

ORDINANCE NO. 2022-4

AN ORDINANCE OF THE TOWN COUNCIL OF THE TOWN OF FORT JONES
AMENDING THE ABANDONED VEHICLES ORDINANCE

The Town Council of the Town of Fort Jones does ordain as follows:

Section 1: The Town hereby amends its code by adding the following as sections, attached hereto as Exhibit A:

Chapter: 10.08 Abandon, Wrecked or Dismantled Vehicles

INTRODUCED at a regular meeting of the Town Council of the Town of Fort Jones, California, on the 15th day of February, 2022, and adopted at a regular meeting of the Town Council of the Town of Fort Jones, California, on the 14th day of March, 2021.

APPROVED:


Michelle DeCausmaker, Mayor

ATTEST:


Celeste McFall, City Clerk

The foregoing Ordinance No. 2022-4 was adopted at a regular meeting of the Town Council of the Town of Fort Jones, held on the 14th day of March, 2022 by the following vote:

AYES: DeCausmaker, Banks, Beckwith, Garcia

NOES:

ABSENT: Gepford

ABSTAIN:


Celeste McFall, City Clerk

APPROVED AS TO FORM and LEGAL CONTENT:

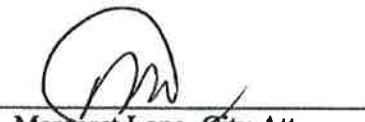

Margaret Long, City Attorney

Exhibit A

Chapter 10.08

ABANDONED, WRECKED OR DISMANTLED VEHICLES

Sections:

<u>10.08.010</u>	<u>General purpose</u>
<u>10.08.020</u>	<u>Definitions</u>
<u>10.08.030</u>	<u>Unlawful to abandon</u>
<u>10.08.040</u>	<u>Chapter application</u>
<u>10.08.050</u>	<u>Chapter application – Exclusions</u>
<u>10.08.060</u>	<u>Chapter application – Not to exclude other provisions.</u>
<u>10.08.070</u>	<u>Enforcement – Responsibility and right of entry</u>
<u>10.08.080</u>	<u>Public nuisance – Determination and right to abate</u>
<u>10.08.090</u>	<u>Abatement and removal – Notice</u>
<u>10.08.100</u>	<u>Abatement and removal – Notice requirements</u>
<u>10.08.110</u>	<u>Abatement and removal – Exceptions</u>
<u>10.08.120</u>	<u>Abatement and removal - Appeals</u>
<u>10.08.130</u>	<u>Vehicle disposition</u>
<u>10.08.140</u>	<u>Vehicle disposition – Notice to DMV</u>
<u>10.08.150</u>	<u>Vehicle disposition – Low-valued vehicle</u>
<u>10.08.160</u>	<u>Assessment of cost against real property</u>
<u>10.08.170</u>	<u>Assessment of cost against real property – Recordation of abatement lien</u>
<u>10.08.180</u>	<u>Assessment of cost against real property – Release of abatement lien</u>
<u>10.08.190</u>	<u>Recovery of costs – Abandoned vehicles</u>

10.08.010 General purpose

A. This chapter is enacted under the authority granted by the state of California under Sections 22660 and 22710 of the Vehicle Code, for the purpose of establishing procedures for the abatement and removal, as public nuisances, of abandoned, wrecked, dismantled or inoperative vehicles, or parts thereof, from private or public property in the town of Fort Jones, including highways, and for the recovery of the cost of such removal and administration of this chapter.

B. The existence, accumulation, and storage of abandoned, wrecked, dismantled, or inoperative vehicles, or parts thereof, on private or public property, creates conditions likely to reduce the value of real property in the vicinity, promote blight and deterioration, and invite plundering,

create fire hazards and harborage for rodents and insects, and is injurious to the public peace, health, safety, and general welfare. The presence of abandoned, wrecked, dismantled, or inoperative vehicles, or parts thereof, within the town constitutes a public nuisance, which the town of Fort Jones is empowered to abate and remove in accordance with the provisions of this chapter.

10.08.020 Definitions

The meanings ascribed to the terms set forth in this section shall govern the interpretation of this chapter:

- A. "Abandoned" shall mean the status of a vehicle or part thereof when the vehicle owner has ceased to assert or exercise any interest, right or title therein without intent to resume or reassert such interest, right or title.
- B. "Dismantled" shall mean the condition of a vehicle which has been taken apart, or to pieces, and/or stripped, or otherwise deprived of any of its integral parts or equipment.
- C. "Highway" shall mean 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".
- D. "Inoperative" shall mean the condition of a vehicle which is physically incapable of working, functioning, or otherwise operating to produce its designed effect.
- E. "Motor vehicle" shall mean a vehicle which is self-propelled.
- F. "Property owner" shall mean the owner of the land where a vehicle or part thereof subject to regulation pursuant to this chapter is situated, as shown on the last equalized assessment roll of the town.
- G. "Public Property" does not include "highway".
- H. "Street" shall mean a way or place of whatever nature, publicly maintained and open to the use of the public for purposes of vehicular travel. "Street" includes "highway".
- I. "Vehicle" shall mean a device by which any person or property may be propelled, moved, or drawn upon a highway, excepting a device moved exclusively by human power or used exclusively upon stationary rails or tracks. "Vehicle" includes any "motor vehicle".
- J. "Vehicle owner" shall mean both the last registered owner, within the meaning of Section 505 of the Vehicle Code, and the last legal owner, within the meaning of Section 370 of the

Vehicle Code, a vehicle or part thereof subject to regulation pursuant to this chapter, as shown in the records of the Department of Motor Vehicles.

