



AGENDA REPORT

SAN CLEMENTE CITY COUNCIL MEETING
Meeting Date: May 4, 2021

Agenda Item 7C
Approvals:
City Manager [Signature]
Dept. Head _____
Attorney _____
Finance [Signature]

Department: Finance & Administrative Services
Prepared By: Erik Sund, Interim City Manager
Matthew Schmelzel, Management Analyst

Subject: PUBLIC HEARING TO CONSIDER ADOPTION OF FEES FOR VEHICLE IMPOUNDS PROVIDED BY THE ORANGE COUNTY SHERIFF-CORONER (THE SHERIFF).

Fiscal Impact: Yes, vehicle code violation revenues will increase.

Summary: This item is to conduct a public hearing for the adoption of new vehicle impound fees for services provided by the Sheriff. Staff recommends City Council approve such fees and adopt a resolution establishing new rates based on the cost study.

Background: On August 2, 2000, the City of San Clemente adopted Resolution No. 00-54 which authorized participation in the Traffic Violator Apprehension Program (TVAP) and established fees for vehicle storage and impounds. A cost study conducted by the Sheriff determined that administrative costs related to vehicle code violations exceeded fees charged and differential costs of removing vehicles for code violations compared to license violations were no longer relevant do to advancements in technology. On November 17, 2020, the new rates were adopted by the Orange County Board of Supervisors and are recommended to be implemented by contract cities based on the cost study as noted in the table below.

<u>Service</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Vehicle removal due to driving without a license or with a suspended or revoked license	\$ 152	\$ 144
Vehicle removal pursuant to other specific Vehicle Code Violations	\$ 50	\$ 144

Discussion: The removal and/or impound of vehicles from highways, public property, and private property is a necessary component of public safety. It is important that the City adjust impound fees from time to time to mitigate cost of services. The current vehicle impound fees have not been revised in over 20 years. The new rates provide full cost recovery for this service allowing revenues to offset increasing contract costs. The proposed fees will eliminate the gap between types of impounds and realigns the fees proportionately to address true costs. This resolution will not exceed the Sheriff Department's reasonable cost for vehicle removal, impound, storage or release. Any future recommendations for fee changes will require a new resolution and public hearing to be considered by Council.

Recommended

Action: STAFF RECOMMENDS THAT the City Council Approve Resolution _____ adopting new vehicle impound fees.

Attachments: 1. Traffic Violator Program Fee Resolution
2. Sheriff Department's Staff Report for Adoption of New TVAP Fees

Notification: Dwight Tipping, Orange County Sheriff's Department

ORANGE COUNTY BOARD OF SUPERVISORS

MINUTE ORDER

November 17, 2020

Submitting Agency/Department: Sheriff-Coroner

Public Hearing to consider adopting resolution approving new administrative fee for removal, impound, storage or release of vehicles and superseding resolution 00-96, effective 11/17/20; and making California Environmental Quality Act and other findings - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED OTHER

Unanimous (1) DO: Y (2) STEEL: X (3) WAGNER: Y (4) CHAFFEE: Y (5) BARTLETT: Y

Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- Resolution(s) 20-161
- Ordinances(s)
- Contract(s)

Item No. 29

Special Notes:

Copies sent to: Sheriff-Coroner/Christian Abueg

12-1-20



I certify that the foregoing is a true and correct copy of the Minute Order adopted by the Board of Supervisors, Orange County, State of California.
Robin Stieler, Clerk of the Board

By: _____

Deputy



AGENDA STAFF REPORT

Agenda Item

ASR Control 19-001271

2341

MEETING DATE: 11/17/20
 LEGAL ENTITY TAKING ACTION: Board of Supervisors
 BOARD OF SUPERVISORS DISTRICT(S): All Districts
 SUBMITTING AGENCY/DEPARTMENT: Sheriff-Coroner (Approved)
 DEPARTMENT CONTACT PERSON(S): Brian Wayt (714) 647-1803
 Noma Crook (714) 834-6681

2020 OCT 28 AM 9:01
 BOARD OF SUPERVISORS
 CLERK OF THE BOARD

SUBJECT: Approve New Administrative Fee for Vehicle Removal, Impound, Storage or Release

