

RESOLUTION NO. 2008- 54

**A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF MERCED, CALIFORNIA,
ESTABLISHING SERVICE AUTHORITY FOR
ABANDONED VEHICLE ABATEMENT**

WHEREAS, Sections 9250.7 and 22710 California Vehicle Code provides for the establishment of a Service Authority for abandoned vehicle abatement if the City Council/Board of Supervisors of the County and the majority of the cities within the county having a majority of the population adopt resolutions providing for the establishment of the Authority; and,

WHEREAS, the City Council of the City of Merced finds that abandoned, inoperable, wrecked, dismantled vehicles or parts thereof pose a health and safety hazard and are found to be public nuisances; and,

WHEREAS, the Council finds that an Abandoned Vehicle Abatement Program is needed to provide for the proper removal and disposal of abandoned vehicles to assist law enforcement and code enforcement personnel in abatement of abandoned vehicles; and,

WHEREAS, the County Abandoned Vehicle Abatement Service Authority will have the responsibility for implementing an abandoned vehicle removal program in Merced County; and,

WHEREAS, the Merced County Abandoned Vehicle Abatement Plan identifies the Merced County Association of Governments Governing Board as the Board of Directors for the Merced County Abandoned Vehicle Abatement Service Authority.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MERCED DOES HEREBY RESOLVE, DETERMINE, FIND, AND ORDER AS FOLLOWS:

SECTION 1. The City Council requests that a Service Authority for abandoned vehicle abatement be established in County pursuant to the provisions of Section 22710 of the California Vehicle Code.

SECTION 2. The City Council directs that member of each participating agency shall serve as the Service Authority for abandoned vehicle abatement in the County of Merced.

SECTION 3. The City Council approves the Vehicle Abatement Plan of the Abandoned Vehicle Abatement Authority of the County of Merced and to impose a One Dollar (\$1.00) vehicle registration fee. The fee imposed by the Authority shall remain in effect only for a period of ten (10) years from the inception of the date that the actual collection of the fees commences.

PASSED AND ADOPTED by the City Council of the City of Merced at a regular meeting held on the 7th day of July 2008, by the following vote:

AYES: Council Members: SANDERS, CORTEZ, CARLISLE,
GABRIALT-ACOSTA, LOR, SPRIGGS, WOOTEN

NOES: Council Members: NONE

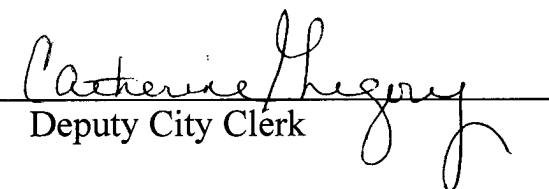
ABSENT: Council Members: NONE

ABSTAIN: Council Members: NONE

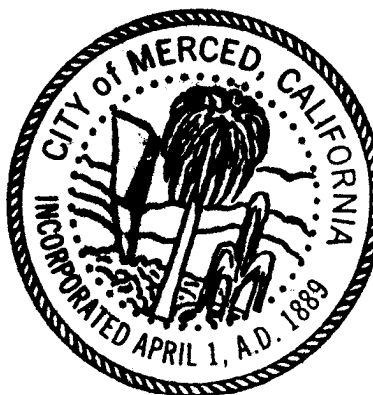
APPROVED:


Mayor

ATTEST:
JAMES G. MARSHALL, CITY CLERK

BY: 
Deputy City Clerk

(SEAL)



APPROVED AS TO FORM:

Debrae Isalab 7-2-08
City Attorney Date

MERCED COUNTY ABANDONED VEHICLE
SERVICE AUTHORITY PLAN
July 2008

1. SERVICE AUTHORITY:

Section 22710 of the California Vehicle Code (VC) provides for the establishment of a Service Authority for the abatement of abandoned vehicles. The parties to this Agreement are Merced County and the cities of Atwater, Dos Palos, Gustine, Livingston, Los Banos, and Merced. These jurisdictions have elected to create and participate in the Merced County Abandoned Vehicle Abatement Service Authority as provided herein.

2. PURPOSE:

The purpose of this Agreement is to establish a Service Authority for the abatement of abandoned vehicles in Merced County pursuant to Section 22710 VC.

