ORDINANCE NO. 3824-C.S.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STOCKTON AMENDING THE STOCKTON MUNICIPAL CODE BY ADDING PART IX TO CHAPTER 5 PERTAINING TO ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES, DECLARING A NUISANCE AND PROVIDING FOR ABATEMENT THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF THE CODE.

That the Stockton Municipal Code is hereby amended by deleting Part IX to Chapter 5 thereof and enacting a new Part IX to said Chapter 5 to read as follows:

PART IX
ABANDONED VEHICLES

Sec. 5-200. 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 of the State to remove abandoned, wrecked, dismantled or inoperative vehicles or parts thereof as public nuisances, the City Council 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 found to create a condition tending to reduce the value of property, to promote blight and deterioration, to invite plundering, to create fire hazards, to constitute an attractive nuisance creating a hazard to 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 declared to constitute a public
nuisance which may be abated as such in accordance with the
provisions of this Part.

As used in this Part:

(a) "Highway" means a way or place of whatever nature,
publicly maintained or opened to the use of the public for
purposes of vehicular traffic. "Highway" includes "street".

(b) "Inoperative" includes, but is not limited to, a
vehicle which is not currently and validly registered for operation
or use on the highways and streets in the State as required under
the provisions of Division 3 (commencing at Section 4000 et seq.)
of the Vehicle Code of the State.

(c) "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.

(d) "Owner of the vehicle" means the last registered owner
and the last legal owner of record.

(e) "Public property" does not include "highway".

(f) "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.

(g) "Vehicle Abatement Officer" means the Community
Development Director or his designated representative or any
other employee of the City appointed by the City Manager.

Sec. 5-201. EXCEPTIONS:

This Part 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.

(b) A vehicle or part thereof which is stored in a lawful
manner on private property in connection with the business of a
licensed dismantler, licensed vehicle dealer, or a junk yard; provided, however, that this exception shall not 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 Part.

Sec. 5-202. NON-EXCLUSIVE REGULATION:

This Part 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.

Sec. 5-203. ABANDONED VEHICLE ABATEMENT HEARING BOARD OF ESTABLISHED MEMBERSHIP:

There is hereby established an Abandoned Vehicle Abatement Hearing Board. The Board shall consist of three members, namely the Community Development Director or his designee, the Fire Chief or his designee, and the Public Works Director or his designee.

Sec. 5-204. ADMINISTRATION AND ENFORCEMENT:

Except as otherwise provided herein, the provisions of this Part shall be administered and enforced by the Vehicle Abatement Officer. The California Highway Patrol may enforce these provisions when designated by agreement entered into pursuant to California Vehicle Code Section 22665. In the enforcement of this Part, such persons charged with administration and enforcement may enter upon private or public property to examine the 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 Part.
Sec. 5-205. RIGHT 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 Part.

Sec. 5-206. FIXING ADMINISTRATIVE COSTS:
The 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
Part. Said determination of administrative costs shall include a
determination of amounts to be reimbursed to the California
Department of Highway Patrol for its administrative costs when
such department is designated to administer or enforce any
section of this Part pursuant to Section 5-204.

Sec. 5-207. ABATEMENT AND REMOVAL--NOTICE OF INTENTION:
A ten (10) day notice of intention to abate and remove
the vehicle or parts thereof, as a public nuisance, shall be
mailed by the Vehicle Abatement Officer via registered or certified
mail to the owner of the land and to the owner of the vehicle,
unless the vehicle is in such a condition that identification
numbers are not available to determine ownership. The form of
the notice shall be such as prescribed by the Vehicle Abatement
Officer, and approved by the City Attorney.

