

ORDINANCE NO. 798

AN ORDINANCE AMENDING CANBY MUNICIPAL TRAFFIC CODE SECTIONS,
RELATING TO PARKING AND IMPOUNDMENT OF VEHICLES; AND
DECLARING AN EMERGENCY

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Sections 10.04.070 through 10.04.120 of the
Canby Municipal Code are amended to read as follows:

SECTION 10.04.070 METHOD OF PARKING

- (A) Whenever any motor vehicle is parked upon any street in the City it shall be headed as though proceeding upon the right side of the street.
- (B) Where parking space markings are placed on a street, in a parking lot or in a parking structure, no person shall stand or park a vehicle other than in the indicated direction, other than in a marked space and, unless the size or shape of the vehicle makes compliance impossible, other than within a single marked space.
- (C) Where no mode of parking is indicated by a painted stripe or other marking, any and all vehicles parked in any unmarked area shall be parked parallel with the street curb and with the tires or wheels on the right-hand side of such vehicle, within twelve inches (12) of the curb.
- (D) Whenever the operator of a vehicle discovers that his or her vehicle is parked close to a building to which the Fire Department or ambulance service has been summoned, the operator shall immediately remove the vehicle from the area unless otherwise directed by police, ambulance or fire officers.

SECTION 10.04.075 PARKING TIME LIMITS

- (A) The lawful time allowed for parking vehicles other than motor trucks engaged in the actual loading or unloading of freight or merchandise shall, in any section of any street, be as indicated by lettering upon the face of painted signs placed at the top of standards placed along the curb line of any section of any street or by parking meters. Such time limits and the indication thereof may be changed from time to time by the City Administrator. The time limits shall mean the

continuous aggregate of time of all parking of any one vehicle within any one block or any blocks adjacent thereto within the daily time limits.

This shall not prohibit removing a vehicle from the above designated area and returning the vehicle to said area after expiration of one hour.

- (B) Time limits shall be applicable between the hours of 8:00 A.M. and 6:00 P.M. Such time limits shall not apply on Sundays, New Year's Day, Memorial Day, July 4th, Labor Day, Thanksgiving or Christmas.
- (C) It shall be unlawful to erase, remove or obliterate any marking that has been placed on a vehicle for the purpose of monitoring parking time limits.

SECTION 10.04.080 PROHIBITED PARKING-FAILURE TO PAY FINES AND POST BAIL

- (A) No operator shall stand or park a vehicle and no owner shall allow a vehicle to stand or park on a street, City property, property controlled by the City or property for which the City is contracted to enforce parking regulations when there are three (3) or more unpaid parking violations of this Code and the time for appearing or posting bail in Municipal Court specified on the citation(s) has passed or the time for payment of the fine has passed.

SECTION 10.04.085 FAILURE TO PAY-NOTICE OF HEARING-ORDER TO IMMOBILIZE VEHICLE

- (A) Upon the failure of the owner or operator of a vehicle to pay unpaid bail, fines or a combination of bail or fines for three (3) or more parking violation(s) under this Code, notice of said delinquency shall be given to the registered owner of said vehicle as shown by the Department of Motor Vehicles by certified mail. Said registered owner will be given fifteen (15) days from the date of said notice to either post the bail, pay the fine(s), or request a hearing before the Municipal Judge to contest the parking citation(s) received.
- (B) Upon failure of the registered owner to post bail, pay the fine(s), or request a hearing within fifteen (15) days, the Municipal Judge shall issue an Order directing the parking control officer or any other police officer so designated to immobilize the vehicle should said vehicle be found on a City street, City property, property controlled by the City, or property for which the City is contracted to enforce parking regulations as provided in this Code.

