

Kimball, Tirey & St. John LLP

Towing: Removing Unauthorized Vehicles from Private Property

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Unauthorized and abandoned vehicles parked on private property are a common problem for property owners and their agents. California Vehicle Code §22658 authorizes property owners and managers to remove unauthorized or abandoned vehicles from private property if specific conditions exist and certain procedures are followed.

A property owner or manager may tow an unauthorized or abandoned vehicle parked on private property to the nearest public garage under any of the following circumstances:

- a sign is posted, in clear view, at each entrance to the property. The sign must state that public parking is prohibited, that vehicles will be towed at the owner's expense and must contain the telephone number of the local traffic law enforcement agency. The sign must be at least 17" by 22" and lettering on the sign must be at least one inch in height. The sign may also indicate that a citation may be issued for the violation; or
- the vehicle has been issued a notice of parking violation, and at least 96 hours have passed since the notice was issued; or
- the vehicle is on private property and lacks an engine, transmission, wheels, tires, doors, windshield, or any other major part or equipment necessary to operate safely on the highways, the property owner or agent has notified the local traffic law enforcement agency and 24 hours have passed since that notification; or
- the vehicle is parked on a lot or parcel that has been improved with a single-family residence.

The tow truck operator must obtain written authorization for the tow identifying:

- the vehicle (make, model, VIN and license plate number);
- the person authorizing the tow (name, signature, job title, residential or business address and working telephone number);
- the grounds for removal;
- the time the vehicle was first observed parked illegally; and
- the time the authorization to tow was given.

The authorization must be provided upon request to the vehicle owner, although the tow truck operator will not provide the vehicle owner with the identification of the person who authorized the tow.

If there are 16 or more units, or an onsite owner or manager, the property owner or manager must authorize the tow in writing and be onsite when the tow takes place (although the owner or manager does not have to be physically present at the place where the vehicle is being towed – he/she must simply be present at the property).

For 15 or less units that do not have an onsite owner or manager, the owner or owner's manager is not required to be present nor verify the parking violation; the tenant may verify the violation and request the tow from the tenant's assigned parking space by signed request, email, or by calling and providing a signed request or email within 24 hours to the property

owner or manager. The signed request or email must contain the name and address of the tenant and the date and time the tenant requested the tow. The owner or manager must provide the tenant's verification and authorization to the towing company within 48 hours of the tow.

The vehicle's owner or his or her agent can stop a tow in process by immediately moving the vehicle to a lawful location. The tow company can charge the owner of the vehicle ½ of the normal towing fee if the vehicle has already been coupled to the tow truck or lifted off the ground, but not yet removed from the property.

An owner or manager may not enter into an agreement with a tow company granting general authorization to remove vehicles from the property at the tow company's discretion. (This is known as "patrol" or "contract" towing). The only exception is that patrol or contract towing is allowed when a vehicle is unlawfully parked within 15 feet of a fire hydrant or in a fire lane, or in a manner which interferes with any entrance to, or exit from the private property, and only after taking a photograph of the violation.

Two notifications of the tow must be given.

- The property owner or manager authorizing the tow must notify the local traffic law enforcement agency of the tow within one hour after authorizing the tow. The notification should be by telephone, or if that is impractical, by the most expeditious means available.
- After a vehicle has been towed from the property, the tow truck operator removing the vehicle must immediately give written notice of the removal. The notice must identify the vehicle, state the grounds for removal, the mileage on the vehicle at the time of removal and the vehicle's new location. If the name and address of the registered or legal owner of the vehicle is known or can be determined, (from the property owner, the vehicle owner, DVM records or otherwise), the notice must be given to the registered and legal owner. If the identity of the owner of the vehicle cannot be determined, or for any other reason the tow truck operator cannot give notice to the vehicle owner, and the vehicle is not returned to the owner within 120 hours, the notice must be sent to the Department of Justice, Stolen Vehicle System. If the vehicle is stored in a public garage, a copy of the notice must also be given to the garage's proprietor.

Improper removal of a vehicle from private property may subject the property owner and/or manager to civil and criminal liability. A property owner or manager may be liable for two to four times the storage or towing charges for failure to comply with applicable requirements (the amount depends on the nature of the violation). A property owner may also be liable for vehicle damage if caused by any intentional or negligent act of any person causing the removal, or removing, the vehicle. However, the tow company will be solely liable for any damage to the vehicle that occurs during transit from the property to the storage facility.

By meeting the requirements of the California Vehicle Code §§22658 and 22853(c) described above, private property owners and managers can control unauthorized or abandoned vehicles on their property while limiting exposure to liability. Because city and counties may have ordinances that contain additional requirements, local ordinances should also be researched and followed.

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