Sec. 5-208. ABATEMENT AND REMOVAL--REQUEST FOR PUBLIC
HEARING:
(a) Upon request by the owner of the vehicle or owner of
the land received by the Vehicle Abatement Officer within ten
(10) days after the mailing of the Notices of Intention to Abate
and Remove, a public hearing shall be held by the Abandoned
Vehicle Abatement Hearing Board established pursuant to Section
5-203 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 costs of removal of the vehicle or parts thereof 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 land within such ten (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 the Vehicle Abatement Officer via registered or certified mail at least ten (10) days before the hearing date 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 request for a hearing is not received within ten (10) days after mailing of the Notice of Intention to Abate and Remove, the City shall have the authority to abate and remove the vehicle or parts thereof as public nuisance without holding a public hearing, upon the written order of the Vehicle Abatement Officer.

Sec. 5-209. ABATEMENT AND REMOVAL--CONDUCT OF PUBLIC HEARINGS--DECISION:

(a) All hearings under this Part shall be held before the Abandoned Vehicle Abatement Hearing Board established pursuant to Section 5-203, which shall hear all facts and testimony it deems pertinent. Said facts and testimony may include the testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the private property or public property. The Board 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 his reasons for such denial.
(b) The Board may impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purpose of this Part. It may delay the time for removal of the vehicle or parts thereof if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the Board 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.

(c) 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 Board 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.

(d) 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 Board but does not appear, he shall be notified in writing of the decision.

Sec. 5-210. ABATEMENT AND REMOVAL--APPEALS:

(a) Any interested party may appeal the decision of the Abandoned Vehicle Abatement Hearing Board established pursuant to Section 5-203 by filing a written notice of the appeal with the Board within ten (10) days after its decision.
(b) Such appeal shall be heard by the Housing Board of Appeals which may confirm, amend or reverse the order to take other action deemed appropriate.

(c) The Vehicle Abatement Officer shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 5-208.

(d) In conducting the hearing, the Housing Board of Appeals shall not be limited by the technical rules of evidence. The decision of the Housing Board of Appeals shall be final and conclusive.

Sec. 5-211. ABATEMENT AND REMOVAL--WHEN:

Ten (10) days after the adoption of the order declaring the vehicle or parts thereof to be a public nuisance, or ten (10) days from the date of mailing of the decision of such notice as required by Section 5-209, or five (5) days after such action of the Housing Board of Appeals authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrap yard or automobile dismantler's yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable, unless it is a vehicle which qualified for horseless carriage license plates and historical vehicle license plates pursuant to California Vehicle Code Section 5004, in which case the vehicle may be reconstructed or made operable.

Sec. 5-212. ABATEMENT AND REMOVAL--NOTICE AND TRANSMITTALS DEPARTMENT OF MOTOR VEHICLES:

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 registration certificates, certificates of title and license plates.
Sec. 5-213. ABATEMENT AND REMOVAL--ASSESSMENT OF COSTS TO LAND OWNERS:

If the administrative costs and the costs of removal which are charged against the owner of a parcel of land pursuant to Section 5-209 are not paid within forty-five (45) 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.

Sec. 5-214. VEHICLES VALUED LESS THAN $200.00:

No notice of intention or hearing shall be required for removal of a vehicle or part thereof which is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed, and is valued at less than TWO HUNDRED ($200.00) DOLLARS by the Vehicle Abatement Officer and provided, further, that the following conditions are met:

(a) The owner of the land on which the vehicle, or part thereof, is located has signed a release authorizing the removal of the vehicle, or part, and waiving further interest in the same;

(b) The other applicable provisions of this Part pertaining to the removal and abatement of inoperative vehicle are complied with;

(c) Said inoperable vehicle or part is located on a parcel of land that is zoned for agricultural use or not improved with residential structures containing one or more dwelling units;

(d) Prior to final disposition of such a low value vehicle or part for which evidence of registration has been recovered, the Vehicle Abatement Officer shall provide notice to the registered and legal owners of intent to dispose of the
vehicle or part and that if the vehicle or part is not claimed and removed within twelve (12) days after notice is mailed, final disposition may proceed.

