



AGENDA REPORT

CITY OF SAN CLEMENTE

CITY COUNCIL MEETING

910 Calle Negocio
2nd Floor
San Clemente, California
www.san-clemente.org

Meeting Date: November 19, 2024

Agenda Item: 8E

Submitted By: Finance and Administrative Services

Prepared By: Jacob Rahn, Finance Manager

Matthew Schmelzel, Management Analyst II

Subject:

PUBLIC HEARING AND CONSIDERATION OF RESOLUTION NO. 24-169, APPROVING A REVISED ADMINISTRATIVE FEE FOR VEHICLE REMOVAL, IMPOUND, STORAGE OR RELEASE BY THE ORANGE COUNTY SHERIFF’S DEPARTMENT FOR THE TRAFFIC VIOLATOR APPREHENSION PROGRAM (TVAP)

Fiscal Impact:

If adopted as proposed, the updated administrative fee and annual adjustment for the vehicle impound program will help facilitate full cost recovery. The proposed fee updates do not exceed the cost to provide the services.

Summary:

Fees for the Traffic Violator Apprehension Program are periodically reviewed by the Sheriff to achieve program cost recovery. The updated fee requires City adoption by resolution following a noticed public hearing.

Background:

On August 2, 2000, the City of San Clemente adopted Resolution No. 00-54, which authorized participation in the Traffic Violator Apprehension Program and established fees for vehicle removal, impound, storage and release. This program aims to reduce vehicle accidents caused by unlicensed and suspended drivers and to educate the public about the requirements of vehicle safety with regard to driver licensing, vehicle registration, vehicle operation and parking.

Periodically, cost studies are performed by the Sheriff’s department to facilitate recovery of services rendered. On November 17, 2020, new rates were approved by the Board of Supervisors and adopted by the City of San Clemente via Resolution No. 21-11. Based on a new cost study conducted by the Sheriff, program recovery costs have increased to \$174 and necessitate adoption of an updated fee in such an amount. Additionally, the Sheriff is requesting the adoption of an annual escalator to take effect July 1st of each year to not exceed the annual percentage of the Los Angeles-Long Beach-Anaheim “all items” Consumer Price Index provided that the amount does not exceed the actual cost of the program as determined by cost studies.

The new rates were adopted by the Orange County Board of Supervisors on June 25, 2024 and are recommended to be implemented by contract cities as noted in the table below.

Service	Current Fee	Proposed Fee
Vehicle removal, impound storage or release if vehicles properly impounded	\$144	\$174

If the new fee rates are not adopted, there would be insufficient funds to support service levels required to maintain the TVAP and recovery shortfalls would be passed to the City or lead to a reduction in services. Since these fees are paid directly by persons whose vehicles are impounded and not the public as a whole, it is recommended that the revised fee schedule is adopted.

Council Options:

- Adopt Resolution No. 24-169, which would authorize TVAP fees and the annual administrative fee adjustment and repeal Resolution No. 21-11.
- Adopt Resolution No. 24-169 with modifications.
- Continue the Item and direct staff to provide additional information.
- Deny the request to Adopt Resolution No. 24-169, which would maintain current TVAP fees.

Environmental Review/Analysis:

This is not a “project” under the California Environmental Quality Act.

Recommended Actions:

Staff Recommendation

1. Open the public hearing, hear all public input and close the public hearing; and
2. Following the public hearing, adopt Resolution No. 24-169, which would approve TVAP fees and the annual administrative fee adjustment and repeal Resolution No. 21-11.

Attachment:

1. Resolution No. 24-169
2. Sheriff Department’s Staff Report for Adoption of New TVAP Fees
3. Resolution No. 21-11

Notification:

Dwight Tipping, Orange County Sheriff’s Department
Publication in the San Clemente Times

RESOLUTION NO. 24-169

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN CLEMENTE, CALIFORNIA, APPROVING A REVISED ADMINISTRATIVE FEE FOR VEHICLE REMOVAL, IMPOUND, STORAGE OR RELEASE BY THE ORANGE COUNTY SHERIFF'S DEPARTMENT FOR THE TRAFFIC VIOLATOR APPREHENSION PROGRAM (TVAP) 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 of Orange County (such as the City of San Clemente) 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 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, the Sheriff impounds numerous and various vehicles removed from highways, public property, or private property in the unincorporated areas of Orange County 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 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 the Orange County Board of Supervisors, 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, the Orange County Board of Supervisors adopted a fee pursuant to Vehicle Code section 22850.5 on November 17, 2020, through the adoption of Resolution No. 20-161, which established a fee in the amount of \$144 when a vehicle of a license and unlicensed driver is removed and/or impounded; and

WHEREAS, on May 4, 2021, the San Clemente City Council adopted Resolution No. 21-11, 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. 20-161; and

WHEREAS, in 2024, a cost study conducted by the Sheriff showed that the administrative cost relating to the removal, impound storage or release of vehicles impounded pursuant to the Vehicle Code has increased to \$174.00 per removal; and

