certificates, certificates of title and license plates.

(Ord. No. 3824, § 3, 7-23-2002)

14-61 - Notification to highway patrol.

Not less than ten (10) days before the hearing provided for in Section 14-67, the Director of Development Services or his/her designee shall notify the California Highway Patrol thereof identifying the vehicle or part to be removed.

(Ord. No. 3824, § 3, 7-23-2002)

14-62 - Notification to department of justice.

Whenever notification, as required by Section 22852 of the Vehicle Code, cannot be given to the owner, the Director of Development Services, or his/her designee, shall cause immediate notification to be given to the California Department of Justice, Stolen Vehicle System, of its pending removal. This notification shall be in accordance with all provisions of Section 22853 of such Vehicle Code and Section 14-73 of this Article.

(Ord. No. 3824, § 3, 7-23-2002)

14-63 - Not to be reconstructed.

After a vehicle has been removed by the Director of Development Services or authorized agents thereon pursuant to this Article, it shall not thereafter be reconstructed or made operative, unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to section 5004 of California Vehicle Code, in which case, the vehicle may be reconstructed or made operable.

(Ord. No. 3824, § 3, 7-23-2002)

14-64 - Notice to abate public nuisance.

- (a) When the Director of Development Services or designated representative(s), determines pursuant to an inspection of the property, that conditions existing on the premises constituting a violation of the provisions of this Article are the result of the existence on such premises of any abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, the Director may issue a fifteen (15) day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance. The notice shall be mailed by registered or certified mail, with return receipt, 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. This notice shall contain:
- (1) The street address and such other description as is required to identify the premises on which the vehicle or parts thereof are located;
 - (2) The identity of the vehicle or parts thereof to be abated;
 - (3) A statement that the Director of Development Services has found the vehicle or parts thereof to be a public nuisance as specified in this Article with a reference to the applicable section hereof, and to other sections of the County Code, if applicable, including sufficient detail to provide the owner with information as to the conditions constituting the alleged nuisance;
 - (4) A statement of the action required to be taken as determined by the Director of Development Services, and that such action is to be completed within ten (10) days after the mailing of the notice;
 - (5) A statement providing for a hearing by the hearing examiner upon written request to the Director of Development Services by the owner of the premises on which the vehicle or parts thereof is located or by the owner of the vehicle or parts thereof within ten (10) days after the mailing of the notice.
- (b) The notice shall be sent certified mail, postage prepaid, to the owner of the premises as shown on the latest equalized assessment roll of the county using such address as may be shown by such assessment roll or such other address as may be known by the Director of Development Services and to the last registered and legal owner of record of the vehicle unless the vehicle or parts thereof are in such condition that identification numbers are not available to determine ownership. The failure of the Director of Development Services to serve any person required in this article to be served shall not invalidate any proceedings hereunder as to any other person duly served or relieve any such person duly served from any duty or obligation imposed on him by the provisions of this Article.
- (c) Upon issuance of the notice, the Director of Development Services may provide additional notice by posting a copy thereof conspicuously on the vehicle or parts to be abated.
- (d) Provided, however, a notice of intention to abate shall not be required if: (1) the property owner and the owner of the vehicle have signed releases authorizing removal and waive further interest in the vehicle or part thereof, or (2) all of the following conditions are satisfied:
- (1) The vehicle or part thereof is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed;
 - (2) The vehicle or part thereof is valued at less than two hundred dollars (\$200.00) by a person specified in vehicle code section 22855;

- (3) The Director of Development Services has determined that the vehicle or part thereof is a public nuisance presenting an immediate threat to public health or safety;
- (4) The property owner has signed a release authorizing the removal and waiving further interest in the vehicle or part thereof; and
- (5) The vehicle or part thereof is located upon a parcel that is either zoned for agricultural use or is not improved with a residential structure.

If a vehicle is removed pursuant to subdivision (2), prior to final disposition, the registered and legal owner shall be notified by the Director of Development Services of the intent to dispose of the vehicle or part thereof. If the vehicle or part is then not claimed and removed from the scrapyards, automobile dismantler's yard or public disposal area within twelve (12) days after the notice to dispose of vehicle is mailed, disposition may proceed without further notice or administrative proceedings. Neither the county nor its contractor shall be liable for damage to a vehicle or part thereof caused by removal pursuant to this subsection.

- (e) The Director of Development Services and his/her designees are designated vehicle appraisal officers, pursuant to Vehicle Code Sections 22669(a) and 22855, for the purposes set forth in the Vehicle Code, Division 11, Chapter 10, entitled "Removal of Parked and Abandoned Vehicles," commencing with Section 22650.

(Ord. No. 3824, § 3, 7-23-2002; Ord. No. 3873, § 1, 3-23-2004)

14-65 - Abatement by owner.

The owner of a vehicle may abate the nuisance himself/herself, after receiving notice from the abatement authority. This may be accomplished by either (1) verifying the delivery of the vehicle to a licensed dismantler for dismantling or scrap, (2) verifying lawful storage of the vehicle within a building, or (3) restoring the vehicle to operating condition within a reasonable time, as determined by the Director of Development Services.

(Ord. No. 3824, § 3, 7-23-2002)

14-66 - Hearing request.