K. "Wrecked" shall mean the condition of a vehicle which consists of disordered or broken remains, or which has been brought to a physically impaired or unsound condition or other ruinous state by reason of collision, crash, or other forceful impact.

10.08.030 Unlawful to abandon.

It shall be unlawful for any person owning a vehicle or vehicle part to allow the vehicle or part to be abandoned, wrecked, inoperative or dismantled on any property, public or private, in the town of Fort Jones, except as authorized by the Fort Jones Municipal Code.

10.08.040 Chapter Application

Except as otherwise expressly provided by FJMC 10.08.050 and the procedures adopted pursuant to the latter section, this chapter shall apply to abandoned, wrecked, dismantled, or inoperative vehicles, or any part thereof, situated upon any private or public property, including highways, within the Town of Fort Jones.

10.08.050 Chapter application – Exclusions

This chapter shall not apply to any vehicle or part thereof which is either:

- A. Completely enclosed within a building in a lawful manner where it is not visible from the street or other public or private property.
- B. Stored or parked in a lawful manner on private property in connection with the business of a licensed dismantler, licensed vehicle dealer, or a junkyard; or
- C. Stored upon private property in the manner authorized by the zoning code.
- D. Located behind a solid fence six feet in height or which is not plainly visible from a highway.
- E. The exceptions provided by this section shall not be construed to authorize the maintenance of a public or private nuisance, as such nuisance may be defined under any provisions of law other than Chapter 10 (commencing with Section 22650) of Division 11 of the Vehicle Code.

10.08.060 Chapter application – Not to exclude other provisions.

This chapter shall not be construed as excluding any other lawful remedies available to the town of Fort Jones for regulation, abatement, and/or removal of abandoned, wrecked, dismantled, or inoperative vehicles situated within the town. The procedures provided by this chapter shall be in addition to any other applicable regulations, statutes, or ordinances heretofore or hereinafter enacted by the state of California, this town, or any other entity having jurisdiction in the matter.

10.08.070 Enforcement – Responsibility and right of entry

A. The chief of police, code enforcement officer, or designated representative is charged with the responsibility of administering this chapter and exercising the authority conferred thereby and may enter upon private property for purposes of administering and enforcing this chapter, to examine a vehicle or parts thereof, to obtain information as to the identity of the vehicle and to remove or cause to be removed a vehicle or part thereof declared to be a nuisance pursuant to this chapter.

B. Any person, firm or corporation authorized by the town to remove vehicles from property for purposes of enforcement of this chapter may enter upon private property to perform such removal of vehicle or parts thereof declared to be a nuisance pursuant to this chapter.

C. If entry to private property is denied, the chief of police, code enforcement officer, or designated representative, shall obtain any warrant necessary, except in the case of emergency in which case no warrant is required.

10.08.080 Public nuisance – Determination and right to abate.

If the chief of police, code enforcement, or designated representative, finds that reasonable grounds exist to believe that a vehicle or part thereof is abandoned, wrecked, dismantled or inoperative at any location to which this chapter applies pursuant to FJMC 10.08.040, the determining officer or designated representative, shall declare such vehicle or part to be a public nuisance and thereupon proceed to abate such nuisance in the manner prescribed by this chapter.

10.08.090 Abatement and removal – Notice

Except as otherwise provided by FJMC 10.08.110, the chief of police, code enforcement, or designated representative, shall issue, not less than 10 days in advance, a written notice of intention to abate and remove any vehicle or part thereof which has determined to be a public nuisance pursuant to FJMC 10.08.080. The determining officer or designated representative

shall mail such notice by first class certified mail, return receipt requested, to the property owner and to the vehicle owner, unless the vehicle is in such condition that identification numbers are not available to determine vehicle ownership. The determining officer or designated representative shall post a copy of the notice upon or at the site of such vehicle or part.

10.08.100 Abatement and removal – Notice requirements

A. The notice required by FJMC 10.08.090 of intention to abate and remove vehicle shall contain a statement of the hearing rights of the property owner and of the vehicle owner, in accordance with FJMC 10.08.120. Such statement shall include notice to the property owner that he or she may either appear in person at a hearing or submit a sworn written statement denying responsibility for the presence of the vehicle or part thereof on his or her land, with the reasons for such denial, in lieu of appearing.