CEO CONCUR Concur	COUNTY COUNSEL REVIEW Approved Resolution to Form	CLERK OF THE BOARD Public Hearing 3 Votes Board Majority
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Budgeted: Yes **Current Year Cost:** N/A **Annual Cost:** See Financial Impact Section

Staffing Impact: No **# of Positions:** **Sole Source:** N/A
Current Fiscal Year Revenue: \$113,690
Funding Source: Other: 100% (Fees) **County Audit in last 3 years:** No

Prior Board Action: 3/28/2000 #38

RECOMMENDED ACTION(S):

1. Find that the proposed fee is Statutorily Exempt from the provisions of CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 157273 of the CEQA Guidelines as the establishment of modification of rates, fees and charges, which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits, purchasing or leasing supplies, equipment or materials as set forth herein.
2. Conduct the public hearing.
3. Adopt a Resolution that:
 - a. Finds that adoption of the Resolution approving the fee is statutorily exempt from the provisions of CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as the establishment or modification of rates, fees and charges, which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits and purchasing or leasing supplies, equipment or materials.
 - b. Finds that the fee meet the requirements set forth in subdivision (e)(2) to Section 1 of Article XIIC of the California Constitution, and is therefore exempt from the definition of a tax as used therein.

- c. Finds that the revenue resulting from the fee established pursuant to this Resolution will not exceed the Sheriff-Coroner Department's reasonable cost for vehicle removal, impound, storage or release.
- d. Approves the proposed new administrative fee for the Sheriff-Coroner Department's removal, impound, storage or release of vehicles, from \$50 to \$144, and from \$152 to \$144, effective November 17, 2020, and superseding Resolution No. 00-96.

SUMMARY:

Approval of the new fee will allow the Sheriff-Coroner Department to fully recover the costs for the removal, impound, storage or release of vehicles.

BACKGROUND INFORMATION:

California Vehicle Code, Section 22850.5 authorizes the Board of Supervisors (Board) to establish a fee based on the administrative costs of removal, impound, storage or release of impounded vehicles.

Following a Sheriff-Coroner Department (Sheriff) cost study in 2000, on March 28, 2000, the Board adopted Resolution No. 00-96 establishing a \$50 fee for a vehicle impound pursuant to specific Vehicle Code violations and a \$152 fee for a vehicle impound due to driving without a license or with a suspended or revoked license to be charged for the removal, impound, storage or release of vehicles. By the same resolution, the Board also approved the establishment of Fund 13B, Traffic Violator Fund.

A cost study was recently prepared by Sheriff's staff to determine the actual current administrative costs associated with the removal, impound, storage or release of vehicles. While in 2000 there was a difference in administrative costs to process the removal of a vehicle based on Vehicle Code 14602 (unlicensed or suspended license of driver) as compared with other legal bases to remove vehicles, that cost differential no longer exists due to advancements in technology for determining licensing status. Accordingly, the fee now proposed following the Sheriff's 2020 cost study is the same regardless of the legal basis for removal, impound, storage and release of a vehicle. The cost study indicated that the fee should be revised as noted on the table below in order to reflect the current administrative cost for these services.

<u>Service</u>	<u>Current Cost</u>	<u>Proposed Cost</u>
Vehicle removal due to driving without a license or with a suspended or revoked license	\$152	\$144
Vehicle removal pursuant to other specific Vehicle Code violations	\$50	\$144

Note that Sheriff does not impose any additional costs for any persons who wish to request an appeal or hearing.

A Notice of Public Hearing has been published to comply with Government Code Section 66018 which requires a local agency to hold a public hearing when new fees are adopted or existing fees are revised. The proposed fee and supporting cost study were reviewed by the Auditor-Controller.

Sheriff now requests approval of a new administrative fee for the removal, impound, storage or release of vehicles for Fund 13B, Traffic Violator Fund, effective November 17, 2020.

Compliance with Proposition 26: The fee does not fall within the definition of a tax under Proposition 26 because it is excepted by California Constitution Article XIII C, Section 1, Subdivision (e)(2). Subdivision (e)(2) excepts from the definition of a tax, "a charge imposed for a specific government service or product provided directly to the payor that is not provided to those not charged, and which does not exceed the reasonable costs to the local government of providing the service or product." This exception applies because the fee amount is limited to no more than what is necessary for Sheriff to recover the reasonable administrative costs for the removal, impound, storage or release of vehicles.