3. EFFECTIVE DATE:

This Agreement becomes effective upon its approval by the county Board of Supervisors by two-thirds vote, and a majority of the cities having a majority of the incorporated population within the county.

4. BOARD OF DIRECTORS:

The Directors of the Merced County Association of Governments Governing Board shall serve as the Board of Directors of the Service Authority.

5. RESOLUTIONS:

Copies of each participating city's and the county's resolution providing for the establishment of the Service Authority including imposition of the one dollar (\$1.00) registration fee, pursuant to the requirements of Sections 22710(a) and 9250.7(a) VC, are on file with the Authority, the California Highway Patrol (CHP), and the State Controller (SC).

6. ESTIMATE OF THE NUMBER OF ABANDONED VEHICLES:

As required by Section 22710(d)(2) VC, it is estimated that there are in excess of **4,000** abandoned vehicles located throughout Merced County. This figure is based on actual and estimated abandoned vehicle counts supplied by Authority participants.

7. ORDINANCES:

Each of the participating agencies have ordinances in place establishing procedures for the abatement, removal, and disposal, as public nuisances, of abandoned, wrecked, dismantled, or

inoperative vehicles, or parts thereof, from private or public property, including highways, in accordance with the requirements of Sections 22660 and 22661 VC. This includes ordinances developed for cost recovery pursuant to Sections 25845 or 38773.5 of the Government Code (GC), or assumption of the Service Authority, of costs associated with the enforcement of the ordinance.

8. DISPOSAL AND ENFORCEMENT STRATEGY:

Each of the participating agencies have abandoned vehicle abatement processing formats or Standard Operating Procedures in place for the enforcement of Sections 22523(a)(b) VC. Statutory authority for the removal of abandoned vehicles is Section 22669 VC, as well as local ordinances adopted for the removal and disposal as public nuisances of abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property.

In accordance with Sections 22671 and 22851.3 VC, each member may maintain a contractual agreement with a licensed auto dismantler and/or qualified tow company for the removal and disposal of abandoned vehicles and may employ such contractors for the abatement, removal, and disposal as public nuisances of: abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof from private or public property. Abated vehicles or parts thereof shall be disposed of by removal to a dismantler or to a scrap yard for processing as scrap, unless the vehicle qualifies for restoration pursuant to Section 5004 VC.

9. COST RECOVERY STRATEGY:

- a. General: Participating agencies shall utilize the provisions of Section 22523 VC to effect partial recovery of costs incurred in the removal of an abandoned vehicle. Additionally, member cities have enacted ordinances relative to recovery in accordance with Sections 25845 or 38773.5 GC.
- b. Funding System: It is the intent of the abandoned vehicle abatement participants to recover the cost of abandoned vehicle abatement activities from the Service Authority.
 1. Definition of Costs Recoverable from the Authority: These costs include program administration, vehicle removal, and disposal pursuant to Sections 22710(c)(1) and 22710(c)(2) VC.
 2. Cost Accounting and Recovery Required: Each abandoned vehicle abatement participant will maintain records of the costs incurred while participating in the Abandoned Vehicle Abatement Program and shall attempt recovery of those costs.
 3. Audit. On or before January 1, 2010, and biennially thereafter, the Authority shall have a financial audit of the Authority conducted by a qualified independent third party to ensure that funds are being spent in compliance with Sections 9250.7 and 22710 VC.

4. Disbursement of Funds:

- a. The money received by an Authority pursuant to Section 9250.7 VC shall be distributed to the cities and the county for their use in accordance with Section 22710(d)(6) VC.
- b. The funds will be disbursed quarterly, as received, and based on the following formula: 50% of funds will be allotted to an agency based on the percentage of the number of vehicles abated by the agency, out of the total number of abandoned vehicles abated by all member agencies. Per Section 22710 VC, the remaining 50% is to be distributed based on population and geographic area as determined by the Authority. As per this Authority, distribution will be as follows: 40% of the total funds collected will be distributed per capita with the remaining 10% to be shared evenly by all seven participating agencies.
- c. In the event a particular jurisdiction does not claim the full amount of its quarterly allotment, the "surplus funds" may be accumulated for the remainder of the fiscal year in which they were received. "Surplus funds" are those funds allotted to a jurisdiction in a fiscal quarter of the same fiscal year but are not claimed for that quarter.
- d. Surplus funds must be encumbered within 45 days of the close of the fiscal year in which the funds were received. Failure to do so will result in those funds being redistributed to other members of the Authority having spent more funds on eligible activities than they were allotted. Funds will be redistributed based on the percentage of vehicles abated by an agency, out of the total number of abandoned vehicles abated by all member agencies having spent more on eligible activities than they received.
- e. Jurisdictions that have encumbered surplus funds will have 18 months to expend the encumbered funds. Failure to do so will result in those funds being redistributed to other members of the Authority having spent more funds on eligible activities than they received from the Authority. The redistribution will be based on the percentage of vehicles abated by the agency out of the total number of abandoned vehicles abated by all agencies having spent more funds on eligible activities than they received from the Authority.
- f. The quarterly disbursement of funds to each participating jurisdiction shall be based on the fiscal year beginning in July.
- g. Each member agency will be required to submit a quarterly report to the Authority within 30 days after the end of the quarter. (Reports will be submitted during the months of January, April, July, and October.)

