

**LEGISLATIVE DRAFT  
HBMC 8.48**

**8.48.010 Intent and Purpose**

This Chapter is intended to provide a procedure for the abatement of Abandoned, Wrecked, Dismantled and Inoperable Vehicles, and Vehicle Parts, and is enacted under the authority of the Huntington Beach Charter and Section 22660 of the California Vehicle Code.

It is the intent of the City Council to provide that the abatement of public nuisances consisting of Abandoned, Wrecked, Dismantled and Inoperable Vehicles may be carried on either concurrently with or separately from the abatement of other conditions, if any, constituting a public nuisance on any premises within the City, as deemed appropriate under the circumstances.

**8.48.020 Definitions**

For the purposes of this Chapter, the following terms shall mean as follows, unless the context in which they are used clearly indicates to the contrary:

- A. “Abandoned Vehicle” means a Vehicle abandoned on a street, public property or private property in such an inoperable or neglected condition and the Director determines that the owner relinquished all rights or interest in the Vehicle.
- B. “Director” means the Director of the Department of Community Development, or his or her designee.
- C. “Dismantled Vehicle” means any Vehicle which is partially or wholly disassembled.
- D. “Inoperable Vehicle” means any Vehicle in a condition that renders it unable to drive or unsafe for operation upon a street, or in which operation upon a street would violate the Vehicle Code or any other law or regulation related to the operation of Vehicles upon a street in the City of Huntington Beach or the State of California.
- E. “Vehicle Part” includes, but is not limited to, any item, device, component, frame, bumper, wheel or glass associated with a Vehicle.
- F. “Public Property” is any property owned by the City, or any State, County or local government agency. Public property does not include a street.
- G. “Street” means any highway, sidewalk, alley or right-of-way dedicated to the public, or maintained as private.
- H. “Vehicle” generally means a device, or substantial part of a device by which any person or property may be propelled, moved or drawn upon a street, except a device moved by human power or used exclusively upon stationary rails or tracks. The term Vehicle includes automobiles, tractors, boats, motorcycles, special purpose vehicle, etc. as well as trailers designed for carrying persons or property on its own structure and for being drawn by a motor Vehicle and so constructed that no part of its weight rests upon any other Vehicle. The term Vehicle includes any Abandoned, Dismantled, Inoperable, Wrecked or Part of a Vehicle.
- I. “Wrecked Vehicle” means any Vehicle, or a substantial part of a Vehicle that is damaged to such an extent that it cannot be operated upon the street. A Vehicle which has been wrecked in a traffic accident, and which has been removed from the street to a storage facility, but which has not been claimed by its owner, is not an Abandoned Vehicle.

#### **8.48.030 Applicability**

This Chapter shall not apply to:

- A. A Vehicle or Vehicle Part, 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 Vehicle Part 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.
- C. These exceptions shall not authorize the maintenance of a public or private nuisance as defined under provisions of law other than this Chapter.

#### **8.48.040 Enforcement**

Except as otherwise provided herein, both the Police Chief and the Director of Community Development may administer and enforce the provisions of this Chapter.

#### **8.48.050 Notice**

Upon discovery of an Abandoned, Wrecked, Dismantled or Inoperable Vehicle or Vehicle Part, the City may issue a ten (10) day Notice of Intention to abate and remove the Vehicle or Vehicle Part as a public nuisance. The notice 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 owner of record of the Vehicle, unless the Vehicle is in such condition that the identification number is not available to determine ownership.

#### **8.48.060 Circumstances Where Notice of Intent Not Required.**

A Notice of Intention to Abate shall not be required:

- A. If the property owner and the owner of the Vehicle have signed releases authorizing removal and waiving further interest in the Vehicle or Vehicle Part.
- B. The Vehicle is located upon a parcel that either is zoned for agricultural use or is not improved with a residential structure containing one or more dwelling units and :
  - 1. The Vehicle or Vehicle Part is inoperable due to the absence of a motor, transmission, or wheels and is incapable of being towed;
  - 2. The Vehicle or Vehicle Part is valued at less than two hundred dollars (\$200.00) by the Director;
  - 3. The Director has determined that the Vehicle or Vehicle Part is a public nuisance presenting an immediate threat to public health and safety;
  - 4. The property owner has signed a release authorizing the removal and waiving further interest in the Vehicle or Vehicle Part; and

If a Vehicle is removed pursuant to this Section, prior to final disposition, the registered or legal owner shall be notified of the intent to dispose of the Vehicle or Vehicle Part. If the Vehicle or Vehicle Part is not claimed and removed from the scrapyard, automobile dismantler's yard or public disposal area within twelve (12) days after the notice to dispose of Vehicle is mailed, final disposition may proceed.

#### **8.48.070 Public Hearing Upon Written Request.**

- A. If the Vehicle owner or the owner of the property where the Vehicle is located requests a hearing within ten (10) days of mailing the Notice of Intention to Abate, the Director shall conduct a public hearing. The landowner and/or Vehicle owner 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 and his/her reasons for such denial.

B. At the public hearing, the Director shall hear all relevant facts and testimony. The Director shall determine two questions:

1. Whether the Vehicle or Vehicle Part is Abandoned, Wrecked, Dismantled, or Inoperable Vehicle or Vehicle part such that it is a public nuisance.

2. Whether the City should assess the administrative costs and the costs of removal of the Vehicle, or Vehicle Part, against the property on which it is located in consideration of the circumstances that lead to the Vehicle or Vehicle Part being located on the property.

C. If the City does not receive a request for a hearing 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 Vehicle Part, as a public nuisance without holding public hearing.

#### **8.48.080 Notice of Decision.**

A. At the conclusion of the public hearing, the Director may find that a Vehicle or Vehicle Part has been Abandoned, Wrecked, Dismantled, or Inoperable such that it is a public nuisance and ordered removal or disposal, and determine the administrative costs and the cost of removal and disposal to be charged against the responsible person. The order requiring removal shall include a description of the Vehicle, or Vehicle Part, and the correct identification number and license number of the Vehicle, if available at the site.

B. Director shall not assess the costs of administration or removal of the Vehicle or Vehicle Part against the property upon which the Vehicle or Vehicle Part is located if he or she determines that the Vehicle or Vehicle Part was placed on the property without the owner's consent.

C. Any interested party makes a written statement to the Director but does not appear, he/she shall be notified in writing of the decision.

D. The Director's decision shall be final and set forth in an order that is mailed to both the owner of the property and the owner of the Vehicle or Vehicle Part. The order shall specify that the Vehicle or Vehicle Part shall be removed from the property within fifteen (15) days of the mailing of the order to the property owner and owner of the Vehicle or Vehicle Part.

#### **8.48.090 Notice of Removal to Department of Motor Vehicles.**

The Director will provide notice to the DMV identifying the Vehicle removed, or the parts thereof within 5 days after removal. The Director shall also transmit to the DMV any evidence of registration available, including, but not limited to the registration card, certificates of ownership, and license plates.

#### **8.48.100 Removal—Costs—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 30 days of the date of the order, 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. The assessment shall have the same priority as other City taxes.

#### **8.48.110 Violation---Abandonment**

It is unlawful and an infraction for any person to abandon or fail or refuse to remove an abandoned, wrecked, dismantled or inoperative vehicle or part thereof or refused to abate such nuisance when ordered to do so in accordance with the abatement provisions of this chapter or state law where such law is applicable.