Compliance with CEQA: The adoption of the Resolution approving the fee is statutorily exempt from the provisions of CEQA pursuant to Section 21080(b)(8) of the Public Resources Code and Section 15273 of the CEQA Guidelines as the establishment or modification of rates, fees and charges which are for the purpose of meeting operating expenses, including employee wage rates and fringe benefits and purchasing or leasing supplies, equipment or materials.

FINANCIAL IMPACT:

The proposed new fee will result in full cost recovery of the costs of the removal, impound, storage or release of vehicles. This revenue is included in the FY 2020-21 Budget for Budget Control 060, Sheriff-Coroner and will also be part of the budgeting process for future fiscal years.

STAFFING IMPACT:

N/A

ATTACHMENT(S):

- Attachment A - Draft Resolution
- Attachment B - California Vehicle Code, Section 22850.5
- Attachment C - California Vehicle Code, Section 14602
- Attachment D - Government Code Section 66018
- Attachment E - California Constitution Article XIII C, Section 1
- Attachment F - Fee Checklist and Cost Study
- Attachment G - Notice of Public Hearing

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

November 17, 2020

WHEREAS, the Sheriff-Coroner (hereinafter "the Sheriff") has instituted a Traffic Violator Apprehension Program designed to reduce vehicle accidents caused by unlicensed drivers and drivers whose licenses are suspended and to educate the public about the requirements of the Vehicle Code and related safety issues with regard to driver licensing, vehicle registration, vehicle operation, and vehicle parking; and

WHEREAS, the Sheriff operates said Traffic Violator Apprehension Program in the unincorporated areas of Orange County and in the cities of Orange County that contract for the Sheriff's law enforcement services; and

WHEREAS, the operation of the Traffic Violator Apprehension Program on an area-wide basis without regard to jurisdictional boundaries between the County and the cities, services the public purposes of the County of Orange because drivers routinely cross jurisdictional boundaries, making an area-wide approach to reduction of traffic accidents and driver education most effective in preventing traffic accidents in all participating jurisdictions; and

WHEREAS, the Sheriff impounds numerous and various vehicles removed from highways, public property, or private property in the unincorporated areas of Orange County and in cities that contract for the Sheriff's law enforcement services during the normal course of duty; and

WHEREAS, the Sheriff impounds said vehicles pursuant the authority under the California Vehicle Code as follows:

Vehicle Code Section and Impound Ground

- | | |
|-----------|---|
| 14602.6 | Suspended, revoked or unlicensed driver/30-day hold |
| 22651 (a) | Unattended vehicle on bridge |
| 22651 (d) | Vehicle blocking driveway |
| 22651 (e) | Vehicle blocking fire hydrant |

- 22651 (f) Vehicle blocking freeway
- 22651 (h) (1) Driver arrested
- 22651 (h) (2) Order of suspension or revocation pursuant to section 13388
- 22651 (i) (1) Multiple parking citations
- 22651 (j) Lack of vehicle registration
- 22651 (k) Parking over seventy-two hours
- 22651 (l) Parking in a construction zone
- 22651 (m) Violation of special events restriction
- 22651 (n) No parking zone
- 22651 (o) (1) Vehicle registration is incorrect, falsified or expired by more than six months
- 22651 (p) Driver unlicensed or license suspended
- 22651 (r) Vehicle blocking another vehicle
- 22651 (t) Notice to appear/illegal amber lights
- 22651 (u) Acting as a car dealer without a license or temporary permit
- 22651 (v) Illegally letting stand a mobile billboard advertisement
- 22651 (w) Second or subsequent violation of an ordinance
- 22655.3 Removal for investigation (fleeing in violation of section 2800.1 or 2800.2)
- 22655.5 (a) Vehicle was used as the means of committing a public offense
- 22655.5 (b) Vehicle is evidence of crime
- 22669 Abandoned vehicle;

WHEREAS, Vehicle Code section 22850.5 authorizes this Board, by resolution, to establish a fee equal to the administrative costs relating to the removal, impound, storage or release of properly impounded vehicles; and

WHEREAS, this Board last adopted a fee pursuant to Vehicle Code section 22850.5 on March 28, 2000, through the adoption of Resolution No. 00-96, which established a fee in the

amount of \$50.00 when a vehicle of a licensed driver is removed and/or impounded, and a fee of \$152.00 when a vehicle of an unlicensed driver is removed and/or impounded; and