- (a) Upon written request by the owner of the vehicle or owner of the land on which the vehicle or parts thereof is located, received by the Director of Development Services within ten (10) days after the mailing of the notice(s) 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 Abatement Costs, as defined in Butte County Code Section 3-150, against the property on which it is located.
- (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 (10) day period, said 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 or certified mail, at least ten (10) 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 said ten (10) days after mailing of the notice of intention to abate and remove, the Director shall have the authority to abate and remove the vehicle, or parts thereof, as a public nuisance without holding a public hearing.

(Ord. No. 3824, § 3, 7-23-2002; Ord. No. 3944, § 2 (part), 11-21-06)

14-67 - Administrative hearing procedure.

- (a) All hearings under this Article shall be held before a Hearing Officer designated pursuant to the protocol set forth in that document entitled the "Butte County Administrative Hearing Officer Program." The Program is based upon an alphabetical rotation through attorneys currently under contract through the Program. The Hearing Officer shall hear all facts and testimony he/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 to the technical rules of evidence. The owner of the land may appear in person at the hearing, or present a sworn 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.
- (b) The Hearing Officer may impose such conditions and take such other action as he/she deems appropriate under the circumstances to carry out the purpose of this Article. He/she 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 hereinafter provided, and determine the Administrative Costs and the Abatement Costs, as defined in Butte County Code Section 3-150, 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.
- (c) If it is determined at the hearing that the vehicle was placed on the land without consent of the owner of the land, and that he/she has not subsequently acquiesced in its presence, the Hearing Officer shall not assess Abatement Costs and Administrative Costs against the property upon which the vehicle is located, or otherwise attempt to collect such Costs from such owner of the land.
- (d) 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, he/she shall be notified in writing of the decision.

(Ord. No. 3824, § 3, 7-23-2002; Ord. No. 3944, § 2 (part), 11-21-06)

14-68 - Appeal from decision.

- (a) Any interested party may appeal the decision of the hearing officer by filing a written notice of appeal with the hearing officer within five (5) days after his/her decision.
- (b) Such appeal shall be heard by the Board of Supervisors which may affirm, amend or reverse the order or take other action deemed appropriate.
- (c) The clerk of the board shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 14-66.
- (d) In conducting the hearing, the Board of Supervisors shall not be limited by the technical rules of evidence.
- (e) No appeal may be taken from an order issued pursuant to Section 14-70.

(Ord. No. 3824, § 3, 7-23-2002)

14-69 - Removal and disposition of vehicle after hearing.

- (a) The vehicle, or parts thereof, may be disposed of by removal to a scrap yard or automobile dismantler's yard upon or after occurrence of any one (1) or more of the following:
 - (1) Five (5) days after adoption of the order declaring the vehicle, or parts thereof, to be a public nuisance.

- (2) Five (5) days from the date of mailing of notice of the decision, if such notice is required.
 - (3) Ten (10) days after action of the Director of Development Services authorizing removal.
 - (4) Five (5) days after a decision from an appeal which requires removal as part of the action.
- (b) If the hearing officer determines that the vehicle is a public nuisance and must be removed, Abatement Costs and Administrative Costs may be specially assessed and an abatement lien recorded as provided in Government Code section 54988 and this Article.

(Ord. No. 3824, § 3, 7-23-2002)

14-70 - Removal of vehicle without hearing.

If neither vehicle nor property owner requests a hearing within fifteen (15) days of mailing the notice of intention to abate and remove the vehicle, or part thereof, or if both the legal owner of the vehicle and the owner of the property sign waivers authorizing removal of the vehicle, or part thereof, it may be abated by removal without a hearing. The Director of Development Services shall direct such removal by issuance of an order, subject to conditions set forth in this Article, excepting only the requirements of a hearing.

(Ord. No. 3824, § 3, 7-23-2002)

14-71 - Notice to department of motor vehicles—Evidence of registration, title, etc.

Within five (5) 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, but not limited to, registration certificates, certificates of title, and license plates.

(Ord. No. 3824, § 3, 7-23-2002)

14-72 - Collection of administrative costs and abatement costs.

If the Administrative Costs and the Abatement Costs which are charged against the owner of a parcel of land pursuant to this Article are not paid within thirty (30) days of the date of the order, the Director of Development Services shall record an abatement lien, as is authorized by Government Code section 54988. Such costs shall also be specially assessed against the parcel by the Auditor-Controller's Office and added to the property owner's tax billing as a special assessment, pursuant to Government Code section 54988. Such assessment shall have the same priority as other county taxes.

(Ord. No. 3824, § 3, 7-23-2002)

14-73 - Adoption by reference to Section 22660 of the Vehicle Code.

All of the provisions of Section 22660 of the Vehicle Code are adopted by reference as a part of this article. In the case of any conflict between the provisions of this Article and the provisions of Section 22660, the provisions of Section 22660 shall prevail.

(Ord. No. 3824, § 3, 7-23-2002)

14-74 - Other abatement procedures.

The provisions of this Article shall not in any manner limit or restrict the County or the District Attorney, or any other authorized entity from enforcing County ordinances, abating statutory nuisances, or employing any remedy available at law or in equity.

(Ord. No. 3824, § 3, 7-23-2002)