

COPY

ORDINANCE NO. 954

AN ORDINANCE REPEALING ORDINANCE NO. 911 AND CHAPTER 14, ARTICLE VI OF THE CODE OF THE CITY OF LODI AND ENACTING A NEW CHAPTER 14, ARTICLE VI 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 VEHICLE CODE.

The City Council of the City of Lodi, does ordain as follows:

SECTION 1. Chapter 14, Article VI, Sections 14-85 through 14-100 inclusive of the Code of the City of Lodi are hereby repealed.

SECTION 2. Chapter 14, Article VI, commencing with Section 14-85 of the Code of the City of Lodi is hereby enacted to read in full as follows:

"SECTION 14-85. FINDINGS AND DECLARATIONS: 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 of the City of Lodi 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 highway 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 parts

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 Chapter.

SECTION 14-86. DEFINITIONS: As used in this Chapter:

(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."

(d) The term "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.

(e) The term "owner of the vehicle" means the last registered owner and legal owner of record.

SECTION 14-87. EXCEPTIONS: This Chapter shall not apply to:

(a) A vehicle, or parts 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 parts thereof, which, is located behind a solid fence 6 feet in height or which is not plainly visible from a highway.

(c) 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 diamantler, 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 Chapter.

SECTION 14-88. NON-EXCLUSIVE REGULATION: This Chapter is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City of Lodi. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the City of Lodi, the State, or any other legal entity or agency having jurisdiction,

SECTION 14-89. ADMINISTRATION: Except <sup>1</sup>as otherwise provided herein, the provisions of this Chapter shall be administered and enforced by the Planning Director. In the enforcement of this Chapter 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 parts thereof) declared to be a nuisance pursuant to this Chapter.

SECTION 14-90. CONTRACTOR OR FRANCHISE HOLDER ENTRY TO REMOVE VEHICLE: 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 Chapter.

SECTION 14-91. 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 parts thereof) under this Chapter.

SECTION 14-92. PLANNING DIRECTOR - AUTHORITY TO CAUSE ABATEMENT: Upon discovering the existence of an abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, on private property or public property within the City of Lodi, the Planning Director shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed herein.

SECTION 14-93. NOTICE OF INTENTION: A 10-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by registered mail 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. The notices of intention shall be in substantially the following forms:

NOTICE OF INTENTION TO ABATE AND REMOVE AN  
ABANDONED, WRECKED, DISMANTLED, OR INOPERATIVE  
VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE

(Name and address of owner of the land)

As owner shown on the last equalized assessment roll of the land located at (address), **you** are hereby notified that the undersigned pursuant to Ordinance No. **954** has determined that there exists upon said land an (or parts of an) abandoned, wrecked, dismantled or inoperative vehicle registered to \_\_\_\_\_, license number \_\_\_\_\_, which constitutes a public nuisance pursuant to the provisions of Ordinance No. **954**.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice, and upon your failure to do so the same will be abated

and removed by the City and the costs thereof, together with administrative costs, assessed to you as, owner of the land on which said vehicle (or said parts of a vehicle) is located.

As owner of the land on which said vehicle (or said parts of a vehicle) is located, you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Planning Director within such 10-day period, the Planning Director shall have the authority to abate and remove said vehicle (or said parts of a vehicle) as a public nuisance and assess the costs as aforesaid without a public hearing. You may submit a sworn written statement within such 10-day period denying responsibility for the presence of said vehicle (or said parts of a vehicle) on said land, with your reasons for denial, and such statement shall be construed as a request for hearing at which your presence is not required. You may appear in person at any hearing requested by you or the owner of the vehicle, or in lieu thereof, may present a sworn written statement as aforesaid in time for consideration at such hearing.

Notice Mailed \_\_\_\_\_ s/ \_\_\_\_\_  
(date) Planning Director

**NOTICE OF INTENTION TO ABATE AND REMOVE AN  
ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE  
VEHICLE OR PARTS THEREOF AS A PUBLIC NUISANCE**

(Name and address of last registered and/or legal owner of record of vehicle--notice should be given to both if different)

As last registered (and/or legal) owner of record of (description of vehicle - make, model, license, etc.), you are hereby notified that the undersigned pursuant to

Ordinance No. 954 has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on public or private property) and constitutes a public nuisance pursuant to the provisions of Ordinance No. 954.