B. The notice shall specify the address of the real property where such vehicle or part is situated, a description identifying such vehicle or part, and the condition thereof found by the determining officer or designated representative, to constitute a public nuisance, the section(s) of this chapter found by the determining officer or designated representative to have been violated, and state that either voluntary abatement thereof or request for a hearing must be made by the property owner or vehicle owner, in the manner prescribed by FJMC 10.08.120, within 10 days from the date of such notice, and that the failure to so request such a hearing shall constitute waiver of the right thereof. Such notice shall specify that if the abatement is made by the town costs may be assessed against the property owner in accordance with Section 25845 of the Government Code, or, in the case of an abandoned vehicle, against the last registered owner of record, in accordance with Section 22524 of the Vehicle Code.

10.08.110 Abatement and removal – Exceptions

The chief of police, code enforcement, or designated representative, shall not be required to issue notice pursuant to FJMC 10.08.090 if:

A. The property owner and vehicle owner have each signed a release authorizing removal and waiving further interest in the vehicle or part thereof; or

B. The vehicle or part is:

1. Inoperable due to the absence of a motor, transmission, or wheels; and
2. Is incapable of being towed; and

3. Is valued at less than \$200.00 by a person specified in Section 22855 of the Vehicle Code; and
4. Is determined by the chief of police, code enforcement, or designated representative to be a public nuisance presenting an immediate threat to public health or safety; and
5. Is located on a parcel that is either zoned for agricultural use or not improved with a residential structure containing one or more dwelling units; and
6. The property owner has signed a release authorizing removal and waiving further interest in the vehicle or part.

10.08.120 Abatement and removal - Appeals

A. Either within 10 days after the date of the notice of intention prescribed by FJMC 10.08.090 is mailed, or at the time of signing a release pursuant to FJMC 10.008.110(A) or (B)(6), the property owner and/or the vehicle owner may appeal the determination that a vehicle or part be abated.

B. If the property owner submits a sworn written statement pursuant to FJMC 10.08.100 denying responsibility for the presence of the vehicle or part on his or her land within the 10-day period prescribed by this section, such statement shall be construed a request for hearing which does not require the presence of the property owner. If no request for hearing is received by the chief of police, code enforcement, or designated representative within the time prescribed by this section, the determining officer or designated representative shall cause the vehicle or part to be removed and disposed of in the manner authorized by this chapter.

10.08.130 Vehicle disposition

A. The chief of police, code enforcement, or designated representative may dispose of a vehicle or part thereof under this chapter by removal thereof to a licensed scrapyard, automobile dismantler's yard, or other site authorized by Section 22662 of the Vehicle Code.

B. After a vehicle has been removed pursuant to this chapter, such vehicle 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 Section 5004 of the Vehicle Code.

10.08.140 Vehicle disposition – Notice to DMV

Within five days following the date of removal of a vehicle or part thereof under this chapter, the determining officer or designated representative shall give notice of such removal to the Department of Motor Vehicles, identifying the vehicle or part, together with any evidence of registration obtained by the determining officer or designated representative, including, without limitation, the registration card, certificate of ownership, or license plate.

10.08.150 Vehicle disposition – Low-valued vehicle

Prior to final disposition of a vehicle described by FJMC 10.08.110(B) for which evidence of registration was recovered, the determining officer or designated representative shall provide the vehicle owner with written notice of intent to dispose of the vehicle or part from a site authorized by Section 22662 of the Vehicle Code. Such notice shall state that if the vehicle or part is not claimed and removed within 12 days following the date such notice is mailed, final disposition shall proceed.

10.08.160 Assessment of cost against real property

A. If the property owner fails to pay, upon demand, the cost of abatement incurred by the town in the enforcement and administration of this chapter, such costs may be especially assessed against the real property involved, pursuant to Sections 38773 through 38773.5 of the Government Code. Such assessment shall be collected at the same time and in the same manner as are town ad valorem property taxes.

B. Cost of enforcement and administration of this chapter shall include, but not be limited to, charges for each vehicle cited under this chapter, a towing fee for each vehicle towed pursuant to this chapter and a fee to cover the cost of staff time involved in any action, administrative proceeding, or special proceeding required by this chapter, inspection of vehicles and other property, publication, mailing and posting of notices, conducting hearings, processing appeals and pursuing any judicial action. Such charges shall be established from time to time by resolution of the town council and shall not exceed the actual cost to the town of enforcement and administration of this chapter.

10.08.170 Assessment of cost against real property – Recordation of abatement lien

In the case of any special assessment made pursuant to FJMC 10.08.160, Assessment of cost against real property, the determining officer or designated representative shall cause a notice of abatement lien to be recorded in the office of the Sacramento County clerk-recorder. Such notice shall identify the property owner, or possessor of the property, his or her last known address of record, the date upon which abatement was ordered, the date that the abatement

was completed, a description of the real property subject to the lien, and the amount of the abatement costs.

10.08.180 Assessment of cost against real property – Release of abatement lien

The chief of police, code enforcement, or designated representative may release or subordinate an abatement lien imposed under this chapter in the same manner as provided by law for release or subordination of a judgment lien on real property.

10.08.190 Recovery of costs – Abandoned vehicles

Pursuant to Section 22524 of the Vehicle Code, the chief of police, code enforcement, or designated representative shall be authorized to seek recovery of costs incurred by the town for the removal and disposition of an abandoned vehicle from the last registered owner thereof.