WHEREAS, because 20 years have passed since this fee was last established, the Sheriff deemed it appropriate to review the administrative costs associated with removal, impound, storage or release of properly impounded vehicles; and

WHEREAS, a cost study prepared in 2020 by the Sheriff determined that due to technological advancements for determining the licensed status of drivers, the differential in the fee charged a licensed driver versus the fee charged an unlicensed driver when a vehicle is removed, as originally set in 2000, is no longer supported by the actual administrative costs of removing, impounding, storing and releasing a vehicle; and

WHEREAS, the 2020 cost study conducted by the Sheriff further showed that the administrative costs relating to the removal, impound, storage or release of vehicles properly impounded pursuant to the Vehicle Code are at \$144.00 per removal; and

WHEREAS, based upon the cost study, the Sheriff is proposing adoption of a fee in the amount of \$144.00 pursuant to Vehicle Code section 22850.5.

WHEREAS, after the adoption of this amended fee, the Sheriff will seek adoption by the city councils of each of the cities that contract with the Sheriff for law enforcement services of fee identical to those described herein; and

WHEREAS, persons whose vehicles are impounded, rather than the public as a whole, should bear the administrative costs of processing such impounds; and

WHEREAS, Vehicle Code section 22850.5 imposes the following restrictions on the imposition of an administrative fee:

(a) The fee may only be imposed on the registered owner or the agents of that owner and may not include any vehicle towed under an abatement program or sold at a lien sale pursuant to Sections 3068.1 to 3074, inclusive, of, and Section 22851 of, the Civil Code unless the sale is sufficient in amount to pay the lienholder's total charges and proper administrative costs; and

- (b) Any charges shall be collected by the local or state authority only from the registered owner or an agent of the registered owner; and
- (c) The charges shall be in addition to any other charges authorized or imposed pursuant to this code; and
- (d) The fee does not include any administrative costs associated with conducting a hearing or appeal relating to the removal impound, storage or release of a vehicle and;

WHEREAS, it is unfair to impose the administrative fee authorized by Vehicle Code section 22850.5 in the following circumstances: 1) when the vehicle was left because it became inoperable while being drive, if the owner makes good faith attempts promptly to remove the vehicle from location where it is not permitted, 2) when the vehicle was stolen, 3) when the vehicle was left by an ill or injured driver, and 4) when it is demonstrated to the satisfaction of the Sheriff or his designee that neither the registered owner of the vehicle nor his agent, if any, was at fault in creating the circumstances leading to the impounding of the vehicle; and

WHEREAS, a notice of public hearing with respect to proposed new fee was given according to law; and

WHEREAS, a public hearing pertaining to said proposed new fee was held on November 17, 2020;

NOW, THEREFORE, BE IT RESOLVED that this Board finds, in accordance with California Public Resources Code section 21080 (b) (8), that the charges listed hereinbelow are only for the purposes of meeting operating expenses and are, therefore, exempt from compliance with the California Environmental Quality Act.

BE IT FURTHER RESOLVED that on November 17, 2020, the administrative fee indicated below shall become effective for the removal, impound, storage or release of vehicles properly impounded after removal from locations in the unincorporated areas of Orange County and the cities that contract with the Sheriff for law enforcement services, where the respective City Council has adopted the new fee, in accordance with or on account of violation of the provisions of the Vehicle Code listed below:

A fee of \$144.00 for each removal of a vehicle in accordance with or on account of violation of Vehicle Code sections: 14602.6

22651 (a)

22651 (d)

22651 (e)

22651 (f)

22651 (h) (1)

22651 (h) (2)

22651 (i) (1)

22651 (j)

22651 (k)

22651 (l)

22651 (m)

22651 (n)

22651 (o)(1)

22651 (p)

22651 (r)

22651 (t)

22651 (u)

22651 (v)

22651 (w)

22655.3

22655.5 (a) or (b)

or

22669

BE IT FURTHER RESOLVED that the Sheriff is directed to collect said fee at the time of release of vehicles that are subject to the fee; and

BE IT FURTHER RESOLVED that said fee shall only be imposed on the registered owner or the agent of the owner of the impounded vehicle, shall not include any vehicle towed under an abatement program or sold at a lien sale pursuant to Sections 3068.1 to 3074, inclusive of, and Section 22851 of, the Civil Code unless the sale is sufficient in amount to pay the lienholder's total charges and proper administrative costs.

