

ORDINANCE NO. 1706

The Board of Supervisors of the County of Amador County ordains as follows:

SECTION 1. Chapter 10.32 of the Amador County Code shall be deleted and the following revised Chapter 10.32 shall be adopted and substituted in place of the deleted chapter:

**“Chapter 10.32
ABANDONED VEHICLE ABATEMENT**

Sections:

- 10.32.010 Declaration of nuisance.
- 10.32.020 Definitions.
- 10.32.030 Exceptions.
- 10.32.040 Chapter not exclusive regulation.
- 10.32.050 Enforcement authority--Right of entry.
- 10.32.060 Contract or franchise--Right of entry for removal of a vehicle.
- 10.32.070 Administrative costs determination.
- 10.32.080 Notice of intention to abate and remove vehicle.
- 10.32.090 Conduct of hearing.
- 10.32.100 Appeal to authority.
- 10.32.110 Order of vehicle removal--Assessment of costs.
- 10.32.120 Exceptions to hearing requirement.
- 10.32.130 Disposition of vehicle or parts.
- 10.32.140 Notice to department of motor vehicles.
- 10.32.150 Collection of delinquent assessment.
- 10.32.160 Collection of costs.
- 10.32.170 Refusal to remove vehicle--Misdemeanor.

10.32.010 Declaration of nuisance.

In addition to and in accordance with the determination made and the authority granted by the state under Section 22660 of the Vehicle Code to remove abandoned, wrecked, dismantled or inoperable vehicles or parts thereof as public nuisances, the board of supervisors makes the following findings and declarations: The accumulation and storage of abandoned, wrecked, dismantled or inoperable 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 hazard to the health and safety of children, 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 inoperable vehicle or part thereof, on private or public property, except as expressly hereinafter permitted, is declared to constitute a public nuisance which may be abated as such in this chapter.

10.32.020 Definitions.

As used in this chapter:

- A. "Abandoned vehicle" means a motor vehicle left on a highway, public property or private property in such inoperable or neglected condition that it may be reasonably inferred that the owner's intention is to relinquish all further rights or interests in the vehicle. A vehicle is presumed to be "abandoned" when it is left on a highway for seventy-two hours or more without being moved, is parked, resting or otherwise immobilized on any highway or public right-of-way and lacks an engine, transmission, wheels, tires, doors, windshield, or any other part of equipment necessary to operate safely on the highway. Vehicles found in such a condition on a highway or public right-of-way are presumed to be a hazard to public health, safety and welfare and may be removed immediately upon discovery by a peace officer or other designated employee.
- B. "Authority" means the Amador County abandoned vehicle abatement authority.
- C. "Collector" means the owner of one or more "collector vehicles" as defined in subsection D below who collects, purchases, acquires, trades, or disposes of such vehicle, or parts thereof, for his or her own use, in order to preserve, restore, and maintain such vehicle for hobby or historical, educational, investment or other purposes.
- D. "Collector vehicles" means "parts vehicles," "special interest vehicles," and "vehicles of historic value," all as defined in subsections J, L, and N below, and parts necessary for the restoration of said collector vehicles.
- E. "Designated employee" means a representative of the Amador County sheriff and/or the code enforcement division of the land use agency.
- F. "Dismantled vehicle" means any motor vehicle that is partially or wholly disassembled.
- G. "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."
- H. "Inoperable vehicle" means any motor vehicle that does not meet the definition of an operable vehicle as set forth in subsection 10.32.020.I below.
- I. "Operable vehicle" means any motor vehicle that meets all of the following requirements:

1. The vehicle must be able to move forward and backward a minimum distance of ten feet using only its own power.
2. All tires on the vehicle must be inflated.
3. All basic electrical and fuel systems on the vehicle must be able to function without manual assistance in order to sustain power.

J. "Parts vehicle" means a motor vehicle that is owned by a collector to furnish parts for restoration or maintenance of a special interest vehicle or a vehicle of historic value in the custody of that collector, thus enabling a collector to preserve, restore, and maintain a special interest vehicle or a vehicle of historic value.

