

ORDINANCE NO. 98-004

ADOPTED BY THE SACRAMENTO CITY COUNCIL

ON DATE OF JAN 27 1998

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

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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:

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- (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."

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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.

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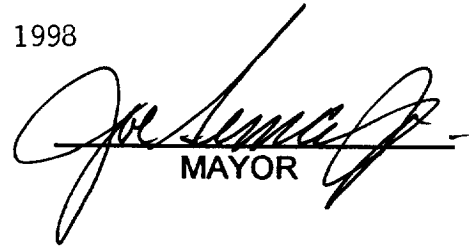
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61.06.620 Costs of Abating Abandoned Vehicles.

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: January 6, 1998
DATE ENACTED: January 27, 1998
DATE EFFECTIVE: February 26, 1998


MAYOR

ATTEST:

CITY CLERK

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