BE IT FURTHER RESOLVED that said fee shall be collected by the local or state authority only from the registered owner or an agent of the registered owner and that said fee is in addition to any other charges authorized or imposed pursuant to the Vehicle Code.

BE IT FURTHER RESOLVED that the cost study conducted by the Sheriff that supports this fee did not include administrative costs for conducting a hearing or appeal relating to the removal, impound, storage, or release of a vehicle and therefore is in compliance with Vehicle Code section 22850.5(b)(4).

BE IT FURTHER RESOLVED that said fee shall not be imposed in any of the following circumstances: (a) when the vehicle was left because it became inoperable while being driven, if the owner made good faith attempts promptly to remove the vehicle from a location where it was not permitted; (b) when the vehicle was stolen; (c) when the vehicle was left by an ill or injured driver; or (d) when it is demonstrated to the satisfaction of the Sheriff or designee that neither the registered owner of the vehicle nor his agent, if any, was at fault in creating the circumstances leading to the impounding of the vehicle.

BE IT FURTHER RESOLVED that a registered owner or an agent of a registered owner who believes he/she/it is exempt from the fee in accordance with any of the above-listed criteria may apply in writing for a waiver of the fee and shall present such supporting information or documentation, as the Sheriff may request, to the Administrative Sergeant of the city or unincorporated area where the tow occurred.

BE IT FURTHER RESOLVED that upon presentation of a written application for waiver of said fee, together with such supporting documentation as may be requested by the Sheriff or

his/her designee, shall determine promptly whether the applicant meets the above-listed criteria for waiver of the fee and if so, shall waive the fee.

BE IT FURTHER RESOLVED that the Auditor-Controller, having previously been directed to establish in the County Treasury, a Traffic Violator Fund designated as Fund No. 13B for deposit of the proceeds of the fee established by Resolution No. 00-96, shall continue to maintain Fund No. 13B for deposit of the proceeds of the fee established herein.

BE IT FURTHER RESOLVED that the Traffic Violator Fund shall be an interest-earning, budgeted special revenue fund to be controlled by the Sheriff-Coroner.

BE IT FURTHER RESOLVED that until further order of this Board, the proceeds of the fee established by this Resolution shall be deposited in the Traffic Violator Fund in the County Treasury and shall be used exclusively to reimburse the Sheriff for administrative costs associated with the removal, storage, impound and release of vehicles in accordance with the Vehicle Code in the unincorporated areas of Orange County and the cities in Orange County that contract for the Sheriff's law enforcement services where the new fee has been adopted by the City Council.


BE IT FURTHER RESOLVED that expenditures from the Traffic Violator Fund only include personnel costs who perform duties associated with the removal, storage, impound and release of vehicles.

BE IT FURTHER RESOLVED that until further order of this Board, the balance remaining in the Traffic Violator Fund at the close of any fiscal year shall be carried forward and accumulated in said Fund for the purposes recited herein.

IT IS FURTHER RESOLVED that this Resolution supersedes Resolution No. 00-96.

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on November 17, 2020, to wit:

AYES: Supervisors: LISA A. BARTLETT, DONALD P. WAGNER, DOUG CHAFFEE
ANDREW DO
NOES: Supervisor(s):
EXCUSED: Supervisor(s): MICHELLE STEEL
ABSTAINED: Supervisor(s):

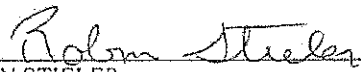


CHAIRWOMAN

STATE OF CALIFORNIA)
)
COUNTY OF ORANGE)

I, ROBIN STIELER, Clerk of the Board of Orange County, California, hereby certify that a copy of this document has been delivered to the Chair of the Board and that the above and foregoing Resolution was duly and regularly adopted by the Orange County Board of Supervisors.

IN WITNESS WHEREOF, I have hereto set my hand and seal.