Sec. 5-215. PENALTIES:

(a) It is unlawful for any person who has previously had any vehicle owned by him or placed on his land abated in accordance with the provisions of this Part, excepting the owner of land exonerated pursuant to Section 5-209, subsection (c), to abandon, park, store, or permit or leave 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 of Stockton unless such vehicles 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 conjunction with the business of a licensed dismantler, licensed vehicle dealer, or junk yard.

(b) It is unlawful for any person to fail or to refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle, or part thereof, or to refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this Part.

(c) Any violation of this Part shall be an infraction.

SECTION II. EFFECTIVE DATE:

This ordinance shall take effect and be in full force from and after thirty (30) days from its final passage.
CERTIFICATE

This is to certify that Ordinance No. 3824-C.S. was passed to print by the City Council of the City of Stockton, on the 24th day of September 1984, by the following vote:

Ayes---Councilmembers Clayton, Coale, Fass, Herbert, Oliva, Sousa, and Vice Mayor Parkinson

Noes---None

Absent---Councilmembers Stebbins and Mayor Ronk

[Signature]

Stockton, Cal., September 24, 1984

City Clerk of the City of Stockton

This is to certify that on the 28th day of September 1984 I caused Ordinance No. 3824-C.S. with the ayes and noes, to be published in the Stockton Record, a daily newspaper of general circulation, published and circulated in the City of Stockton, being the official newspaper of general circulation, published and circulated in the City of Stockton, being the official newspaper of City of Stockton as provided by the Charter of the City of Stockton.

[Signature]

Stockton, Cal., October 1, 1984

City Clerk of the City of Stockton

This is to certify that Ordinance No. 3824-C.S. was finally passed and adopted by the City Council of the City of Stockton on the 1st day of October 1984, by the following vote:

Ayes---Councilmembers Clayton, Coale, Fass, Herbert, Oliva, Parkinson, Sousa, Stebbins, and Mayor Ronk.

Noes---None

Absent--None

[Signature]

Stockton, Cal., October 1, 1984

City Clerk of the City of Stockton

This is to certify the Ordinance No. 3824-C.S. of the City Council of the City of Stockton is hereby signed by me this 1st day of October 1984.

[Signature]

Attest: City Clerk of the City of Stockton

[Signature]

Mayor of the City of Stockton
SUPPLEMENTAL INFORMATION RE: ORDINANCE PERTAINING TO ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES

On Monday evening, an ordinance will be available amending the Stockton Municipal Code by adding Part IX to Chapter 5 pertaining to abandoned, wrecked, dismantled or inoperative vehicles.

DISCUSSION

In response to inquiries from members of the City Council, a copy of the existing Abandoned Vehicle Ordinance is attached.

The substantive difference between the old ordinance and the proposed ordinance are generally as follows:

1. The existing ordinance requires a hearing if requested regarding the abatement of an abandoned vehicle before the Building Board of Appeals. Further, an owner of a vehicle can appeal the Board's decision to the City Council. The proposed ordinance requires a hearing if requested to the Abandoned Vehicle Abatement Hearing Board consisting of three City officials and its decision is appealable to the Housing Board of Appeals rather than the City Council.

2. In keeping with the recommendations of the Vehicle Code Section 22660 et seq., the proposed ordinance allows summary abatement of parts and vehicles valued at less than $200 without the requirement of a notice of intention to abate being sent to the owner or the right to a hearing. However, it should be noted that this form of summary abatement can only be accomplished provided the owner of the land upon which the part or vehicle is located, signs a release authorizing removal; the part or vehicle is located only on a vacant lot or land zoned for agriculture use and notice is given to the registered owner of intent to dispose of the same once it has been removed.

