

**ORDINANCE NO. 10-12 N.S.**

**AN ORDINANCE OF THE COUNCIL OF THE CITY OF RICHMOND AMENDING PORTIONS OF CHAPTER 11.76 OF THE RICHMOND MUNICIPAL CODE RELATING TO ABANDONED, WRECKED, DISMANTLED OR INOPERATIVE VEHICLES**

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The City Council of the City of Richmond does ordain as follows:

SECTION 1: Chapter 11.76 of the Richmond Municipal Code is hereby amended to read as follows:

**Sections:**

- 11.76.010 Findings and declaration of public nuisance.**
- 11.76.020 Definitions.**
- 11.76.030 Prohibitions and Exclusions.**
- 11.76.040 Cumulative remedies.**
- 11.76.050 Enforcement.**
- 11.76.060 Administrative costs.**
- 11.76.070 Notice of Intention to Abate.**
- 11.76.080 Appeal of Notice of Intent.**
- 11.76.090 Removal of prohibited vehicle and/or parts thereof.**
- 11.76.100 Notice to Department of Motor Vehicles.**
- 11.76.110 Special Assessment Lien.**
- 11.76.130 Removal from storage facility required- Notice.**

**Section 11.76.010 Findings and declaration of public nuisance.**

In addition to and in accordance with the determination made and the authority granted by the state under Section 22660 *et seq.* of the California Vehicle Code 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 outdoor storage of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, on private property is found to create a condition tending to reduce the value of private property, to promote blight and deterioration, to invite vandalism, 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 public health, safety and welfare. Therefore the presence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private 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 Chapter, other applicable sections of this Code, and the laws of the State of California.

**Section 11.76.020 Definitions.**

The definitions contained in Division 1 of the California Vehicle Code shall govern the interpretation of the words used in this Chapter except for the following:

- (a) "Chief of Police" also means his or her designee.
- (b) "Owner of land" means the owner of the real property on which the vehicle, or parts thereof, is located, as shown on the last equalized assessment roll.
- (c) "Owner of the vehicle" means "owner" as that term is defined in the California Vehicle Code.
- (d) "Abandoned vehicle" means: any vehicle left on the property of another without either the property owner's permission or permission of the person in legal possession and control of the property;
- (e) "Dismantled vehicle" means any vehicle which is partially or wholly disassembled and includes vehicle parts that are not properly attached to or installed in a vehicle.
- (f) "Inoperable vehicle" means any motor driven vehicle which is mechanically unfit or unsafe to be operated or moved upon public streets, or unable to move under its own power or cannot be legally operated on public streets and highways due to lack of equipment required by section 22669 the California Vehicle Code or lack of valid registration. The term "inoperable vehicle" includes any vehicle that lacks a working engine, transmission, wheels, tires, doors, windshield, or any other part or equipment necessary to operate safely on the public streets and highways or

that is missing any working parts necessary for the vehicle to operate under its own power. It shall also include any vehicle stored on blocks, lacking tires capable of remaining inflated, missing a battery or lacking any properly working part necessary for the vehicle's mechanical operation. Any vehicle that does not have its major component parts intact and assembled, including but not limited to, the frame or chassis, cowl, the floor pan, or in the case of a motorcycle, the frame, front fork, and engine, is an inoperable vehicle under this ordinance. [Cal. Veh. Code sec. 4606]

(g) "Wrecked Vehicle" means: (1) any vehicle which has sustained external body damage or internal engine damage which exceeds the value of the vehicle; or (2) any vehicle determined to be a "total loss salvage vehicle" as that term is defined by the California Vehicle Code section 544, or (3) any vehicle designated as a "salvage vehicle" by the Department of Motor Vehicles. However, any "total loss salvage vehicle" or salvage vehicle that has been rebuilt or restored to legal operating condition with new or used parts and qualifies as a "revived salvage vehicle" pursuant to California Vehicle Code section 521.5 shall not be deemed a wrecked vehicle for purposes of this ordinance.