SECTION 10.04.090 "BOOT" INSTALLATION

- (A) When a driver, owner or person in charge of a vehicle is cited for violation of Section 10.04.080, fails to respond to notice given as required above, and an Order authorizing immobilization has been signed by the Municipal Judge, the parking officer or any police officer so designated shall:
- (1) Immobilize the vehicle temporarily until 11:00 A.M. of the following day by installing on or attaching to the vehicle a device designed to restrict the normal movement of the vehicle.
 - (2) Conspicuously affix to the vehicle the written notice prescribed in subsection B of this Section.
 - (3) Unless release of the vehicle is arranged by 11:00 A.M. of the following day, remove the vehicle from the street or other public property as provided in section 10.04.110 of this Code.
- (B) The notice required by subsection A of this Section shall contain:
- (1) The name of the Municipal Judge ordering the temporary immobilization.
 - (2) A description of the vehicle and its location.
 - (3) A statement of the reason for the temporary immobilization of the vehicle including a reference to the section of this Code violated.
 - (4) Where to go and how to obtain release of the vehicle.
 - (5) The date and time when the City will have the vehicle towed and stored at the owner's expense, resulting in the sale of the vehicle to satisfy these expenses and unpaid bail and fines if the owner fails to redeem the vehicle.
 - (6) The statement that attempting to remove the immobilization device or removing it, or attempting to remove or removing the vehicle before it is released as authorized by this Code is an offense.
- (C) The parking restrictions of the City shall not apply to a vehicle that has been temporarily immobilized as provided in this Section.
- (D) There shall be assessed a charge of fifty dollars (\$50.00) for "booting" a vehicle in addition to any outstanding fines or other expenses assessed against the vehicle.

SECTION 10.04.095 "BOOT" REMOVAL

- (A) No person other than an officer of the City may remove or attempt to remove a temporary immobilization device or move or attempt to move the vehicle, before it is released by the Police Department or the Clerk of the Municipal Court in accordance with this Section.
- (B) A vehicle shall be released and the temporary immobilization device removed when the owner, operator or person in charge of the vehicle:
 - (1) Posts bail and pays all fines and bail for parking citations issued against the vehicle, its operator or owner; and
 - (2) Pays the fifty dollar (\$50.00) "booting" charge; or
 - (3) Presents clear and convincing information to any employee of the City designated by the Municipal Judge to receive such information, that the present owner of the vehicle did not own the immobilized vehicle at the time the parking citations were issued that established the violation of Section 10.04.080, or that the bail and fines for parking citations that establish the violation of Section 10.04.080 have been paid before the vehicle was temporarily immobilized.
- (C) The City employee designated by the Municipal Judge as provided in subsection B of this Section may for good cause extend the time limit the temporary immobilization device is left attached to a vehicle before it is towed and stored, provided the owner in writing assumes all risk of damage to the vehicle while it remains immobilized. The extension of the time limit shall not exceed an additional twenty-four (24) hours, excluding Sundays and holidays.
- (D) In lieu of proceeding under subsection B and C hereof the owner, operator or person in charge of the vehicle may request that the Municipal Judge rather than his designee conduct a hearing in regard to the relevant issues contained in subsection B and C hereof. Said hearing shall be conducted in an informal manner and as promptly as the court's docket permits.

SECTION 10.04.100 STORAGE OF VEHICLES ON STREETS

- (A) No person, firm or corporation shall store or permit to be stored on a street or other public property without permission of the City Police Department, a vehicle or personal property for a period of excess of forty-eight

(48) hours. It shall constitute prima facie evidence of storage of a vehicle if the same is not moved for a period of twenty-four (24) hours. The continuity of the time shall not be deemed broken by movement of the vehicle elsewhere on the block unless the movement removes the vehicle from the block where it was located before it is returned.

- (B) When a vehicle is found in violation of subsection A of this Section the officer responsible for enforcement of this Section shall:
- (1) Issue a citation for the violation.
 - (2) Make routine investigation to discover the owner and request removal of the vehicle.
 - (3) Failing to discover the owner, make a diligent inquiry with the Oregon Motor Vehicle Division as to the name and address of the owner of the vehicle and mail notice to the owner at the address shown on the Division's records.
 - (4) Place a notice conspicuously on the vehicle.
 - (5) Impound the vehicle and remove it from the public street or property as provided in Section 10.04.110 after complying with the requirements of this Section.
- (C) The notices required in subsection B of this Section shall specify:
- (1) The name of the City employee issuing the notice and how the employee may be contacted.
 - (2) That the vehicle will be impounded as an abandoned vehicle at the owner's expense if not removed within forty-eight (48) hours.
 - (3) That the owner's expense may include in addition to any bail or fine, the costs of towing and storing the vehicle which must be paid before the vehicle will be released and that failure to redeem the vehicle will result in its sale.
 - (4) That the owner of the vehicle may request before the expiration of forty-eight (48) hours.
 - (a) An extension of time in which to move the vehicle not to exceed forty-eight (48) hours. The officer granting the request for an extension shall do so only if the owner has not requested a similar extension in the preceding six (6) months.