3. The proposed ordinance makes the storage of an abandoned vehicle an infraction whereas, the existing ordinance made it a misdemeanor. As an infraction, a citation can be readily issued without the necessity of issuing a criminal complaint and the defendant is not entitled to a jury trial nor a public defender. Relative quick processing of infractions and more certain monetary impact in the form of fines leads to higher compliance rate. Since the goal of the Stockton Municipal Code is compliance therewith rather than pursuit of imprisonment, the infraction citation system is more compatible with code enforcement.
SUPPLEMENTAL INFORMATION RE: ORDINANCE PERTAINING TO
ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES (CON'T)

The ordinance authorizing staff to issue citations as noted above, while not presently in the Stockton Municipal Code, is currently being drafted by the City Attorney's office and will be presented to the City Council for future action.

Also, it should be noted that in the event the owner of a vehicle is sent a notice of intent to abate and the owner is on vacation or unavailable for some reason, the proposed ordinance requires at minimum, that the notice be sent via registered or certified mail. This requires the owner's signature and would indicate that the notice was received. If it is apparent the notice was not received, the City cannot abate the vehicle but must wait until service of the notice is effectuated properly.

Also note that in the event an owner is restoring a vintage vehicle and the City has sent a notice of intention to abate, the owner still has the right to a hearing to explain the situation to the hearing board. The board has much discretion and can accommodate persons in this situation if the circumstances warrant it.

RECOMMENDATION

It is recommended that the ordinance be adopted.
PART IX
ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES — ABATEMENT AND REMOVAL

SEC. 5-200. 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 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 Part.

As used in this Part:
(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."
ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968.

SEC. 5-201. EXCEPTIONS:
This Part 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 a highway or 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, or;
(c) A vehicle or part thereof which is located behind a solid fence five and one half (5½) feet in height or which is not plainly visible from a highway or public or private property.

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 Part.
ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968.

SEC. 5-202. NON-EXCLUSIVE REGULATION:
This Part is not the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City of Stockton. It shall supplement and be in addition to the other regulatory codes, statutes, and ordinances heretofore or hereafter enacted by the City of Stockton, the State, or any other legal entity or agency having jurisdiction.
ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968.

SEC. 5-203. ADMINISTRATION—ENTRY UPON PROPERTY:
Except as otherwise provided herein, the provisions of this Part shall be administered and enforced by the Superintendent of Building Safety. In the enforcement of this Part 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 Ordinance.

(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968)

SEC. 5-204. CONTRACTOR OR FRANCHISE HOLDER—ENTRY UPON PROPERTY:

When the City Council or City Manager 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 Part.

(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968)

SEC. 5-205. ADMINISTRATIVE COSTS:
The City Council shall from time to time by resolution 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 Part.

(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968)

SEC. 5-206. PUBLIC HEARING—NOTICE:

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 or part thereof 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, upon request for such a hearing by the owner of the vehicle or the owner of the land on which such vehicle was located, made to the Superintendent of Building Safety within ten (10) days after the mailing of the notice of intention to abate and remove the vehicle. A sworn written statement submitted within said ten (10) day period by the owner of the land denying responsibility for the presence of the vehicle thereon shall be construed as a request for a hearing which does not require the presence of said owner. The Superintendent of Building Safety shall cause a notice of intention to abate and remove the vehicle or part thereof as a public nuisance to be mailed by registered mail, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owner of record of the vehicle unless the vehicle is in such condition that identification numbers are not available to determine ownership. Said notice shall state that the owner of the property on which the vehicle is located and the owner of the vehicle has the right to request a hearing before the Building Board of Appeals by requesting such a hearing within ten (10) days of the mailing of said notice by making such request to the Superintendent of Building Safety. Said notice shall state that the property owner may appear in person at a hearing or may present a sworn written statement denying responsibility for the presence of the vehicle on the land, with his reasons for such denial, in lieu of appearing, and that if he submits such a sworn statement within the aforesaid ten (10) day period, such statement shall be construed as a request for a hearing which does not require the presence of the owner. Said notice shall also state that if such a request is not received within the aforesaid ten (10) day period, the Superintendent of Building Safety shall have the authority to remove the vehicle. After the vehicle is removed, the Superintendent of Building Safety shall report the removal to the Building Board of Appeals, which shall determine the administrative costs and the cost of removal to be charged against the owner of the parcel of land which the vehicle or part thereof was located.

