

ORDINANCE NUMBER O- 16028 (New Series)

Adopted on AUG 22 1983

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 40, SECTIONS 33.4000 THROUGH 33.4011 RELATING TO TOWING OF MOTOR VEHICLES FROM PRIVATE PROPERTY.

WHEREAS, the City Council of The City of San Diego has reviewed the City Manager's Report No. 82-495 dated November 18, 1982, and has determined that although California Vehicle Code Section 22658 establishes procedures for impounding vehicles parked on private property, there are currently no provisions for enforcement of said procedures, and that if a vehicle is impounded illegally in the City of San Diego, the owner's only recourse is through civil litigation which is time consuming and expensive; and

WHEREAS, the City Council of The City of San Diego, acting under and pursuant to the powers reserved to the City under Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and Section 2 of the Charter of The City of San Diego, finds that this ordinance is necessary for the protection of the public and the preservation of the peace of the community; NOW, THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego, as follows:

Section 1. That Chapter III, Article 3 of the San Diego Municipal Code be and the same is hereby amended by adding Division 40, Sections 33.4000 through 33.4011 to read as follows:

DIVISION 40

TOWING OF MOTOR VEHICLES FROM PRIVATE PROPERTY

SEC. 33.4000 PURPOSE AND INTENT

(a) It is hereby declared by the City Council that, pursuant to the authority granted by Section 21100 of the California Vehicle Code and in order to protect the public and preserve the peace of the community, the licensure and regulation of business enterprises engaged in the practice of towing, removing and storing of motor vehicles from private property are matters affecting the public interest and any person desiring to conduct such a business enterprise shall be required to obtain a regulatory license and obey the regulations as hereinafter provided.

(b) The purpose of this Division is to provide a uniform system for the licensure and regulation of business enterprises which are engaged in or which intend to engage in the practice of towing, removing and storing of motor vehicles which are parked on private property without permission of the owner of the private property.

SEC. 33.4001 LICENSE REQUIRED

(a) It shall be unlawful for any business enterprise to engage in the business of towing, removing and storing of motor vehicles which are parked on private property without the permission of the owner of the private property in the City of San Diego, without first having secured a license from said City to do so, according to each and every regulation pertaining to such business enterprise.

(b) Nothing herein shall be construed to mean that a person cannot work in or for such business enterprise without such license. There is no requirement that employees or agents of such business enterprise apply for and obtain the license provided for by this Division. The practice of a business enterprise to consider persons as independent contractors or employees shall not be construed to permit avoidance of the requirement that the business enterprise itself apply for, obtain and maintain a license.

SEC. 33.4002 DEFINITIONS

For the purposes of this Division, the following definitions shall apply. Whenever any words or phrases are not defined herein, but are defined in the Vehicle Code of the State of California and the amendments thereto, such definitions are incorporated herein and shall be deemed to apply to such words and phrases as used herein as though set forth herein in full.

(a) "Business Enterprise" means a unit of economic organization or activity in the form of an individual natural person, sole proprietorship, corporation, partnership, organization, joint venture, trust, foundation, firm, group, society, association or any combination thereof whose systematic purposeful activity is the towing, removing and storing of parked vehicles from private property at the express instructions of the owners of such property.

(b) "Property Owner" means any person in lawful possession of private property, including but not limited

to the legal titleholder, lessee or property manager. In no case shall any owner, operator or agent of a business enterprise engaged in the towing of vehicles from private property be considered a property owner unless he is the legal titleholder or resident of said property.

(c) "Removing" means the act of changing by tow the location of a parked vehicle from its location on private property to the storage site of the business enterprise.

(d) "Storing" means to place and to leave a towed vehicle at a site where the business enterprise exercises control and supervision over the vehicle.

(e) "Towing" means to draw or pull along a vehicle behind by means of another vehicle equipped with booms, car carriers, winches or similar equipment as defined in California Vehicle Code Section 615.

SEC. 33.4003 ISSUANCE, RENEWAL AND DENIAL OF LICENSE

(a) The Chief of Police or his authorized representative shall approve issuance or renewal of a license hereunder where he finds:

(1) That the applying business enterprise does not have as an officer or director, if a corporation, as a partner, if a partnership, or as a sole proprietor, if a sole proprietorship, a person who is or was an officer, director, partner or sole proprietor of a business enterprise which has had its towing license revoked by action of the Chief of Police within five (5) years of the date of

application, or who has been convicted of any theft related crime or crime involving violence within the past seven (7) years. *msd*

(2) That the tow or storage yard is inspected and found to be in compliance with the requirements of this Code and the Fire Code.

(3) That the business enterprise has met the standards and requirements for licensure under this Code and is otherwise qualified for licensure.

(b) Licenses shall be issued in the name of the business enterprise meeting the standards and requirements for licensure.

(c) A license issued or renewed pursuant to the provisions of this Division shall not be assignable or transferable from one business enterprise to another business enterprise.

(d) The license shall remain valid for a period of one (1) year from the date of issuance unless sooner revoked or suspended.