You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days from the date of mailing of this notice.

As registered (and/or legal) owner of record of said vehicle (or said parts of a vehicle), you are hereby notified that you may, within 10 days after the mailing of this notice of intention, request a public hearing and if such a request is not received by the Planning Director within such 10-day period, the Planning Director shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Notice Mailed \_\_\_\_\_ s/ \_\_\_\_\_  
(date) Planning Director

SECTION 14-94. PUBLIC HEARING: Upon request by the owner of the vehicle or owner of the land received by the Planning Director within 10 days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the Planning Director 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 cost of removal of the vehicle or parts thereof against the property on which it is located.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land within such 10-day period, said statement shall be construed as a request for a hearing which does not require his presence. Notice of the hearing shall be mailed, by registered mail, at least 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 10 days after mailing of the notice of intention to abate and remove, the City of Lodi shall have the authority to abate and remove the vehicle or parts thereof as a public nuisance without holding a public hearing.

**SECTION 14-95. PUBLIC HEARING BY PLANNING DIRECTOR:**

All hearings under this Chapter shall be held before the Planning Director who shall hear all facts and testimony he deems pertinent. Said facts and testimony may include testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the said private property or public property. The Planning Director shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with reasons for such denial.

The Planning Director may impose such conditions and take such other action he deems appropriate under the circumstances to carry out the purpose of this Chapter. He may delay the time for removal of the vehicle or parts thereof if, in his opinion, the circumstances justify it. At the conclusion of

the public hearing, the Planning Director 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 cost of removal 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.

If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he has not subsequently acquiesced in its presence, the Planning Director shall not assess the 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 owner of the land.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his land but does not appear, or if an interested party makes a written presentation to the Planning Director but does not appear, he shall be notified in writing of the decision.

SECTION 14-96. APPEAL TO CITY COUNCIL: Any interested party may appeal the decision of the Planning Director by filing a written notice of appeal with the said Planning Director within five days after its decision.

Such appeal shall be heard by the City Council which may affirm, amend or reverse the order or take other action deemed appropriate.

The clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 14-93.

In conducting the hearing, the City Council shall not be limited by the technical rules of evidence.

SECTION 14-97. REMOVAL OF VEHICLES: Five days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five days from the date of mailing of notice of the decision if such notice is required by Section 14-95, or 15 days after such action of the governing body authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrapyard or automobile dismantler's yard. After a vehicle has been removed it shall not thereafter be reconstructed or made operable.

SECTION 14-98. NOTICE TO DEPARTMENT OF MOTOR VEHICLES: Within five 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 registration certificates, certificates of title and license plates.

SECTION 14-99. ASSESSMENT OF COSTS: If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 14-95 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 of Lodi taxes.

SECTION 14-100. UNLAWFUL TO ABANDON, PARK, STORE OR LEAVE VEHICLE: It shall be unlawful and a misdemeanor for any person to abandon, park, store, or 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 not including highways within the City for a period in excess of seven days unless such vehicle or parts 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.

SECTION 14-101. UNLAWFUL TO REFUSE TO COMPLY WITH ORDER: It shall be unlawful and a misdemeanor for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle or parts thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this Chapter or State law where such State law is applicable. "

SECTION 3. EFFECTIVE DATE: This ordinance shall take effect and be in force thirty (30) days after its passage, and shall be published once in the "Lodi News Sentinel," a newspaper of general circulation printed and published in the City of Lodi, State of California.

Approved this 16th day of June, 1971.

  
WALTER J. KATNICH, Mayor

Attest: Bessie L. Bennett  
City Clerk

State of California

County of San Joaquin, ss.

I, Bessie L. Bennett, City Clerk of the City of Lodi, do hereby certify that Resolution No. 954 was introduced in a regular meeting of the City Council of the City of Lodi held June 2, 1971 and was thereafter passed, adopted and ordered to print at a regular meeting of said Council held June 16, 1971 by the following vote:

AYES: Councilmen - Ehrhardt, Hughes, Kirsten and Katnich

NOES: Councilmen - None

ABSENT: Councilmen - Schaffer

I further certify that Ordinance No. 954 was approved and signed by the Mayor on the date of its passage and the same has been published pursuant to law.

  
BESSIE L. BENNETT  
City Clerk