

CITY OF SAN ANSELMO

ORDINANCE NO. 559

AN ORDINANCE ADDING ARTICLE 17 TO CHAPTER 5, TITLE 3 OF THE SAN ANSELMO MUNICIPAL CODE BY PROVIDING FOR THE ABATEMENT AND REMOVAL AS PUBLIC NUISANCES OF ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES OR PARTS THEREOF FROM PRIVATE PROPERTY OR PUBLIC PROPERTY NOT INCLUDING HIGHWAYS AND RECOVERY OF COSTS OF ADMINISTRATION THEREOF AS AUTHORIZED BY SECTION 22660 OF THE CALIFORNIA VEHICLE CODE.

The City Council of the City of San Anselmo does ordain as follows:

Section 1. There is hereby added to Chapter 5, Title 3, a new Article 17 and subsections to the San Anselmo Municipal Code, as follows:

Article 17. Removal of abandoned, wrecked, dismantled or inoperative vehicles from Private or Public Property.

3-5.1701. Statement of Necessity and Definitions.

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 abandoned, wrecked, dismantled or inoperative vehicles or parts 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 parts thereof on private or public property, not including highways, is hereby found to create 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 thereof, 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 Article.

As used in this Article:

(a) The term "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.

(b) The term "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) The term "public property" does not include "highway".

3-5.1702. Exemptions.

This Article shall not apply to:

(a) 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

(b) 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, 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 Article.

3-5.1703. Article not Exclusive Regulation.

This Article 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 hereafter enacted by the city, the State, or any other legal entity or agency having jurisdiction.

3-5.1704. Chief of Police to Enforce.

Except as otherwise provided herein, the provisions of this Article shall be administered and enforced by the

Chief of Police. In the enforcement of this Ordinance such officer and his deputies may enter upon private or public property to examine a vehicle or parts thereof, or obtain information as to the identity of a vehicle and to remove or cause the removal of a vehicle or part thereof declared to be a nuisance pursuant to this Article.

3-5.1705. Contractor authorized to enter on private property.

When the City Council has contracted with or granted a franchise to any person or persons, 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 parts thereof declared to be a nuisance pursuant to this Article.

3-5.1706. 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 thereof), under this Article.

3-5.1707. Public Hearing.

A public hearing shall be held on the question of abatement and removal of the vehicle or part thereof as an abandoned, wrecked, dismantled or inoperative vehicle and the assessment of the administrative costs and the cost of removal of the vehicle or part thereof against the property on which it is located. Notice of hearing shall be mailed at least ten days before the hearing by certified mail, with a five-day return requested, to the owner of the land as shown on the last equalized city assessment roll and to the last registered and legal owner of record unless the vehicle is in such condition

that identification numbers are not available to determine ownership. If any of the foregoing notices are returned undelivered by the United States Post Office, the hearing shall be continued to a date not less than ten days from the date of such return.

3-5.1708. Notice to Highway Patrol.

Notice of hearing shall also be given to the California Highway Patrol identifying the vehicle or part thereof proposed for removal, such notice to be mailed at least ten days prior to the public hearing.

3-5.1709. Hearings to be before City Council.

All hearings under this Ordinance shall be held before the City Council who shall hear all facts and testimony it deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or part thereof and the circumstances concerning its location on the said private property or public property. The City Council officers 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 hearing or present a written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his reasons for such denial.

The City Council may impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purpose of this Article. It may delay the time for removal of the vehicle or part thereof if, in its opinion, the circumstances justify it. At the conclusion of

the public hearing, the City Council may find that a vehicle or part 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 thereof is located. The order requiring removal shall include a description of the vehicle or part thereof and the correct identification number and license number of the vehicle, if available at the site.

If it is determined at the 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 City Council 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 City Council but does not appear, he shall be notified in writing of the decision.

3-5.1710. Time for Removal of Vehicle.

Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, or five days from the date of mailing of the decision if such notice is required by Section 3-5.1709, the vehicles or parts thereof may be disposed of by removal to a scrapyards or automobile dismantler's yard. After a vehicle has been removed it shall not thereafter be reconstructed or made operable.

3-5.1711. Notice to Department of Motor Vehicles.

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

3-5.1712. Uncollected costs to be a Lien.

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 3-5.1709 are not paid within 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.

Penalty.

3-5.1713. / It shall be unlawful 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 thereof which is in an abandoned, wrecked, dismantled or inoperative condition upon any private property or public property not including highways within the City for a period in excess of three days unless such vehicle or part 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.

Penalty.

3-5.1714. / It shall be unlawful for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle or part thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this Ordinance or State law where such State law is applicable.

Section 2. The City Clerk shall cause this ordinance to be published once, within fifteen days after its passage, in The Reporter, a newspaper of general circulation, published and circulated in this City.

The foregoing ordinance was introduced, ^{January 23, 1968} passed and adopted at a regular meeting of the City Council held at 8:00 P.M. on February 13, 1968, by the following vote:

AYES: Councilmen Scott, Capurro, Ragan, Reichmuth, Smith

NOES: Councilmen None

ABSENT: Councilmen None

MAYOR ARTHUR W. SMITH

ATTEST:

CITY CLERK ANITA GANNON