K. "Public property" includes "streets" and "highways."

L. "Special interest vehicle" means a vehicle of any age that is unaltered from the manufacturer's original specifications and, because of its significance, such as being an out-of-production vehicle, or a model of less than two thousand sold in California in any model year, is being collected, preserved, restored, or maintained for hobby or historical, educational, investment or other purposes.

M. "Vehicle" or "motor 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.

N. "Vehicle of historic value" means a vehicle described in subsections (1), (2), (3) or (4) below:

1. A motor vehicle with an engine of sixteen or more cylinders manufactured prior to 1965;
2. A motor vehicle manufactured in the year 1922 or prior thereto;
3. A vehicle which was manufactured after 1922, is at least twenty-five years old, and is of historical interest;
4. A vehicle which if fully restored would have a higher monetary value than when it was originally sold as a new vehicle.

O. "Wrecked vehicle" means any motor vehicle that is damaged to such an extent that it cannot lawfully be operated upon the highway. A vehicle which has been wrecked in a traffic collision, then removed from the roadway to a storage facility, but not yet claimed by its owner, will not be considered an abandoned vehicle.

.10.32.030 Exceptions.

This chapter shall not apply to:

- A. Operable vehicles as defined in section 10.32.020.I;
- B. Inoperable vehicles or parts thereof on any size parcel that are completely enclosed within a building in a lawful manner where they are not visible from the street or other public or private property;
- C. Inoperable vehicles or parts not completely enclosed in a building, but completely screened from unaided view from neighboring properties or public ways by terrain, vegetation, solid wood or masonry fence, solid cover, or otherwise with the approval of the AVA;
- D. Vehicles or parts thereof which are stored or parked in a lawful manner on private appropriately zoned property in connection with the business of a licensed dismantler, licensed vehicle dealer, licensed junk dealer, licensed automotive repair shop, or when such storage or parking is necessary to the operation of a lawfully conducted business or commercial enterprise;
- E. A collection of collector vehicles provided that the collector first obtains a county use permit as set forth in this subsection for the property where the vehicles are situated. A collector may maintain one or more collector vehicles on his or her property as long as the following minimum conditions are met. Collectors who have existing collections of collector vehicles as of the effective date of the ordinance codified in this section shall have until July 1, 2001, to obtain such a use permit without payment of an application fee which may be approved with conditions so as to fall within this section:
 - 1. The parcel is at least five acres in size,
 - 2. The storage area does not exceed one half contiguous acre,
 - 3. The storage area is set back at least thirty feet from all of the parcel's boundary lines,
 - 4. Vehicles stored pursuant to this section shall be maintained in a manner so as not to constitute a health or safety hazard (e.g., no broken glass, no leaking fuel, oil, or other fluids from stored vehicles, no rodents, no refuse, and not stacked on top of one another),
 - 5. Vehicles shall be in lines or rows, and up right,
 - 6. The vehicle storage area shall be cleared of all vegetation which constitutes a fire hazard, refuse, scrap and vehicle parts, including tires, that are not stored within a vehicle;
 - 7. Use permits for collector car collections may be issued by the planning department for collections which comply with all of the criteria set forth in this chapter after notification to

all owners of property, as shown on the most recent tax roll, within a distance of at least three hundred feet in all directions from the subject parcel. If the planning department receives opposition to the permit application within ten calendar days after the mailout or if the application in the opinion of the planning department fails to meet said criteria, the permit may be denied. The applicant or any interested person may appeal the planning department's decision to planning commission pursuant to Chapter 19.64 of the Amador County Code within ten calendar days after said decision. Approved use permits shall become valid following the ten day appeal period if no appeals are filed.

F. Nothing in this section shall authorize the maintenance of a public or private nuisance as defined under the provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code and this chapter.

10.32.040 Chapter not exclusive regulation.

The provisions of this chapter are not the exclusive regulation of abandoned, wrecked, dismantled or inoperable vehicles.

It is in addition to the other regulatory codes, statutes and ordinances heretofore or hereafter enacted by the county, the state or any other legal entity or agency having jurisdiction.