WHEREAS, based upon the cost study, the Orange County Board of Supervisors adopted a fee pursuant to Vehicle Code section 22850.5 on June 25, 2024, through the adoption of Resolution No. 24-085, which established a fee in the amount of \$174 when a vehicle of a license and unlicensed driver is removed and/or impounded; and

WHEREAS, the Sheriff is requesting adoption by city councils of each of the contract cities (such as the City of San Clemente) with the Sheriff for law enforcement services of fee identical to those described herein; and

WHEREAS, Sheriff requests authorization of an annual administrative fee adjustment for removal, impound, storage or release of vehicles, effective July 1st of year, starting 2025, not to exceed the annual percentage of the Los Angeles-Long Beach-Anaheim "all items" Consumer Price Index, provided that the amount does not exceed the actual costs to the Sheriff as determined by additional cost studies prepared for the fee adjustment will ensure the Sheriff's cost recovery. This will allow the Sheriff to have cost recovery for the removal, impound, storage or release of vehicles; and

WHEREAS, persons whose vehicles are impounded, rather than the public as a whole, should bear the administrated costs of processing such impound; 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 the Civil Code and Section 22851 of the Vehicle 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 driven, 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, 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, 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 duly notice public hearing pertaining to the new Traffic Violator Apprehension Program fee was held on November 19, 2024.

NOW, THEREFORE, the City Council of the City of San Clemente does, hereby find, determine and resolve as follows:

SECTION 1. That the above recitations are true and correct and incorporated fully herein.

SECTION 2. That on November 19, 2024, 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 \$174.00 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
- 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

SECTION 3. 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 4. 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 the Civil Code and Section 22851 of the Vehicle Code, unless the sale is sufficient in amount to pay the lienholder's total charges and proper administrative costs.

SECTION 5. 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 6. The fee established herein complies with Vehicle Code Section 22850.5 (b)(4) as the cost study conducted by the Sheriff that supports the \$174.00 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 7. 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 8. 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 7 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 9. 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 10. That expenditures from the Traffic Violator Fund only include personnel costs who perform duties associated with the removal, storage, impound and release of vehicles.

SECTION 11. That 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. That the Sheriff is authorized to make an annual fee change effective July 1st of each year, starting in July 2025, that adjusts the fee set forth in this Resolution, by an amount not to exceed the annual percentage on the Los Angeles-Long Beach-Anaheim "all items" Consumer Price Index, provided that the amount does not exceed the Sheriff's cost as determined by additional cost studies prepared for the fee adjustment.

SECTION 13. That the annual fee change by the Sheriff will, without further action, be incorporated and adopted automatically by the City of San Clemente July 1 of each year or other effective date established and adopted by the Orange County Board of Supervisor and authorized by the Sheriff in the amounts so approved and adopted.

SECTION 14. That Resolution 21-11 and any other resolution in conflict herewith are hereby repealed and of no further force or effect. This Resolution supersedes Resolution No. 21-11.

SECTION 15. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED AND ADOPTED this _____ day of November, 2024.

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, LAURA CAMPAGNOLO, City Clerk of the City of San Clemente, California, do hereby certify that Resolution No. 24-169 was adopted at a regular meeting of the City Council of the City of San Clemente held on the _____ day of November 2024, 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:

Elizabeth A. Mitchell, City Attorney

ORANGE COUNTY BOARD OF SUPERVISORS
MINUTE ORDER
June 25, 2024

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 20-161, effective 7/1/24; authorizing Sheriff to annually adjust administrative fee under certain conditions, effective 7/1/25; and making California Environmental Quality Act (CEQA) exemption findings under Public Resources Code 21080(b)(8) and CEQA guidelines Section 15273 and other findings - All Districts

The following is action taken by the Board of Supervisors:

APPROVED AS RECOMMENDED OTHER

Unanimous (1) DO: Y (2) SARMIENTO: N (3) WAGNER: Y (4) CHAFFEE: Y (5) FOLEY: Y
Vote Key: Y=Yes; N=No; A=Abstain; X=Excused; B.O.=Board Order

Documents accompanying this matter:

- Resolution(s) 24-085
- Ordinances(s)
- Contract(s)

Item No. 72

Special Notes:

Copies sent to:

Sheriff-Coroner / Lorena Watt
06/28/24



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: *Ashley Sayer*
Deputy



AGENDA STAFF REPORT

ASR Control 24-000212

23A2

MEETING DATE: 06/25/24
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

RECEIVED
 CLERK OF THE BOARD
 11/17/2020 11:30 AM

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

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: \$310,068

Funding Source: Other: 100% (Fees)

County Audit in last 3 years: No

Levine Act Review Completed: N/A

Prior Board Action: 11/17/2020 #29, 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 meets the requirements set forth in subdivision (e)(2) to Section 1 of Article XIII C of the California Constitution and is therefore exempt from the definition of a tax as used therein.