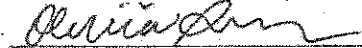
ROBIN STIELER
Clerk of the Board
County of Orange, State of California

Resolution No: 20-161
Agenda Date: 11/17/2020
Item No: 29



I certify that the foregoing is a true and correct copy of the Resolution adopted by the Board of Supervisors, Orange County, State of California

Robin Stieler, Clerk of the Board of Supervisors

By: 

Deputy

RESOLUTION NO.

**A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF SAN CLEMENTE, CALIFORNIA,
AUTHORIZING THE ORANGE COUNTY SHERIFF'S
DEPARTMENT TO COLLECT ITS UPDATED FEE
FOR THE TRAFFIC VIOLATOR APPREHENSION
PROGRAM IN THE CITY OF SAN CLEMENTE**

WHEREAS, the Orange County Sheriff-Coroner ("the Sheriff") has instituted a Traffic Violator Apprehension Program designed to reduce vehicle accidents caused by unlicensed drivers and drivers whose licenses are suspended and to educate the public about the requirements of the Vehicle Code and related safety issues with regard to driver licensing, vehicle registration, vehicle operation, and parking; and

WHEREAS, the Sheriff operates the Traffic Violator Apprehension Program in the unincorporated areas of Orange County and in cities (such as the City of San Clemente) that contract for the Sheriff's law enforcement services; and

WHEREAS, operating the Traffic Violator Apprehension Program on an area-wide basis without regard to jurisdictional boundaries between the County and contract cities serves the public purpose of the City because drivers routinely cross jurisdictional boundaries, making an area-wide approach to reduction of traffic accidents and driver education most effective in preventing traffic accidents in all participating jurisdictions; and

WHEREAS, on March 28, 2000, the Orange County Board of Supervisors adopted Resolution No. 00-96, which established fees for the Traffic Violator Apprehension Program that are applicable in unincorporated areas of the County. The fees established by County Resolution No. 00-96 address the Sheriff's administrative costs relating to the removal, impound, storage, or release of properly impounded vehicles; and

WHEREAS, on August 2, 2000, the San Clemente City Council adopted Resolution No. 00-54, which authorized the Sheriff to collect fees in the City in connection with the Traffic Violator Apprehension Program in amounts identical to the County's fees as set forth in County Resolution No. 00-96; and

WHEREAS, the Board of Supervisors has established an interest-earning, budgeted special revenue fund, called the "Traffic Violator Fund" and designated as Fund 13B, to be controlled by the Sheriff; and

WHEREAS, the Board of Supervisors has directed that proceeds from the Traffic Violator Apprehension Program fees be deposited into the Traffic Violator Fund; and

WHEREAS, the Board of Supervisors has directed that funds from the Traffic Violator Fund must be used to reimburse the Sheriff for the administrative costs associated with the removal, storage, impound, and release of vehicles in accordance with the California Vehicle Code ("Vehicle Code"); and

WHEREAS, the Sheriff impounds vehicles removed from highways, public property, and private property in the unincorporated areas of the County and in contract cities pursuant to the following authority under the Vehicle Code:

Vehicle Code Section and Impound Ground

- 14602.6 Suspended, revoked or unlicensed driver/30-day hold
- 22651 (a) Unattended vehicle on bridge
- 22651 (d) Vehicle blocking driveway
- 22651 (e) Vehicle blocking fire hydrant
- 22651 (f) Vehicle blocking freeway
- 22651 (h) (1) Driver arrested
- 22651 (h) (2) Order of suspension or revocation pursuant to section 13388
- 22651 (i) (1) Multiple parking citations
- 22651 (j) Lack of vehicle registration
- 22651 (k) Parking over seventy-two hours
- 22651 (l) Parking in a construction zone
- 22651 (m) Violation of special events restriction
- 22651 (n) No parking zone
- 22651 (o) (1) Vehicle registration is incorrect, falsified or expired by more than six months
- 22651 (p) Driver unlicensed or license suspended
- 22651 (r) Vehicle blocking another vehicle
- 22651 (t) Notice to appear/illegal amber lights
- 22651 (u) Acting as a car dealer without a license or temporary permit
- 22651 (v) Illegally letting stand a mobile billboard advertisement
- 22651 (w) Second or subsequent violation of an ordinance
- 22655.3 Removal for investigation (fleeing in violation of section 2800.1 or 2800.2)