(h) "Appeals Officer" means the Administrative Hearing Officer designated by the City Manager as set forth in section 2.62.080 of this Code.

### **11.76.030 Prohibitions and exclusions.**

(a) It shall be unlawful for any person to abandon, park, store or leave or permit or maintain the abandonment, parking, storing or leaving of any licensed or unlicensed abandoned, wrecked, dismantled or inoperative vehicle, or part thereof, upon any private property in violation of any provision of this Chapter.

(b) It shall be unlawful for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, or fail or refuse to abate such nuisance when ordered to do so in accordance with the provisions of this Chapter or state law where the state law is applicable.

(c) It is not a violation of this Chapter for a person to park, store, leave or permit or maintain the parking, storing, or leaving in public view a maximum of one (1) vehicle per single parcel of land that is registered to the occupant of the property, that is a mechanically fit and safe vehicle, able to move under its own power and with all required equipment, that is otherwise in full compliance with all requirements of this Chapter and could legally otherwise operate on a public street except that it has a valid Certificate of Nonoperation status (CA Veh. Code sec.4694). A parcel is defined as having a separate tax assessor's parcel number (APN).

(d) It shall be unlawful for the last owner of record of any abandoned, wrecked, dismantled or inoperative vehicle stored in any storage facility operated by any person, firm or corporation pursuant to a franchise agreement with the city to fail to remove such vehicle from the storage facility within a period of ten days after the date of the mailing, by certified mail, to such registered and/or legal owner of such vehicle, of a notice informing each owner of the following:

- (1) The location of the facility in which the vehicle is stored;
- (2) The license number or other identifying description of the vehicle;
- (3) The address and telephone number of the person to be contacted to arrange for the removal or permanent storage of the vehicle; and
- (4) That it is a violation of Chapter 11.76 of the Richmond Municipal Code to fail or refuse to remove the vehicle from the franchised storage facility described in the notice or to fail to arrange for the permanent storage of the vehicle in such storage facility within a period of ten days after the date of the mailing of the notice.

This Chapter shall not apply to:

(a) A vehicle, or part thereof, which is completely enclosed within a building so as not to be visible from the street or other public or private property;

(b) A vehicle or part thereof which is stored or parked on private property in connection with the business of a licensed dismantler, licensed vehicle dealer or a junk dealer;

(c) A vehicle which is stored or parked on private property in connection with the business of a licensed automobile repair garage or licensed automobile body shop; provided, that the repair dealer, repair garage or body shop:

- (1) Locates the vehicles on the lot in accordance with a parking plan which has been approved by the Fire and Planning Departments;

(2) Does not keep, store or locate vehicle parts or parts of vehicles on the lot for periods in excess of 24 hours unless the parts are kept within a storage area which is no larger than twenty percent (20%) of the total business lot area and which is screened by a six-foot solid wood fence or solid brick or masonry wall with a six-foot solid wood or corrugated metal gate.

Nothing in this Chapter shall authorize the maintenance of a public or private nuisance as defined under provisions of other laws, including, but not limited to, this Chapter and/or section 9.22.090 of this Code or other applicable laws.

**11.76.040 Cumulative remedies.**

This chapter shall not constitute the exclusive regulation of abandoned, wrecked, dismantled or inoperative vehicles within the City, and it shall supplement and be in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the City, including sections 1.04.110, 1.04.150 and 9.22.090 of this Code, and to the remedies and penalties available under other laws.

**11.76.050 Enforcement.**

(a) Except as otherwise provided in this section, the provisions of this chapter shall be administered and enforced by the Chief of Police or his or her designee. In the enforcement of this chapter, the Chief's designee may enter upon private property to examine a vehicle or parts thereof, or obtain information as to the ownership of a vehicle and to remove or cause the removal of a vehicle, or parts thereof, that are in violation of this Chapter, provided such entry and/or removal is made in compliance with all legal requirements of the 4<sup>th</sup> Amendment of the Constitution of the United States regarding search and seizure.