10.32.050 Enforcement authority--Right of entry.

Except as otherwise provided herein, the provisions of this chapter may be administered and enforced by the Amador County sheriff and the code enforcement division of the community development agency. In enforcing this chapter such employees 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 parts thereof) declared to be a nuisance pursuant to this chapter; provided, however, that such entry shall be made in a lawful manner.

10.32.060 Contract or franchise--Right of entry for removal of a vehicle.

When the board 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 chapter; provided, however, that such entry shall be made in a lawful manner.

10.32.070 Administrative costs determination.

The authority 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 chapter. Such amount shall be based on an analysis of the staff time reasonably necessary to process each case involving the removal of a vehicle, and shall not exceed the good faith estimate of such administrative costs based on such analysis.

10.32.080 Notice of intention to abate and remove vehicle.

Unless both the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part thereof, not less than ten days before the date of intended removal of the vehicle pursuant to the provisions of this chapter, a notice of intention to abate and remove the abandoned, wrecked, dismantled or inoperable vehicle shall be sent by the designated employee by registered or certified mail, to the owner of the land on which the vehicle is located, as shown on the last equalized assessment roll, and to the last registered and legal owners of the vehicle, unless the vehicle is in such condition that identification numbers are not available to determine ownership. It shall not be prerequisite to removal of the vehicle pursuant to this section that the return receipt be received showing delivery of the notice. Such notice of intention shall contain a statement that the owner of the property and the owner of the vehicle have a right to request a hearing before the designated employee, at which hearing the property owner may in lieu of appearing, submit a sworn written statement denying responsibility for the presence of the vehicle on the land, with his reasons for such denial. If such a statement is submitted, it shall be construed as a request for hearing on the issue of assessment of costs which does not require the presence of the property owner submitting such request, although the submission of such a statement shall not preclude the owner from presenting testimony at the hearing if he or she should decide to do so. If, based on the inspection by the designated employee or his designated representative, there is evidence that a known third party who is not the property owner or the vehicle owner left the vehicle on the property without the consent of the vehicle owner or the property owner, the notice referenced above in this section shall be sent to said third party in the manner specified in this section, at the best known address available to the designated employee. The request shall be made to the designated employee within ten days after the mailing of the notice of intention to abate and remove the vehicle. If such a request is not received within such period, the designated employee shall have authority to remove or cause the removal of the vehicle.

10.32.090 Conduct of hearing.

If either the property owner or the vehicle owner requests a hearing within ten days after the mailing of the notice of intention to abate and remove the vehicle, the person or persons making such request shall be entitled to a hearing before the designated employee, who shall hear all facts and testimony the designated employee deems pertinent.

10.32.100 Appeal to authority.

A. Any interested party may appeal the decision of the designated employee by filing a written notice of appeal with the designated employee within five days of his decision. Appellant shall pay an appeal fee of seventy-five dollars when filing an appeal with the AVA. No such appeal fee shall be required unless the appeal is from such hearing.

B. Such appeal shall be heard by the authority, which may affirm, amend or reverse the order or take such other action as it deems appropriate.

C. The authority shall give written notice of the time and place of the hearing to the appellant and those persons specified as entitled to notice under Section 10.32.080.

D. In conducting the hearing, authority shall not be limited by the technical rules of evidence.

10.32.110 Order of vehicle removal--Assessment of costs.

If no request for a hearing is received by the designated employee within ten days after the notice is mailed, or both the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle, and the designated employee finds, at the conclusion of the hearing, that the vehicle or part thereof is abandoned, wrecked, dismantled or inoperable within the meaning of this chapter, and in the event of an appeal to the authority, the authority upholds such officer's findings, such officer may order the vehicle removed from the property as a public nuisance and disposed of as hereinafter provided, and determine the administrative costs and the costs of removal to be charged against the owner of the vehicle, the owner of the property on which it is located, and/or the person who placed the vehicle on the property if that fact has been determined at the hearing. Such officer may impose such conditions and take such other action as he deems appropriate under the circumstances to carry out the purposes of this chapter, including without limitation delaying the time for removal of the vehicle or part thereof if, in his opinion, the circumstances justify it. If the vehicle is ordered removed, the order shall include a description of the vehicle or part thereof and the correct identification number and license number, if available.

