

## REPORT TO THE CITY COUNCIL

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**DATE:** December 12, 2018

**TITLE:** An Ordinance Amending Chapter 10.52 "Abandoned, Wrecked, Dismantled, or Inoperative Vehicles" of Title 10 "Vehicles and Traffic" of the Desert Hot Springs Municipal Code Relating to Abandoned Vehicle Abatement

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**Reviewed by:** Jennifer Mizrahi, City Attorney

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### RECOMMENDATION

Introduce and read by title only, "An Ordinance of the City Council of the City of Desert Hot Springs, California, amending Chapter 10.52 "Abandoned, Wrecked, Dismantled, or Inoperative Vehicles" of Title 10 "Vehicles And Traffic" of the Desert Hot Springs Municipal Code Relating to Abandoned Vehicle Abatement."

### BACKGROUND

California Vehicle Code Sections 9250.7 and 22710 authorize the establishment of a service authority and imposition of a service fee on all registered motor vehicles located within a county. The service fees received by a local Abandoned Vehicle Abatement Service Authority (in our case such authority is managed by the County of Riverside) are used to reimburse local governmental agencies for a portion of their costs incurred as a result of the abatement of any abandoned, wrecked, dismantled, or inoperative vehicles or parts thereof.

Pursuant to state law, the County of Riverside manages the Abandoned Vehicle Abatement Program. Three state agencies are involved in the administration of local service authorities: 1) the Department of Motor Vehicles, which collects the service fees; 2) the State Controller's Office, which provides fiscal oversight; and 3) the California Highway Patrol, which reviews abandoned vehicle abatement plans from each local jurisdiction before admission into each service authority.

Chapter 10.52 of the Desert Hot Springs Municipal Code ("DHSMC") regulates the abatement and removal of abandoned, wrecked, dismantled, or inoperative vehicle, or parts thereof, found within the City of Desert Hot Springs ("City"). The City, through the enactment of Chapter 10.52, is a member of the Riverside Abandoned Vehicle Abatement Program and receives reimbursements for the abatement of abandoned vehicles.

The Code Compliance Division enforces Chapter 10.52 and through extensive practice has identified potential amendments to Chapter 10.52 to increase efficiency in towing abandoned vehicles and shortening the time for reimbursements.

### DISCUSSION

The proposed ordinance will amend Chapter 10.52 "Abandoned, Wrecked, Dismantled, or Inoperative Vehicles" to the DHSMC. The amendments are designed to shorten the time before Code Compliance may tow abandoned vehicles and sooner obtain reimbursement from the county service authority.

Preliminary, it should be noted that the proposed ordinance has been reviewed and approved by the California Highway Patrol and Riverside Abandoned Vehicle Abatement Program.

Presently, Section 10.52.030 requires Code Compliance Officers, upon discovering an abandoned, wrecked, dismantled, or inoperative vehicle, to “tag” a 72-hour notice on the vehicle itself. After the 72 hours lapse, the officer must re-inspect to determine if the vehicle has been removed. If not, then the officer may proceed with abatement—starting with issuing a 10-day notice (DHSMC Section 10.52.100). Essentially, Code Compliance Officers must inspect at least twice, and issue two notices before any actual vehicle abatement can commence.

The proposed ordinance deletes the 72-hour notice requirement. While more notice is generally a good thing, a 72-hour notice is not required by state law. Further, Staff is not aware of any other local jurisdictions with similar abandoned vehicle abatement ordinances that also have this requirement. Due process simply requires sufficient notice to the vehicle owner and property owner where the vehicle is located, and mailing a 10-day notice meets this goal.

In addition to the above, the proposed Ordinance clarifies a procedural issue. That is, if a hearing officer determines that a property owner never consented to allowing an abandoned or wrecked vehicle to be placed on his or her land, that property owner would not be charged with the administrative costs of the vehicle removal. This change is required for compliance with Vehicle Code Section 22710.

Other minor changes to Chapter 10.52 include updating the department name from “Community Safety Department” to “Code Compliance Division” and removing redundant language about issuing a twelve-day notice for removals of low-valued vehicles.

#### **FISCAL IMPACT**

None.

#### **EXHIBIT**

1) Ordinance