

**ORDINANCE NO. 99-11**

**AN ORDINANCE OF THE CITY OF AMERICAN CANYON AMENDING PORTIONS OF CHAPTER 10.36, ABANDONED, WRECKED, DISMANTELD, OR INOPERATIVE VEHICLES PERTAINING TO ENFORCEMENT ON HIGHWAYS AND ADDING PROVISIONS FOR COST RECOVERY.**

**WHEREAS**, on December 17, 1992, the City Council of the City of American Canyon adopted Ordinance No. 92-19 regarding the regulation of traffic on city streets, which included Article XX relating to abandoned, wrecked, dismantled or inoperative vehicles; and

**WHEREAS**, the City Council subsequently adopted Ordinance No. 95-22, which amended Ordinance No. 92-19; and

**WHEREAS**, at the November 15, 1996 general municipal election, the voters repealed Ordinance No. 95-22 by referendum; and

**WHEREAS**, the legal effect of the passage of this referendum in November, 1996 was to reinstate Article XX of Ordinance No. 92-19 regarding abandoned, wrecked, dismantled or inoperative vehicles as the City's regulations on this subject; and

**WHEREAS**, Ordinance 97-08, rescinded Article XX of Ordinance 92-19, and adopted a new Chapter 10.36, Abandoned, Wrecked, Dismantled or Inoperative Vehicles; and

**WHEREAS**, subsequent to the adoption and implementation of Ordinance 97-08, Abandoned, Wrecked, Dismantled or Inoperative Vehicles, it was determined that a clause had been added to Section 10.36.010, that excluded highways from the provisions of this Ordinance; and

**WHEREAS**, in order for the City to receive reimbursement for enforcement for the Ordinance, additional text is necessary.

**NOW THEREFORE BE IT RESOLVED**, that the City Council of the City of American Canyon hereby ordains as follows:

Section 1. Section 10.36.010 is hereby amended to delete the phrase "not including highways" from the second and third paragraphs.

Section 2. Section 10.36.100(B) of the City Code of the American Canyon Municipal Code shall be amended to read as follows:

"B. The City may impose such conditions and take such other actions as it deems appropriate under the circumstances to carry out the purposes of this chapter. 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 Manager or designated hearing officer may find that a vehicle or part thereof has been abandoned, wrecked, dismantled, or is

inoperative on private or public property, may order the same removed from the property and disposed of as a public nuisance, in the manner authorized by law and as provided in this Chapter. The order requiring removal shall include a description of the vehicle, or part thereof, and a correct identification number and license of the vehicle, if available at the site. Written notice of the decision and a copy of the order shall be given to the property owner and the owner of the vehicle by certified mail within ten (10) days of the City Manager's decision.

Section 3. A new section 10.36.130 is hereby added to the American Canyon Municipal Code to read as follows:

**Section 10.36.130 Recovery of Abatement Costs by City.**

A. Cost Recovery Procedures. The City may recover reasonable costs incurred in the abatement of motor vehicles, or parts of motor vehicles, pursuant to this Chapter through the procedures set forth in this section, pursuant to State Vehicle Code section 22660.

Such abatement costs may be made a personal debt of the vehicle owner or the owner of the property from which the vehicle was removed, or a special assessment against any real property owned by the vehicle owner or the property from which the vehicle was removed.

B. Report on Abatement Costs. The City Manager or his/her designee shall keep a detailed itemized report of the expenses incurred by the City in the abatement of any vehicles pursuant to this chapter. Upon completion of the work, or as soon thereafter as may be practicable, the City Manager shall file with the City Clerk a report which specifies the address or location of the property from which the vehicle was removed, the license plate, or vehicle identification number for the vehicle, the year, make, model, and color of the vehicle, the nature of the work performed in removing the vehicle, and the itemized and total cost of this work.

C. Notice of Hearing Before City Council. Upon receipt of the report of the City Manager, the City Clerk shall set a hearing on the report before the City Council, on a date which is no less than ten (10) and no more than sixty (60) days after service of the report on the property owner and the vehicle owner. A notice which specifies the date, time, and place of the hearing and the total amount of the expenses for the abatement of the vehicle, shall be served on the owner of the real property from which the vehicle was removed and the vehicle owner, if known, by certified mail. If the address of the owner of the vehicle is not known, the City shall post a copy of the notice in a conspicuous place on the property from which the vehicle or parts of a vehicle were removed and shall publish a copy of the notice in a newspaper of general circulation in the City at least twice no less than ten (10) days before the hearing.

D. Hearing Before City Council. Unless otherwise continued for good cause, the City Council shall hold the hearing at the date, time and place specified on the notice served on the vehicle owner and the property owner. At the hearing, the City Manager shall present the report to the City Council, and the vehicle owner and property owner shall have the right to present any objections to the report. The City Manager, the vehicle owner, and the property owner shall have the right to be represented by counsel.

