

ORDINANCE NO. 228-2019

**AN ORDINANCE AMENDING CHAPTER 10, SECTION 10-6 OF THE
CLEARLAKE MUNICIPAL CODE RELATED TO ABANDONED, WRECKED, DISMANTLED AND
INOPERATIVE VEHICLES INCLUDING ABATEMENT THEREOF**

WHEREAS, California Vehicle Code Section 22660 et seq. authorizes a city to adopt an ordinance for the removal, as a public nuisance, of certain vehicles, including abandoned vehicles, and Clearlake adopted such an ordinance, which is codified in Clearlake Municipal Code (CMC) Chapter 10, Section 10-6 (“Towing and Removal of Vehicles”); and

WHEREAS, the original version of Vehicle Code Section 22660 in the 1980s excluded highways, which by definition includes streets, from the areas vehicles could be removed from under the authority of the ordinance. In 1988, Assembly Bill 2915 removed the limitation, but the CMC was never updated to reflect this change; and

WHEREAS, the presence of abandoned, wrecked, dismantled and inoperative vehicles throughout the city constitute a public nuisance and the City Council desires to expressly prohibit the improper storage and abandonment of vehicles and the refusal to abate vehicles when so ordered.

The City Council of the City of Clearlake, State of California does hereby ordain as follows:

SECTION 1. **FINDINGS.**

A. The above recitals are declared to be true and correct findings of the City Council of the City of Clearlake.

SECTION 2.

Chapter 10, Section 10-6, Subsection 10-6.1, is hereby amended to read as follows:

“

10-6.1 Findings; Declaration of Public Nuisance; Exceptions.

a. 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 finds that the accumulation and storage of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof on private or public property, creates a condition tending to:

1. Reduce the value of private property;
2. Promote blight and deterioration;

3. Invite plundering;
 4. Create fire hazards;
 5. Constitute an attractive nuisance creating a hazard to the health and safety of minors;
 6. Create a harborage for rodents and insects; and
 7. Be injurious to the health, safety and general welfare of the City.
- b. The presence of an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof, on private or public property, 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 Section.
- c. This Section shall not apply to:
1. A vehicle, or parts thereof, that is completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property;
 2. 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, a junk dealer, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise;
 3. A vehicle, or parts thereof, that are located behind a legally permitted, solid fence six (6') feet in height, in a lawful manner where it is not visible from the street or other public or private property.
- d. 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 Section.
- e. As used in this Section, the following definitions shall be used:
1. "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.
 2. "Owner of the land" means the owner of the land on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.
 3. "Owner of the vehicle" means the last registered owner and legal owner of record.
 4. "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 3.

The word “Chapter” shall be replaced with the word “Section” in Subsections 10-6.2, 10-6.3, 10-6.4, 10-6.5, 10-6.9 and 10-6.10 of Chapter 10, Section 10-6.

SECTION 4.

Chapter 10, Section 10-6, Subsection 10-6.7, is hereby amended to read as follows:

“

- a. Prior to the abatement or removal of any vehicle or parts thereof pursuant to this Chapter, the City shall mail a ten (10) day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance by registered or certified mail to the owner of the land on which the vehicle or parts thereof is located and to the owner of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership.
- b. The notice shall contain a statement of hearing rights of the owner of the property on which the vehicle, or parts thereof, is located and of the owner of the vehicle. The statement shall include notice to the property owner that they may appear in person at a hearing or may submit a sworn statement denying responsibility for the presence of the vehicle on the land, with their reasons for such denial, in lieu of appearing.

”

SECTION 5.

Chapter 10, Section 10-6 is amended by adding a new Subsection 10-6.13, to read:

“

10-6.13 Abandonment Prohibited

It is unlawful for any person to abandon, store, leave, or permit the abandonment, storing, or leaving of any licensed or unlicensed vehicle or parts thereof which is abandoned, wrecked, dismantled or inoperative upon any private property or public property, including highways, within the city for a period in excess of 72 or more consecutive hours.

”

SECTION 6.

Section 10-6 is amended by adding a new Subsection 10-6.14, to read:

“

10-6.14 Failure to Abate

It is 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 Section or state law, where such state law is applicable.

”

SECTION 7. SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION 8. EXECUTION.

The Mayor shall sign and the City Clerk shall attest to the passage of this Ordinance. The City Clerk shall cause the same to be published once in the official newspaper within 15 days after its adoption. This Ordinance shall become effective 30 days from its adoption.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Clearlake held on April 25, 2019, by the following vote:

AYES: Mayor Bennett, Vice Mayor Cremer, Councilmembers Overton, Harris and Slooten

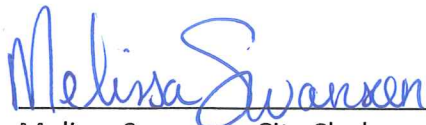
NOS: None

ABSENT: None



Nick Bennett, Mayor

ATTEST:



Melissa Swanson, City Clerk
City of Clearlake