(AMENDED by Ordinance 2050-C.S.—Effective Dec. 3, 1970)
REV. #27—1-1-71

Stockton Municipal Code

Chnt., 8. Sec. 5-207.

SEC. 5.207. CALIFORNIA HIGHWAY PATROL—NOTICE:

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 (10) days prior to the public hearing.

(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 3, 1968)

SEC. 5.208. RULES GOVERNING HEARING, DECISION AND ORDER:

All hearings under this Part shall be held before the Building Board of Appeals which 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 Board of Appeals 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 sworn 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 Board of Appeals may impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purpose of this Part. 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 Board of Appeals 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 herein-after 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 landowner and that he has not subsequently acquiesced in its presence, the Board of Appeals 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 landowner.

If an interested party makes a written presentation to the Board of Appeals but does not appear, he shall be notified in writing of the decision.

(AMENDED by Ordinance 2050-C.S.—Effective Dec. 3, 1970)
SEC. 5-209. APPEAL TO CITY COUNCIL:
Any interested party may appeal the decision of the Board of Appeals by filing a written notice of appeal with the City Clerk within five (5) days after the decision of the Board of Appeals.
Such appeal shall be heard by the City Council which may affirm, amend or reverse the order or take other action deemed appropriate.
The City Clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 5-206.
In conducting the hearing the City Council shall not be limited by the technical rules of evidence.
(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968)

SEC. 5-210. REMOVAL:
Five (5) days after adoption of the order declaring the vehicle or parts thereof to be a public nuisance, five (5) days from the date of mailing of notice of the decision of such notice is required by Section 5-208, or fifteen (15) days after such action of the City Council authorizing removal following appeal, the vehicle or part 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.
(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968)

SEC. 5-211. NOTICE TO DEPARTMENT OF MOTOR VEHICLES:
Within five (5) 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 or registration available, including registration certificates, certificates of title and license plates.
(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968)

SEC. 5-212. COSTS ASSESSED AGAINST LAND:
If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to Section 5-208 are not paid within thirty (30) days of the date of the order, or the final disposition of an appeal therefrom, such costs shall constitute a lien against and 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 assessments shall have the same priority as other city taxes.
(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968)

SEC. 5-213. PENALTY—ABANDONING, PARKING, STORING OR LEAVING VEHICLE PROHIBITED:
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 seven (7) days unless such vehicle or part thereof is completely enclosed within a building or behind a solid fence five and one-half (5½) feet in height in a lawful manner where it is not plainly visible from a highway or 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.
(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968)

SEC. 5-214. FAILURE TO COMPLY WITH ORDER PROHIBITED:
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 Part or State law where such State law is applicable.
(ADDED by Ordinance No. 1623-C.S.—Effective Feb. 8, 1968)
ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF STOCKTON AMENDING
THE STOCKTON MUNICIPAL CODE BY ADDING PART IX TO CHAPTER 5
PERTAINING TO ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE
VEHICLES, DECLARING A NUISANCE AND PROVIDING FOR ABATEMENT
THEREOF.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF

STOCKTON, AS FOLLOWS:

SECTION I. AMENDMENT OF THE CODE.

That the Stockton Municipal Code is hereby amended by
deleting Part IX to Chapter 5 thereof and enacting a new Part IX
to said Chapter 5 to read as follows:

PART IX
ABANDONED VEHICLES

Sec. 5-200. 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 of the State to remove abandoned,
wrecked, dismantled or inoperative vehicles or parts thereof as
public nuisances, the City Council 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 found to create a
condition tending to reduce the value of property, to promote
blight and deterioration, to invite plundering, to create fire
hazards, to constitute an attractive nuisance creating a hazard
to 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

EXHIBIT B
hereinafter permitted, is declared to constitute a public
nuisance which may be abated as such in accordance with the
provisions of this Part.