- 22655.5 (a) Vehicle was used as the means of committing a public offense
- 22655.5 (b) Vehicle is evidence of crime
- 22669 Abandoned vehicle

WHEREAS, Vehicle Code section 22850.5 authorizes the City Council, by resolution, to establish a fee equal to the administrative costs relating to the removal, impound, storage, or release of properly impounded vehicles; and

WHEREAS, over 20 years have passed since the Board of Supervisors first established the Traffic Violator Apprehension Program fees in County Resolution No. 00-96; and

WHEREAS, a cost study prepared in 2020 by the Sheriff demonstrated a need to update the County's Traffic Violator Apprehension Program fees. The Sheriff's cost study determined that the Sheriff's administrative costs relating to the removal, impound, storage, or release of vehicles properly impounded under the Vehicle Code is \$144.00 per removal; and

WHEREAS, on November 17, 2020, the Board of Supervisors adopted an updated Traffic Violator Apprehension Program fee of \$144.00 per removal; and

WHEREAS, consistent with the City's authority under Vehicle Code section 22850.5, the Sheriff has requested that the City update its Traffic Violator Apprehension fees to match the County's new fee of \$144.00 per removal;

WHEREAS, the City Council desires to update the Traffic Violator Apprehension Program fee to match the County and further desires for the Sheriff to continue to collect the fee on behalf of the City. Continuing with such a practice will ensure that persons whose vehicles are impounded, rather than the public as a whole, will bear the administrative costs of such impounds; and

WHEREAS, Vehicle Code section 22850.5 imposed the following restrictions on the imposition of this administrative fee:

- a) The fee may only be imposed on the registered owner or the agents of that owner and may not include any vehicle towed under an abatement program or sold at a lien sale pursuant to Sections 3068.1 to 3074, inclusive, of, and Section 22851 of, the Civil Code unless the sale is sufficient in amount to pay the lienholder's total charges and proper administrative costs; and
- b) Any charges shall be collected by the local or state authority only from the registered owner or an agent of the registered owner; and
- c) The charges shall be in addition to any other charges authorized or imposed pursuant to this code; and

- d) The fee does not include any administrative costs associated with conducting a hearing or appeal relating to the removal, impound, storage, or release of a vehicle; and

WHEREAS, in addition to the limitations set forth above, it is also unfair to impose the administrative fee authorized by Vehicle Code section 22850.5 in the following circumstances: 1) when the vehicle was left because it became inoperable while being drive, if the owner makes good faith attempts promptly to remove the vehicle from location where it is not permitted, 2) when the vehicle was stolen, 3) when the vehicle was left by an ill or injured driver, and 4) when it is demonstrated to the satisfaction of the Sheriff or his/her designee that neither the registered owner of the vehicle nor his/her agent, if any, was at fault in creating the circumstances leading to the impounding of the vehicle; and

WHEREAS, a notice of public hearing with respect to the proposed new Traffic Violator Apprehension Program fee provided herein was given according to law; and

WHEREAS, a public hearing pertaining to the new Traffic Violator Apprehension Program fee was held on May 4, 2021; and

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

SECTION 1. The recitals above are true and correct and are hereby adopted as findings, as if fully set forth herein.

SECTION 2. The City Council finds that in accordance with the California Environmental Quality Act ("CEQA") and the CEQA Guidelines, the adoption of this Resolution is exempt from CEQA pursuant to Public Resources Code section 21080 (b)(8) and Sections 15061(b)(3) and 15273(a)(1) of Title 14 of the California Code of Regulations because CEQA applies only to projects which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Here, this Resolution does not undertake any project that has the potential for causing a significant effect on the environment as the Resolution simply authorizes the Orange County Sheriff's Department to collect its updated operating cost-recovery fee for the removal, impoundment, and storage of vehicles for specified Vehicle Code violations.