(b) When the City has contracted with any person or persons for the removal of vehicles and parts thereof pursuant to this chapter, such person or persons shall be authorized to enter upon private property to remove or cause the removal of a vehicle or parts thereof in violation of this Chapter, provided that said entry and/or removal from private property is performed pursuant to either an Inspection and/or Abatement Warrant or Order issued by a Judge of the Superior Court, or with consent of the property owner or person in lawful possession of such property, or by other lawful means.

**11.76.060 Administrative costs.**

The City Council shall by resolution, determine and fix an amount to be assessed as administrative costs (excluding the actual costs of abatement incurred under this Chapter).

**11.76.070 Notice of Intention to Abate.**

(a) Upon discovering the existence of an abandoned, wrecked, dismantled or inoperative vehicle, or parts thereof, on private property or public property within the city, the Chief of Police shall have the authority to cause the abatement and removal thereof in accordance with the procedure prescribed in this Chapter.

(b) A ten-day notice of intention to abate and remove the vehicle, or parts thereof, as a public nuisance shall be mailed by certified 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:

(1)

"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 Chapter 11.76 of the Municipal Code of the City of Richmond 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 said Chapter 11.76.

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, 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 Chief of Police or Code Enforcement Manager within such 10-day period, the Chief of Police 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 the 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 a 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.

Date Notice Mailed ..... Signature of person issuing notice .....

(2)

**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 Chapter 11.76 of the Municipal Code of the City of Richmond has determined that said vehicle (or parts of a vehicle) exists as an abandoned, wrecked, dismantled or inoperative vehicle at (describe location on private property) and constitutes a public nuisance pursuant to the provisions of Chapter 11.76. You are hereby notified to abate said nuisance by the removal of said vehicle (or said parts of a vehicle) within 10 days after the 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 Chief of Police or Code Enforcement Manager within such 10-day period, the Chief of Police shall have the authority to abate and remove said vehicle (or said parts of a vehicle) without a hearing.

Date Notice Mailed ..... Signature of Person mailing Notice .....

**11.76.080 Appeal of Notice of Intent.**

(a) Upon request by the owner of the vehicle or owner of the land received by the Police Chief or Code Enforcement Manager within ten days after the date of mailing of the notice of intention to abate and remove, an appeal hearing shall be held by the Administrative Hearing Officer on the question of abatement and removal of the vehicle or parts thereof as an abandoned, wrecked, dismantled or inoperative vehicle, and the potential assessment of the administrative costs and the cost 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 the presence of the vehicle on his land and/or denies the vehicle is in violation of this Chapter and it contains evidence supporting such denials within such ten-day period, the statement shall be construed as a request for a hearing, which does not require his or her presence. Notice of the hearing shall be given as set forth in the Notice procedure of section 2.62.140 of this Code, at least ten 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 of the vehicle.

(c) The Hearing Officer shall hear all facts and testimony he or she deems pertinent. The facts and testimony may include testimony on the condition of the vehicle or parts thereof and the circumstances concerning its location on the private property. The Hearing Officer 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 the presence of the vehicle on the land or claim that the vehicle is not in violation of this Chapter,

with his reasons and any supporting evidence for such denial and/or claim.

(d) The Hearing Officer may impose such conditions and take such other action as he or she deems appropriate under the circumstances to carry out the purpose of this Chapter. The Hearing Officer may delay the time for removal of the vehicle, or parts thereof if, in his or her opinion, the circumstances justify it, however the extension of time for removal or abatement shall not exceed 30 days past the date of the hearing. At the conclusion of the hearing, the Hearing Officer may find that a vehicle or parts thereof has been abandoned, wrecked, dismantled, or is inoperative on private 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 Hearing Officer shall prepare and mail to the vehicle owner and the owner of the land a written decision. Any decision 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. The decision of the Hearing Officer shall be final.

