

Ordinance No. 1065

**AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF CALEXICO AMENDING CHAPTER 8.48 OF THE CALEXICO MUNICIPAL
CODE REGARDING ABANDONED VEHICLES**

WHEREAS, the Council ("Council") of the City of Calexico adopted Ordinance 632 in 1968 adding Chapter 8.48 of the Calexico Municipal Code ("Code"); and

WHEREAS, the Council wishes to amend Chapter 8.48 in order to conform to changes in state law since 1968 and to clarify the requirements and procedures for abatement of abandoned vehicles;

**NOW THEREFORE, THE COUNCIL OF THE CITY OF CALEXICO HEREBY
ORDAINS AS FOLLOWS:**

SECTION 1: Section 8.48.010 of the Code is hereby amended to read as follows:

As used in this chapter, the following words shall have the following meanings:

- A. "Vehicle" means a device by which any person or property may be propelled, moved or drawn upon a highway, except as device moved by human power or used exclusively upon stationary rails or tracks.
- B. "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.

SECTION 2: Section 8.48.030 of the Code is hereby amended to read as follows:

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 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 is 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, except as expressly permitted in this chapter, constitutes a

public nuisance which may be abated as such in accordance with the provisions of this chapter.

SECTION 3: Section 8.48.070 of the Code is hereby amended to read as follows:

8.48.070 Notice of Intention to Abate and Remove Nuisance.

A. A ten (10) day notice of intention to abate and remove a vehicle or part thereof as a public nuisance shall be issued.

1. The notice of intention is not required if the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part thereof. The notice of intention is not required for removal of a vehicle or part thereof that is inoperable due to the absence of a motor, transmission, or wheels and incapable of being towed, is valued at less than two hundred dollars (\$200) by a person specified in section 22855 of the Vehicle Code, and is determined by the City to be a public nuisance presenting an immediate threat to public health or safety, provided that the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part thereof. Prior to final disposition under section 22662 of the Vehicle Code of such a low-valued vehicle or part for which evidence of registration was recovered pursuant to section 8.48.120, the City shall provide notice to the registered and legal owners of intent to dispose of the vehicle or part, and if the vehicle or part is not claimed and removed within twelve (12) days after the notice is mailed, from a location specified in section 22662 of the Vehicle Code, final disposition may proceed. Neither the City nor contractor thereof shall be liable for damage caused to a vehicle or part thereof by removal pursuant to this paragraph (8.48.070A.1). As to inoperable vehicles, the foregoing provisions apply only to inoperable vehicles located upon a parcel that is (i) zoned for agricultural use or (ii) not improved with a residential structure containing one or more dwelling units.
2. The notice of intention shall contain a statement of the hearing rights of the owner of the property on which the vehicle is located and of the owner of the vehicle. The statement shall include notice to the property owner that he or she may appear in person at a hearing or may submit a sworn written statement denying responsibility for the presence of the vehicle on the land, with his or her reasons for such denial, in lieu of appearing. The notice of intention to abate shall be mailed, by registered or certified mail, to the owner of the land as shown on the last equalized assessment roll and to the last registered and legal owners of record unless the

vehicle is in such condition that identification numbers are not available to determine ownership.

SECTION 4: Section 8.48.080 of the Code is hereby deleted in its entirety.

SECTION 5: Section 8.48.090 of the Code is hereby amended to read as follows:

- A. Upon request by the owner of the vehicle or the owner of the land on which the vehicle is located, a public hearing shall be held before the City Manager or other designated hearing officer. This request shall be made to the City within ten (10) days after the mailing of notice of intention to abate and remove the vehicle or at the time of signing a release pursuant to section 8.48.070. If the owner of the land on which the vehicle is located submits a sworn written statement denying responsibility for the presence of the vehicle on his or her land within that time period, this statement shall be construed as a request for hearing that does not require the presence of the owner submitting the request. If the request is not received within that period, the City shall have the authority to remove the vehicle.
- B. The City Manager shall hear all facts and testimony he 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 private property or public property. The City Manager 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.
- C. The City Manager may impose such conditions and take such other action as 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 part thereof if, in his opinion, the circumstances justify it. At the conclusion of the public hearing, the City Manager 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 provided in this chapter 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.

- D. 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 City Manager 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.
- E. If an interested party makes a written presentation to the City Manager but does not appear, he shall be notified in writing of the decision.

SECTION 6: Section 8.48.100 of the Code is hereby amended to read as follows:

- A. Filing of Notice. Any interested party may appeal the decision of the City Manager by filing a written notice of appeal with the City Manager within five days after its decision.
- B. Hearing. Such appeal shall be heard by the city council which may affirm, amend or reverse the order or take other action deemed appropriate.
- C. Notice of Hearing. The clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 8.48.070.
- D. Evidence not Limiting. In conducting the hearing, the city council shall not be limited by the technical rules of evidence.

SECTION 7: Section 8.48.110 of the Code is hereby amended to read as follows:

8.48.110 Removal--Regulations.

- A. Five (5) days after the decision of the City Manager, or the city council if appealed, declaring a vehicle or parts thereof to be a public nuisance, or five (5) days from the date of mailing of notice of the decision of such notice as required by this chapter, the vehicle or parts thereof may be disposed of by removal to a scrap yard or automobile dismantler's yard.
- B. After a vehicle has been removed, it shall not be reconstructed or made operable, unless it is a vehicle that qualifies for either horseless carriage license plates or historical vehicle license plates, pursuant to section 5004 of the Vehicle Code, in which case the vehicle may be reconstructed or made operable.

SECTION 8: Section 8.48.140B of the Code is hereby corrected to read as follows:


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 9. This ordinance will take effect thirty (30) days after the date of its passage and adoption.

SECTION 10. If any section, subsection, sentence, clause, phrase or portion of this Ordinance is for any reason held to be invalid or unconstitutional by any court of competent jurisdiction, such decision shall not affect the validity of the remainder of the Ordinance. The Council hereby declares that it would have adopted this Ordinance, and each section, subsection, sentence, clause, phrase or portion hereof, irrespective of that fact that any one or more sections, subsections, sentences, clauses, phrases or portions be declared invalid or unconstitutional.

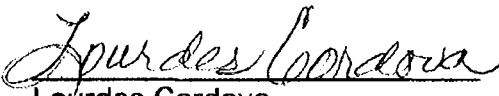
SECTION 11. The City Clerk shall certify to the adoption of this Ordinance and shall cause this ordinance, or a summary thereof, to be published as required by law.

PASSED, APPROVED AND ADOPTED this 20th day of November, 2007.



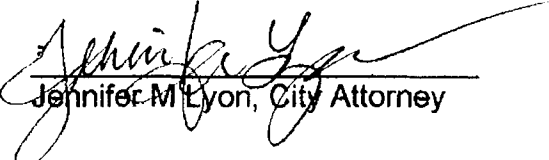
John R. Renison, Mayor

ATTEST:



Lourdes Cordova
City Clerk

APPROVED AS TO FORM:




Jennifer M. Lyon, City Attorney

I, Lourdes Cordova, City Clerk of the City of Calexico and ex-officio Clerk of the Council, do hereby certify under penalty of perjury that the foregoing is a true and correct copy of

Ordinance No. 1065 that was duly and regularly introduced at a regular meeting of said City Council held on November 7th, 2007 and was adopted by said City Council at a regular meeting held on November 20th, 2007, by the following vote:

AYES:	Ouzan, Pacheco, Renison, Durazo, Fuentes
NOES:	None
ABSENT:	None
ABSTAIN:	None


Lourdes Cordova, City Clerk