Additionally, member agencies will also be required to submit an annual report to the Authority within 45 days after the end of the fiscal year.

Failure by an agency to submit its quarterly report in a timely manner may result in a delay in the allocations to ALL agencies. A late annual report may result in the Authority's annual report to the State Controller's Office being late, thus suspending the collection of the one-dollar (\$1.00) vehicle registration fee for an entire year.

Both the quarterly and annual reports will contain the following information:

1. The total expenditures by the jurisdiction for the previous period.
 2. The total number of vehicles abated during the previous period.
 3. The number of notices to abate issued to vehicles during the previous period.
 4. The number of vehicles disposed pursuant to an ordinance adopted pursuant to Section 22710 during the previous period.
 5. The total expenditures by the jurisdiction for towing and storage of abandoned vehicles during the previous period.
 6. Costs recovered by the jurisdiction under Section 22850.5 of the Vehicle Code or Sections 25845 or 38773.5 of the Government Code.
- h. The treasurer of the Authority is the Merced County Treasurer and their office will receive any funds distributed to the Authority by the SCO. The funds shall be disbursed, including interest thereon, less any expenses resulting from contractual agreements to conduct audits, to each member jurisdiction as authorized by the board and by the terms of this Plan. The disbursements will be made by the Merced County Auditor-Controller from claims submitted by the Authority. The Service Authority's administrator shall report all receipts and disbursements to the Authority on a quarterly basis.
- i. Any funds not expended or encumbered within 90 days of the close of the fiscal year in which the funds were received and the amount of those funds exceeds the amount expended by the Authority for the abatement of abandoned in the previous fiscal year, the one dollar (\$1.00) registration fee shall be suspended for one year, commencing the following January 1 in accordance with Section 9250.7(b) VC and with terms of this Plan.

5. Debts and Liabilities. The debts, liabilities, and obligations of the Authority shall not be the debts, liabilities, and obligations of any member jurisdictions.

10. REPORTING REQUIREMENTS:

Service Authority, established pursuant to the provisions of Sections 9250.7 and 22710 VC, submit on an annual basis data relative to the operation of its Abandoned Vehicle Abatement Program. The SCO has prepared Annual Status Report forms (Annex A) for the reporting requirements of the Service Authorities and jurisdictions. An Authority shall submit their reports on these forms to the SCO. These annual fiscal year-end reports shall contain the required reporting information to satisfy the Legislature's intent of appropriate fiscal controls. These annual fiscal year-end reports shall be submitted on or before October 31st of each year to ensure ongoing funding from the SCO and meet the mandated legislative requirements. Should the Authority fail to submit the report by October 31 of each year, collection of the one dollar (\$1.00) shall be suspended for one year commencing on July 1 following the Controller's determination. The report will contain the following information:

- a. The total revenues received by the Authority for the previous fiscal year.
- b. The total expenditures by the Authority for the previous fiscal year.
- c. The total number of vehicles abated during the previous fiscal year.
- d. The average cost of abatement during the previous fiscal year.
- e. Any additional, unexpected fee revenues for the Authority for the previous fiscal year.
- f. The number of notices to abate issued to vehicles during the previous fiscal year.
- g. The number of vehicles disposed pursuant to an ordinance adopted pursuant to Section 22710 during the previous fiscal year.
- h. The total expenditures by the Authority for towing and storage of abandoned vehicles during the previous fiscal year.