(e) If the owner of the land submits a sworn written statement denying the presence of the vehicle on his or her land and/or presents evidence that the vehicle is not in violation of this Chapter, but does not appear, or if an interested party makes a written presentation to the Hearing Officer and appears at the hearing, he or she shall be notified in writing of the decision.

If a request for an appeal hearing is not received within ten days after the date of 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 a public nuisance without holding a public hearing pursuant to obtaining an Abatement Warrant or other Order issued by a Judge of the Superior Court, or consent of the person in lawful possession and control of the land upon which the vehicle is located.

#### **11.76.090 Removal of vehicle and/or parts thereof.**

If the vehicle has not been removed or abated within ten days after the mailing of the notice of intention to abate specified herein and the notice was not timely appealed, or upon expiration of any extension of time to abate as determined by the Hearing Officer, the vehicle, or parts thereof, may be disposed of by removal to a scrap yard or automobile dismantler's yard pursuant to the terms and conditions of the Joints Powers Agreement with the Contra Costa County Abandoned Vehicle Abatement Plan, the latest Resolution of the City Council and the California Vehicle Code. After a vehicle has been removed and abated by the City, it shall not thereafter be reconstructed or made operable unless it is a vehicle which qualifies for either horseless carriage license plates or historical vehicle license plates pursuant to Section 5004 of the California Vehicle Code, in which case the vehicle may be reconstructed or made operable.

#### **11.76.100 Notice to Department of Motor Vehicles.**

Within five days after the date of removal of the vehicle or part thereof, notice shall be given to the California Department of Motor Vehicles (DMV) identifying the vehicle or part thereof removed. At the same time there shall be transmitted to the DVM any evidence of registration available, including registration certificates, certificates of title and license plates.

#### **11.76.110 Special Assessment Lien.**

If the administrative costs and the cost of removal which are charged against the owner of a parcel of land pursuant to this Chapter are not paid within thirty days of the removal of the vehicle or part thereof, the costs shall, by resolution of the City Council, be assessed; become a special assessment lien against the parcel of land and be collected by the Contra Costa County Tax Assessor in the same manner as taxes upon real property.

### **SECTION 3.**

Any provisions of the Richmond Municipal Code, or appendices thereto, or any other ordinance or the City inconsistent herewith, to the extent of such inconsistencies and no further, are hereby repealed.

SECTION 4: CEQA

Pursuant to the California Environmental Quality Act (Public Resources Code Section 21000 et seq.) (“CEQA”) and the State CEQA Guidelines (California Code of Regulations, Title 14, Section 15000 et seq.), the City Council finds that it can be seen with certainty that there is no possibility that the adoption of this ordinance will have a significant effect on the environment. Therefore, the adoption of this ordinance is exempt from CEQA pursuant to State CEQA Guidelines Section 15061(b) (3).

This Ordinance becomes effective 30 days after its final passage and adoption.

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First read at a regular meeting of the Council of the City of Richmond, California, held, July 31, 2012, and finally passed and adopted at a regular meeting thereof held September 18, 2012, by the following vote:

- AYES: Councilmembers Bates, Beckles, Boozé, Butt, Ritterman, Vice Mayor Rogers, and Mayor McLaughlin.
- NOES: None.
- ABSTENTIONS: None.
- ABSENT: None.

DIANE HOLMES  
CLERK OF THE CITY OF RICHMOND

(SEAL)

Approved:

GAYLE MCLAUGHLIN  
Mayor

Approved as to form:

BRUCE REED GOODMILLER  
City Attorney

State of California            }  
County of Contra Costa        : ss.  
City of Richmond               }

I certify that the foregoing is a true copy of Ordinance No. 10-12 N.S., finally passed and adopted by the City Council of the City of Richmond at a regular meeting held on September 18, 2012.