As used in this Part:

(a) "Highway" means a way or place of whatever nature,
publicly maintained or opened to the use of the public for
purposes of vehicular traffic. "Highway" includes "street".

(b) "Inoperative" includes, but is not limited to, a
vehicle which is not currently and validly registered for operation
or use on the highways and streets in the State as required under
the provisions of Division 3 (commencing at Section 4000 et seq.)
of the Vehicle Code of the State.

(c) "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.

(d) "Owner of the vehicle" means the last registered owner
and the last legal owner of record.

(e) "Public property" does not include "highway".

(f) "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.

(g) "Vehicle Abatement Officer" means the Community
Development Director or his designated representative or any
other employee of the City appointed by the City Manager.

Sec. 5-201. EXCEPTIONS:

This Part 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.

(b) A vehicle or part thereof which is stored in a lawful
manner on private property in connection with the business of a
licensed dismantler, licensed vehicle dealer, or a junk yard; provided, however, that this exception shall not 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 Part.

Sec. 5-202. NON-EXCLUSIVE REGULATION:

This Part 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.

Sec. 5-203. ABANDONED VEHICLE ABATEMENT HEARING BOARD OF ESTABLISHED MEMBERSHIP:

There is hereby established an Abandoned Vehicle Abatement Hearing Board. The Board shall consist of three members, namely the Community Development Director or his designee, the Fire Chief or his designee, and the Public Works Director or his designee.

Sec. 5-204. ADMINISTRATION AND ENFORCEMENT:

Except as otherwise provided herein, the provisions of this Part shall be administered and enforced by the Vehicle Abatement Officer. The California Highway Patrol may enforce these provisions when designated by agreement entered into pursuant to California Vehicle Code Section 22665. In the enforcement of this Part, such persons charged with administration and enforcement may enter upon private or public property to examine the 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 Part.
Sec. 5-205. RIGHT 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 Part.

Sec. 5-206. FIXING ADMINISTRATIVE COSTS:

The 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 Part. Said determination of administrative costs shall include a determination of amounts to be reimbursed to the California Department of Highway Patrol for its administrative costs when such department is designated to administer or enforce any section of this Part pursuant to Section 5-204.

Sec. 5-207. ABATEMENT AND REMOVAL--NOTICE OF INTENTION:

A ten (10) day notice of intention to abate and remove the vehicle or parts thereof, as a public nuisance, shall be mailed by the Vehicle Abatement Officer via registered or certified mail to the owner of the land and to the owner of the vehicle, unless the vehicle is in such a condition that identification numbers are not available to determine ownership. The form of the notice shall be such as prescribed by the Vehicle Abatement Officer, and approved by the City Attorney.

Sec. 5-208. ABATEMENT AND REMOVAL--REQUEST FOR PUBLIC HEARING:

(a) Upon request by the owner of the vehicle or owner of the land received by the Vehicle Abatement Officer within ten (10) days after the mailing of the Notices of Intention to Abate and Remove, a public hearing shall be held by the Abandoned Vehicle Abatement Hearing Board established pursuant to Section 5-203 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 costs of removal of the vehicle or parts thereof 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 land within such ten (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 the Vehicle Abatement Officer via registered or certified mail at least ten (10) days before the hearing date 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 request for a hearing is not received within ten (10) days after mailing of the Notice of Intention to Abate and Remove, the City shall have the authority to abate and remove the vehicle or parts thereof as public nuisance without holding a public hearing, upon the written order of the Vehicle Abatement Officer.

Sec. 5-209. ABATEMENT AND REMOVAL--CONDUCT OF PUBLIC HEARINGS--DECISION:

(a) All hearings under this Part shall be held before the Abandoned Vehicle Abatement Hearing Board established pursuant to Section 5-203, which shall hear all facts and testimony it deems pertinent. Said facts and testimony may include the testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the private property or public property. The Board 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 his reasons for such denial.
(b) The Board may impose such conditions and take such other action as it deems appropriate under the circumstances to carry out the purpose of this Part. It may delay the time for removal of the vehicle or parts thereof if, in its opinion, the circumstances justify it. At the conclusion of the public hearing, the Board 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.