SECTION 3. That on May 4, 2021, the administrative fee indicated below shall become effective for the removal, impound, storage, or release of vehicles properly impounded after removal from locations in the City in accordance with or on account of provisions of the Vehicle Code listed below:

A fee of \$144.00 for each removal of a vehicle in accordance with or on account of violation of Vehicle Code sections:

14602.6 Suspended, revoked or unlicensed driver/30-day hold

ATTACHMENT 2

- 22651 (a) Unattended vehicle on bridge
- 22651 (d) Vehicle blocking driveway
- 22651 (e) Vehicle blocking fire hydrant
- 22651 (f) Vehicle blocking freeway
- 22651 (h) (1) Driver arrested
- 22651 (h) (2) Order of suspension or revocation pursuant to section 13388
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- 22651 (n) No parking zone
- 22651 (o) (1) Vehicle registration is incorrect, falsified or expired by more than six months
- 22651 (p) Driver unlicensed or license suspended
- 22651 (r) Vehicle blocking another vehicle
- 22651 (t) Notice to appear/illegal amber lights
- 22651 (u) Acting as a car dealer without a license or temporary permit
- 22651 (v) Illegally letting stand a mobile billboard advertisement
- 22651 (w) Second or subsequent violation of an ordinance
- 22655.3 Removal for investigation (fleeing in violation of section 2800.1 or 2800.2)
- 22655.5 (a) Vehicle was used as the means of committing a public offense
- 22655.5 (b) Vehicle is evidence of crime
- 22669 Abandoned vehicle

SECTION 4. The Sheriff is authorized to collect the fee established herein, on behalf of the City, at the time of release of vehicles that are subject to the fee.

SECTION 5. The fee established herein shall only be imposed on the registered owner or the agent of the owner of the impounded vehicle, shall not include any vehicle towed under an abatement program or sold at a lien sale pursuant to Sections 3068.1 to 3074, inclusive of, and Section 22851 of, the Civil Code unless the sale is sufficient in amount to pay the lienholder's total charges and proper administrative costs.

SECTION 6. The fee established herein shall be collected only from the registered owner or an agent of the registered owner and that said fee is in addition to any other charges authorized or imposed pursuant to the Vehicle Code.

SECTION 7. The fee established herein complies with Vehicle Code section 22850.5 (b)(4) as the cost study conducted by the Sheriff that supports the \$144.00 per removal fee did not include administrative costs for conducting a hearing or appeal related to the removal, impound, storage, or release of a vehicle.

SECTION 8. The Sheriff shall not impose the fee established herein in any of the following circumstances: (a) when the vehicle was left because it became inoperable while being driven, if the owner made good faith attempts promptly to remove the vehicle from a location where it was not permitted; (b) when the vehicle was stolen; (c) when the vehicle was left by an ill or injured driver; or (d) when it is demonstrated to the satisfaction of the Sheriff or his/her designee that neither the registered owner of the vehicle nor his/her agent, if any, was at fault in creating the circumstances leading to the impounding of the vehicle.

SECTION 9. A registered owner or an agent of a registered owner who believes he/she/they are exempt from the fee established herein under any of the criteria listed in Section 8 above may apply in writing for a waiver of the fee and shall present such supporting information or documentation, as the Sheriff may request, to the City's Administrative Sergeant. Upon the presentation of a written application for waiver of said fee, together with such supporting documentation as may be requested by the Sheriff, the Administrative Sergeant or his/her designee shall determine promptly whether the applicant meets the criteria for a waiver of the fee and if so, shall waive the fee.

SECTION 10. Until further order of the City Council, the Sheriff is directed to deposit the proceeds of the fee established herein into Traffic Violator Fund in the County Treasury. Proceeds from the Traffic Violator Fund shall be used in conformance with the County's restrictions for the same as well as in conformance with any applicable provisions set forth in the City's agreement with the County for the Sheriff's law enforcement services.

SECTION 11. Until further order of the City Council, the Board of Supervisors is authorized to carry forward in the Traffic Violator Fund and accumulate any balance of proceeds of fees imposed by this Resolution that remains at the end of a fiscal year, as long as such fee proceeds will be used for the purposes provided herein.

SECTION 12. This Resolution supersedes Resolution No. 00-54.

PASSED, APPROVED, AND ADOPTED this _____ day of _____, 2021.

ATTEST:

City Clerk of the City of
San Clemente, California

Mayor of the City of San
Clemente, California

STATE OF CALIFORNIA)
COUNTY OF ORANGE) §
CITY OF SAN CLEMENTE)

I, JOANNE BAADE, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. _____ was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of _____, 2021, by the following vote:

AYES:

NOES:

ABSENT:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this _____ day of _____, _____.

CITY CLERK of the City of
San Clemente, California

Approved as to form:

City Attorney