E. Decision of the City Council. At the conclusion of the hearing or within thirty (30) days thereafter, the City Council shall approve, reject or modify the City Manager's report on expenses incurred in the abatement of the vehicle and shall issue a written decision which specifies the amount and nature of the approved expenses incurred by the City that shall be recovered from the vehicle owner or property owner and that such expenses shall be made either a personal debt of the vehicle owner or property owner or a special assessment against any real property owned by the vehicle owner or the property from which the vehicle was removed. If the amount of any special assessment imposed exceeds five hundred dollars (\$500.00), the City Council may provide in its decision that the special assessment shall be payable in not more than five (5) equal annual installment payments. A copy of the City Council's decision shall be served on the vehicle owner and property owner through the procedure specified by state law for the service of a summons. The notice shall specify that the property may be sold after three (3) years by the County Tax Collector for unpaid assessments.

F. Recordation of Notices for Special Assessment. If the City Council's decision designates the amount of approved abatement expenses as a special assessment against real property owned by the vehicle owner or the property from which the vehicle was removed, the City Manager shall cause a copy of all notices given to the property owner or vehicle owner, and the City Council's decision to be recorded at the office of the County Recorder.

G. Status of Special Assessment for Vehicle Abatement Costs. The abatement costs approved by the City Council shall immediately, upon recordation, constitute a special assessment lien against the property. Such special assessment lien shall be subordinate to any existing special assessment which exists on the same property, but shall be paramount to all other liens except for state, county, and municipal taxes with which the special assessment lien shall be in parity.

H. Method for Collection of Special Assessment. The assessment shall be collected by the County Tax Collector at the same time and in the same manner as ordinary municipal taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency. All laws applicable to the levy, collection, and enforcement of municipal taxes shall apply to this special assessment. However, if the real property on which the special assessment is placed has been transferred to a bona fide purchaser for value, or if the lien of a bona fide encumbrancer for value has been created and attaches thereon prior to the date on which the first installment of the special assessment becomes delinquent, then the

cost of abatement shall not result in a lien against the property but instead shall be transferred to the unsecured tax roll for collection.

I. Sale of Property for Payment of Delinquent Special Assessment. The City may, subject to the requirements of state law, conduct a sale of vacant developed residential real property owned by the vehicle owner for which the payment of the special assessment is delinquent.

J. Delinquent Assessments. All special assessments imposed for the removal of any vehicle subject to this Ordinance which remain unpaid after thirty (30) days from the date for the recordation on the assessment roll shall become delinquent and shall bear interest at the rate of ten percent (10%) per year. The City may collect the debt through any legal means.

K. Council Decision to Make Abatement Costs a Personal Debt of Vehicle Owner or Property Owner. As an alternative to making the City's abatement costs a special assessment on real property owned by the vehicle owner or property owner, the City Council may designate that such approved abatement expenses shall be a personal debt of the vehicle owner or property owner which is payable within thirty (30) days.

L. Delinquent Debts. If the vehicle owner or property owner fails to pay the entire amount due within this time, the debt shall become delinquent and may be collected by the City through any legal means. Interest shall accrue on the unpaid debt at the rate of ten percent (10%) per year.

M. Definition of Abatement Costs. For the purposes of this section, abatement costs shall include, but not be limited to, the City's costs incurred in removing the vehicle from the property by its own personnel, or by contract with a third party, costs incurred in giving required notices to the property owner and the owner of the vehicle, enforcement costs, including but not limited to, inspections, communications with the property and vehicle owner, and legal costs incurred in any judicial, administrative, or special proceeding to abate the vehicle, and costs for the obtaining of an inspection warrant or other judicial order which authorizes removal of the vehicle from the property. Attorneys' fees may be awarded to any prevailing party in the action, but shall not in any case, exceed the reasonable amount of attorneys' fees incurred by the City in the action or proceeding. The City may designate at the beginning of any judicial, administrative or special proceeding whether it will apply for an award of attorney's fees to the prevailing party.

Section 4. Severability. This ordinance shall be liberally construed to achieve its purposes and preserve its validity. If any provision or clause of this chapter, or application thereof to any person or circumstances, is held invalid, such invalidity shall not affect other provisions or applications of this ordinance which can be given effect without application of the invalid provision. To this end, the provisions of this ordinance are declared to be severable and to have independent

validity.

Section 5. This ordinance shall take effect within thirty (30) days after its adoption.

The foregoing ordinance was introduced and read at a regular meeting of the City Council of the City of American Canyon, State of California, held on the 15th day of July, 1999, and was passed and adopted at a regular meeting of the City Council of the City of American Canyon, State of California held on the 5th day of August, 1999, by the following vote:

AYES: Anderson, Maples, Canziani

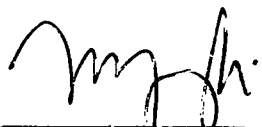
NOES: Shaver

ABSTAIN: None


ABSENT: Colcleaser

  
Benjamin Anderson, Mayor

ATTEST:

  
Mark Joseph, City Clerk

APPROVED AS TO FORM:

  
William D. Ross, City Attorney