(c) 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 Board 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.

(d) 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 Board but does not appear, he shall be notified in writing of the decision.

Sec. 5-210. ABATEMENT AND REMOVAL--APPEALS:

(a) Any interested party may appeal the decision of the Abandoned Vehicle Abatement Hearing Board established pursuant to Section 5-203 by filing a written notice of the appeal with the Board within ten (10) days after its decision.
(b) Such appeal shall be heard by the Housing Board of Appeals which may confirm, amend or reverse the order to take other action deemed appropriate.

(c) The Vehicle Abatement Officer shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 5-208.

(d) In conducting the hearing, the Housing Board of Appeals shall not be limited by the technical rules of evidence. The decision of the Housing Board of Appeals shall be final and conclusive.

Sec. 5-211. ABATEMENT AND REMOVAL--WHEN:

Ten (10) days after the adoption of the order declaring the vehicle or parts thereof to be a public nuisance, or ten (10) days from the date of mailing of the decision of such notice as required by Section 5-209, or five (5) days after such action of the Housing Board of Appeals authorizing removal following appeal, the vehicle or parts thereof may be disposed of by removal to a scrap yard or automobile dismantler’s yard. After a vehicle has been removed, it shall not thereafter be reconstructed or made operable, unless it is a vehicle which qualified for horseless carriage license plates and historical vehicle license plates pursuant to California Vehicle Code Section 5004, in which case the vehicle may be reconstructed or made operable.

Sec. 5-212. ABATEMENT AND REMOVAL--NOTICE AND TRANSMITTALS DEPARTMENT OF MOTOR VEHICLES:

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 registration certificates, certificates of title and license plates.
Sec. 5-213. ABATEMENT AND REMOVAL--ASSESSMENT OF COSTS TO LAND OWNERS:

If the administrative costs and the costs of removal which are charged against the owner of a parcel of land pursuant to Section 5-209 are not paid within forty-five (45) 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.

Sec. 5-214. VEHICLES VALUED LESS THAN $200.00:

No notice of intention or hearing shall be required for removal of a vehicle or part thereof which is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed, and is valued at less than TWO HUNDRED ($200.00) DOLLARS by the Vehicle Abatement Officer and provided, further, that the following conditions are met:

(a) The owner of the land on which the vehicle, or part thereof, is located has signed a release authorizing the removal of the vehicle, or part, and waiving further interest in the same;

(b) The other applicable provisions of this Part pertaining to the removal and abatement of inoperative vehicle are complied with;

(c) Said inoperable vehicle or part is located on a parcel of land that is zoned for agricultural use or not improved with residential structures containing one or more dwelling units;

(d) Prior to final disposition of such a low value vehicle or part for which evidence of registration has been recovered, the Vehicle Abatement Officer shall provide notice to the registered and legal owners of intent to dispose of the
vehicle or part and that if the vehicle or part is not claimed and removed within twelve (12) days after notice is mailed, final disposition may proceed.

Sec. 5-215. PENALTIES:

(a) It is unlawful for any person who has previously had any vehicle owned by him or placed on his land abated in accordance with the provisions of this Part, excepting the owner of land exonerated pursuant to Section 5-209, subsection (c), to abandon, park, store, or permit or leave 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 of Stockton unless such vehicles 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 conjunction with the business of a licensed dismantler, licensed vehicle dealer, or junk yard.

(b) It is unlawful for any person to fail or to refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle, or part thereof, or to refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this Part.

(c) Any violation of this Part shall be an infraction.

SECTION II. EFFECTIVE DATE:

This ordinance shall take effect and be in full force from and after thirty (30) days from its final passage.