#### SEC. 33.4004 REGULATORY FEES

In accordance with the policy of The City of San Diego, set forth in Section 33.0104, the costs of the required enforcement of laws regulating towing businesses, which are police regulated businesses, shall be borne by the applicant, licensee or permittee and current costs shall be reflected in the fees required for such license or permit.

Where a fee or a sum of money is referred to in this Division, the exact amount of such fee or sum of money shall be found in the City Clerk's Composite Rate Book.

SEC. 33.4005 RATES AND CHARGES

It shall be unlawful to:

(a) Charge the registered owner or other authorized person in control of the vehicle fees for any services other than those reasonably related to the towing and storage of vehicles which are actually garaged, including but not limited to "hoisting" or "let-down" fees, "standby" fees, fees for being allowed to retrieve personal property from the impounded vehicle or fees for releasing the vehicle during non-business hours if such release is between 8:00 a.m. and 5:00 p.m., Monday through Friday except for the holidays of New Year's Day, Washington's Birthday, Memorial Day, Independence Day, Labor Day, Columbus Day, Veteran's Day, Thanksgiving Day and Christmas Day.

(b) Tow or remove or store a vehicle unless the business enterprise shall file and keep on record with the Chief of Police a complete copy of the current rates charged for the towing and storage of vehicles and copies of all written contracts or agreements between the business enterprise and property owners which relate to the towing and removal of vehicles.

(c) Tow or remove or store a vehicle unless the current maximum rates charged for the towing and storage of vehicles are posted in an open and conspicuous public place

on the premises of the business enterprise.

(d) Pay or rebate money, or solicit or offer the payment or rebate of money, or other valuable consideration to property owners from which vehicles may be towed or removed, for the privilege of towing or removing vehicles.

SEC. 33.4006 ACCOUNTABILITY AND INSPECTION

A record of all towing and storage transactions relating to the impounding of vehicles from private property shall be maintained and kept on file in the office of the business enterprise. Such records shall include consecutively numbered receipts for all transactions and shall be available for inspection during normal working hours of the business by the Chief of Police or his designee.

SEC. 33.4007 NOTICE REQUIREMENTS

It shall be unlawful to tow or remove or store a vehicle unless notice is posted on the private property from which the towing, removing or storing is made. Such notice shall fulfill the following requirements:

(a) A notice, in the form of a sign structure, not less than twelve (12) by eighteen (18) inches in size, shall be prominently placed on the private property at each driveway access or curb cut allowing vehicular access to the property, within five (5) feet from the public right-of-way line. If there are no curbs or access barriers, signs shall be posted not less than one (1) sign each fifty (50) feet of the frontage.

(b) The notice shall clearly display the following:

(1) In not less than 2 1/2-inches high letters on a contrasting background, the words "tow-away".

(2) In not less than 1-inch high letters on a contrasting background, that public parking is prohibited and unauthorized vehicles will be towed away at the owner's expense and, if not prohibited on a twenty-four (24) hour continuous basis, the days of the week and hours of the day during which public parking is prohibited.

(3) In not less than 1/2-inch high letters on a contrasting background, the Sections of the Municipal Code or appropriate California Vehicle Code and the telephone number of the San Diego Police Department.

(c) The sign structure displaying the required notices shall be permanently installed with the bottom of the sign not less than four (4) feet above ground level and shall be continuously maintained on the property for not fewer than seventy-two (72) hours before the towing or removal of vehicles. Pedestrian safety should be taken into consideration when locating freestanding signs.

#### SEC. 33.4008 REGULATIONS

It shall be unlawful to:

(a) Tow or remove or store a vehicle except upon the express written authorization issued to the business enterprise by the person in lawful possession of the private property. Such authorization shall include the make, model and license number of the vehicle to be towed and shall be signed by the property owner immediately prior



to or at the time of towing.

(b) Tow or remove or store a vehicle where the registered owner or other legally authorized person in control of the vehicle arrives at the scene of potential towing prior to towing or removal.

(c) Tow or remove a vehicle occupied by a person or persons.

(d) Tow or remove or store a vehicle unless the business enterprise notifies the San Diego Police Department immediately upon arrival at the garage. Such notification shall include the storage site, the time the vehicle was towed or removed, and the make, model, color, license plate number and vehicle identification number (V.I.N.) of the vehicle and shall obtain the name of the person of the law enforcement department to whom such information was reported and indicate the name on a trip record together with an indication of the date and time of the day in hours and minutes that the vehicle was removed, and the authorizing party.

(e) Tow or remove or store a vehicle unless the vehicle shall be towed directly to the business enterprise's garage and the vehicle shall not be kept in any temporary holding or public area.

(f) Store a vehicle in a garage located further than five (5) miles from the point of removal unless no facility is available. If no garage is located within a five (5) mile radius of the point of removal, the closest available

garage shall be utilized; however, in no case shall a vehicle be towed further than ten (10) miles from the point of tow.

(g) Store a vehicle in a building or fenced area that does not comply with the following requirements:

(1) If stored in an area other than a building, the yard shall be surrounded on all sides by a fence of approved construction not less than six (6) feet high and maintained in good condition.