<u>Service</u>	<u>Current Fee</u>	<u>Proposed Fee</u>
Vehicle removal, impound, storage or release of vehicles properly impounded	\$144	\$174

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

Approval of an annual administrative fee adjustment for the vehicle removal, impound, storage, or release of vehicles, effective July 1st of each year, starting 2025, not to exceed the annual percentage of the Los Angeles-Long Beach-Anaheim "all items" Consumer Price Index, provided that the amount does not exceed the actual costs to the Sheriff as determined by additional cost studies prepared for the fee adjustment will ensure Sheriff's cost recovery.

Past Board actions on Traffic Violator Apprehension Program fees are noted in the table below:

<u>Board of Supervisors (Board) Approved</u>	<u>Subject</u>
3/28/2000	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.
11/17/2020	Board adopted Resolution No. 20-161 establishing a \$144 fee for vehicle removal, impound, storage or release of vehicles.

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 Auditor-Controller and County Executive Office performed a limited review of the fee checklist per County procedure.

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 July 1, 2024.

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 XIIC, 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.

RESOLUTION OF THE BOARD OF SUPERVISORS OF
ORANGE COUNTY, CALIFORNIA

June 25, 2024

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 the 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 November 17, 2020, through the adoption of Resolution No. 20-161, which established a fee in the amount of \$144.00 when a vehicle of a licensed and unlicensed driver is removed and/or impounded; and

WHEREAS, in 2024 a cost study conducted by the Sheriff showed that the administrative costs relating to the removal, impound, storage or release of vehicles impounded pursuant to the Vehicle Code has increased to \$174.00 per removal; and

WHEREAS, based upon the cost study, the Sheriff is proposing adoption of a fee in the amount of \$174.00 pursuant to Vehicle Code section 22850.5.

WHEREAS, after the adoption of this updated 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, Sheriff requests authorization of an annual administrative fee adjustment for the removal, impound, storage or release of vehicles, effective July 1st of each year, starting 2025, not to exceed the annual percentage of the Los Angeles-Long Beach-Anaheim “all items” Consumer Price Index, provided that the amount does not exceed the actual costs to the Sheriff as determined by additional cost studies prepared for the fee adjustment will ensure Sheriff’s cost recovery. This will allow Sheriff to have cost recovery for the removal, impound, storage or release of vehicles.

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 driven, 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 June 25, 2024;

NOW, THEREFORE, BE IT RESOLVED that this Board finds, in accordance with California Public Resources Code section 21080 (b) (8), that the charges listed herein below 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 July 1, 2024, 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 \$174.00 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)
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 to promptly 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 to allow the Sheriff Department to continually make deposits 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.

BE IT FURTHER RESOLVED that the Sheriff is authorized to make an annual fee change effective July 1st of each year, starting in 2025, that adjusts the fee set forth in this Resolution, by an amount not to exceed the annual percentage of the Los Angeles-Long Beach-Anaheim "all items" Consumer Price Index, provided that the amount does not exceed the Sheriff's costs as determined by additional cost studies prepared for the fee adjustment.

IT IS FURTHER RESOLVED that this Resolution supersedes Resolution No. 20-161.

The foregoing was passed and adopted by the following vote of the Orange County Board of Supervisors, on June 25, 2024, to wit:

AYES: Supervisors: ANDREW DO, DONALD P. WAGNER, DOUG CHAFFEE
KATRINA FOLEY
NOES: Supervisor(s): VICENTE SARMIENTO
EXCUSED: Supervisor(s):
ABSTAINED: Supervisor(s):

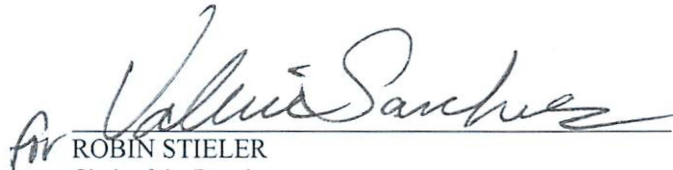


CHAIRMAN

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 Chairman 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: 24-085
Agenda Date: 06/25/2024
Item No: 72



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 Stiel, Clerk of the Board of Supervisors

By: 
Deputy

RESOLUTION NO. 21-11

**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

- 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

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.

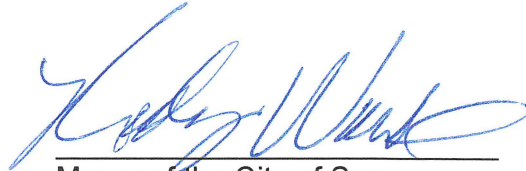
SECTION 12. This Resolution supersedes Resolution No. 00-54.

PASSED, APPROVED, AND ADOPTED this 4th day of May, 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. 21-11 was adopted at a regular meeting of the City Council of the City of San Clemente held on the 4th day of May, 2021, by the following vote:

AYES: DUNCAN, FERGUSON, JAMES, MAYOR WARD

NOES: NONE


ABSENT: KNOBLOCK

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of San Clemente, California, this 26TH day of MAY, 2021.



CITY CLERK of the City of
San Clemente, California

Approved as to form:



City Attorney