10.32.120 Exceptions to hearing requirement.

A hearing as provided above in this chapter shall not be required in the following circumstances:

A. When both the property owner and the owner of the vehicle have signed releases authorizing removal and waiving further interest in the vehicle or part thereof; or

B. When the vehicle is located upon a parcel zoned A, AG or R1-A, or not improved with a residential structure, is inoperable due to the absence of a motor, transmission or wheels and is incapable of being towed, is valued at less than three hundred dollars by the designated employee or any of his designated representatives, the Amador County sheriff or any of his deputies, or any California Highway patrol officer, is determined by the designated employee or any of his designated representatives to be a public nuisance presenting an immediate threat to public health or safety, and the property owner has signed a release authorizing removal and waiving further interest in the vehicle or part thereof. Prior to final disposition pursuant to Section 10.32.130 of this chapter, of such a low valued vehicle for which evidence of registration is available, the designated employee 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 ten days after the notice is mailed, from the disposal site to which the vehicle was taken, final disposition may proceed.

10.32.130 Disposition of vehicle or parts.

Vehicles or parts thereof removed pursuant to this chapter may be disposed of by removal to a scrap yard, automobile dismantler's yard, or any suitable site authorized under applicable county ordinances to receive junk and/or dismantled vehicles. After a vehicle or part thereof has been removed, it shall not 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 Vehicle Code Section 5004, in which case the vehicle may be reconstructed or made operable.

10.32.140 Notice to department of motor vehicles.

Within five days after the date of removal of the vehicle pursuant to this chapter, notice shall be given by the designated employee to the department of motor vehicles, identifying the vehicle or part thereof any evidence of registration available, including, but not limited to, the registration card, certificates of ownership or license plates.

10.32.150 Collection of delinquent assessment.

If the administrative costs and costs of removal are charged against the owner of the land pursuant to Section 10.32.110 and are not paid within thirty 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 25845 of the Government Code, and shall be transmitted to the tax collector for collection subject to collection in any manner specified in said section. Such assessment shall have the same priority as other county taxes.

10.32.160 Collection of costs.

If the administrative costs and costs of removal are not paid within thirty days after the date of the order, or the final disposition of an appeal therefrom, the designated employee shall have the right, in addition to any other manner provided by law for the collection of such costs, to recover such administrative costs and costs of removal from the property, the registered owner and/or legal owner of any vehicle removed from property pursuant to this chapter, and/or from the third party, if any, responsible for placing such vehicle on the property for which it was removed in an action in a court of competent jurisdiction over the amount of such costs.

10.32.170 Refusal to remove vehicle--Misdemeanor.

It is unlawful and a misdemeanor for any person to fail or refuse to remove an abandoned, wrecked, dismantled or inoperable vehicle or part thereof or refuse to abate such nuisance when ordered to do so in accordance with the abatement provisions of this chapter or state law where state law is applicable. This offense is punishable by a fine of not more than five hundred dollars or imprisonment in the county jail not to exceed six months, or by both such fine or imprisonment."

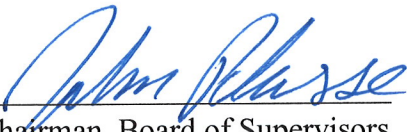
SECTION 2. This ordinance or a summary thereof shall be published within fifteen days after the date hereof in a newspaper of general circulation printed and published in the County of Amador, State of California, and shall become effective thirty days after the date hereof.

The foregoing ordinance was duly passed and adopted by the Board of Supervisors of the County of Amador at a regular meeting thereof, held on the 26th day of April 2011, by the following vote:

AYES: John Plasse, Richard M. Forster, Theodore F. Novelli,
Louis D. Boitano, and Brian Oneto

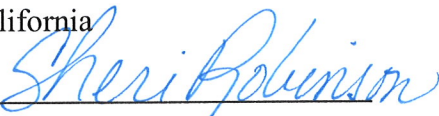
NOES: None

ABSENT: None


Chairman, Board of Supervisors

ATTEST:

JENNIFER BURNS, Clerk of the
Board of Supervisors, Amador County,
California


Deputy