(2) The business name, address and telephone number shall be displayed on the exterior of such building or fence in such a manner to be visible for fifty (50) feet and in compliance with City Sign Ordinances.

(3) Exterior portions of such business must be maintained free of oil, parts or other matter.

(4) No vehicle or part thereof may be placed closer than two (2) feet from any fence or wall.

(h) Tow or remove or store a vehicle without twenty-four (24) hour telephone access and vehicle release availability. During non-business hours, tow companies shall be required to release vehicles only upon request of a police supervisor.

#### SEC. 33.4009 REVOCATION OR SUSPENSION

In addition to the grounds enumerated in Section 33.0401, in the event that any person holding a license or permit issued pursuant to this Division is convicted of any of those crimes enumerated in Section 33.4003 or fails to

comply with Vehicle Code regulations regarding towing and storage of vehicles, the Chief of Police may, in addition to other penalties provided by this Code, suspend or revoke the license or permit.

SEC. 33.4010 POWER TO ARREST

Any employee designated by the Chief of Police with the duty to enforce the provisions of this Division is hereby authorized to arrest any person without a warrant whenever said employee has reasonable cause to believe that the person to be arrested has committed a violation of this Division in his presence.

SEC. 33.4011 SEVERABILITY

If any Section, sentence, clause or phrase of this Division is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Division.

Section 2. This ordinance shall take effect and be in force on the thirtieth day from and after its passage.

APPROVED: JOHN W. WITT, City Attorney

By   
Nina B. Deane  
Deputy City Attorney

NBD:mem:rc:504  
2/09/83  
2nd Rev.5/3/83  
3rd Rev.7/13/83  
4th Rev.8/5/83  
Or.Dept:PS&S  
O-83-136  
Form=0.none

AUG 22 1983

Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_, by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Gloria McColl	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
William Jones	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Ed Struiksma	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Dick Murphy	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Uvaldo Martinez	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mayor Roger Hedgecock	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

ROGER HEDGECOCK  
Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By *June A. Blackwell*, Deputy.

I HEREBY CERTIFY that the foregoing ordinance was not finally passed until twelve calendar days had elapsed between the day of its introduction and the day of its final passage, to wit, on

AUG 8 1983

AUG 22 1983

~~I FURTHER CERTIFY that said ordinance was read in full prior to its final passage.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not less than a majority of the members elected to the Council, and that there was available for the consideration of each member of the Council and the public prior to the day of its passage a written or printed copy of said ordinance.

CHARLES G. ABDELNOUR

City Clerk of The City of San Diego, California.

(Seal)

By *June A. Blackwell*, Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-16028 Adopted AUG 22 1983

RECEIVED  
CITY CLERK'S OFFICE

CERTIFICATE OF PUBLICATION *ms*  
SAN DIEGO, CALIF.

CITY OF SAN DIEGO  
ATTN: JUNE A. BLACKNELL  
202 C St., 12th Floor  
SAN DIEGO, CA 92101

IN THE MATTER OF

NO.

ORDINANCE NO. O-16028

**ORDINANCE NO. O-16028  
(New Series)**

AN ORDINANCE AMENDING CHAPTER III, ARTICLE 3 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING DIVISION 40, SECTIONS 33.4000 THROUGH 33.4011 RELATING TO TOWING OF MOTOR VEHICLES FROM PRIVATE PROPERTY.

This ordinance adds a Division to the San Diego Municipal Code regulating the business of towing, removing and storing of motor vehicles from private property. It prohibits charging fees for services not reasonably related to the towing and storing of vehicles which are actually garaged. It requires current rates to be filed with the Police Department and posted in a conspicuous place on the premises of the business enterprise. It further prohibits any offer, solicitation or payment of any rebate for the privilege of towing vehicles. It specifies the size, content and placement of required signs on the private property from which the vehicle is to be removed. It prohibits the towing, removing or storing of a vehicle from private property without express written authorization by the person in lawful possession of the private property, or if the owner or other authorized person in control of the vehicle arrives at the scene prior to removal, or if the car is occupied. The Ordinance specifies the content of the required notification to the San Diego Police Department and requires twenty-four (24) hour telephone access and release availability. It includes regulations regarding the location and security of garages. It authorizes certain civilian employees of the Police Department to arrest and cite for any violation of the provisions contained therein.

A complete copy of the Ordinance is available for inspection in the Office of the City Clerk of the City of San Diego, 12th floor, City Administration Building, 202 "C" Street, San Diego, CA 92101.

Introduced on August 6, 1983.  
Passed and adopted by the Council of The City of San Diego on August 22, 1983.

AUTHENTICATED BY:  
ROGER HEDGECOCK,  
Mayor of The City of San Diego, California.  
CHARLES G. ABDELNOUR,  
City Clerk of The City of San Diego, California.

(SEAL)  
By JUNE A. BLACKNELL, Deputy.  
Pub Sept. 2, 1983

I, Carrie Gedeon, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

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(New Series)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

September 2, 1983

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 2nd day of Sept., 19 83.

Carrie Gedeon  
(Signature)

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$7\frac{1}{2}' \times 8.87 = 66.53$