- (b) Upon posting the required bail with the Municipal Court, a hearing before the Municipal Judge on the validity of the offense.
- (5) How and where the owner of the vehicle can get information about the opportunity for a hearing.
- (6) If an extension or hearing is requested and the owner fails to remove the vehicle or appear at the hearing, the vehicle will be impounded without another opportunity to be heard except for good cause shown.
- (D) If the owner of the vehicle requests a hearing before the vehicle is impounded and posts bail with the Municipal Court within forty-eight (48) hours of the request for a hearing, the vehicle shall not be impounded until after the hearing.
- (E) The hearing requested by a vehicle owner shall be held as soon as the Court docket allows and, if possible, written notice therefor shall be given to the owner at the time the request is received at the Municipal Court.
- (F) This Section shall not apply to vehicles taken into custody as provided in Sections 10.04.090 and 10.04.105.

SECTION 10.04.105 PROHIBITED STOPPING, STANDING AND PARKING

- (A) No person shall stop, stand or park a vehicle in such a manner or location that it constitutes a hazard to public safety or an obstruction to vehicle, bicycle or pedestrian traffic on the street, which shall include but not be limited to stopping, standing or parking:
 - (1) On a sidewalk.
 - (2) Within an intersection
 - (3) On a crosswalk.
 - (4) Alongside or opposite a street excavation or obstruction when stopping, standing or parking would obstruct traffic.
 - (5) Upon a bridge or other elevated structure used as a street or within a street tunnel.
 - (6) On any railroad tracks or within seven and one-half feet (7.5') of the nearest rail at a time when the parking of vehicles would conflict with railroad operations or repair of the railroad tracks.

- (7) On a throughway.
 - (8) In the area between roadways of a divided highway, including crossovers.
 - (9) In a bicycle lane, unless there is at least three and one-half feet (3.5') of unobstructed bicycle lane between the standing or parked vehicle and the nearest vehicle lane.
 - (10) Any place where official signs or markings prohibit stopping, standing or parking.
- (B) Except to momentarily pick up or discharge a passenger, no person shall stand or park a vehicle in such a manner or location that it constitutes a hazard to public safety or an obstruction to vehicle, bicycle, or pedestrian traffic on the street which shall include but not be limited to standing or parking:
- (1) On the roadway side of a vehicle stopped or parked at the edge or curb of a street.
 - (2) In front of a public or private driveway.
 - (3) Within ten feet (10') of a fire hydrant.
 - (4) Within twenty feet (20') of a crosswalk at an intersection.
 - (5) Within fifty feet (50') upon the approach to an official flashing signal, stop sign, yield sign or traffic control signal located at the side of the street if the standing or parking of the vehicle obstructs the view of the official traffic control device located at the side of the street.
 - (6) Within fifteen feet (15') of the driveway entrance to a fire station and on the side of the street opposite the entrance to the fire station within seventy-five feet (75') of the entrance.
 - (7) Within an area marked by yellow paint on the street or on the curb.
 - (8) On a street or portion thereof designated by official signs as a "Tow-Away-Zone".
 - (9) Other than a motorbus in a bus stop which has been designated by official signs, or other than a taxicab in a taxicab stand which has been designated by official signs, or at any time in interference with any motorbus or taxicab waiting to enter or about to enter the officially designated space.

- (10) A motorbus or taxicab on a street in a business district at a place other than a bus stop or taxicab stand, respectively.
- (C) In the event a vehicle has been found standing or parked in violation of subsection A and B of this Section, in addition to and after issuance of a citation for violation, the vehicle may be removed immediately under the direction of a police officer or parking control officer and impounded according to the provisions of Section 10.04.110.

SECTION 10.04.110 IMPOUNDMENT OF VEHICLES

- (A) When this Code or State law provides for impounding a vehicle, it shall be given a citation and may be removed by or under the direction of a police officer or parking control officer of the City; taken to the City facilities for storing vehicles or to some reputable vehicle storage facility; and kept there until it is redeemed or sold.
- (B) Within forty-eight (48) hours following the impoundment of a vehicle authorized by this Code, the City shall notify the owner and other persons having an interest in the vehicle as shown on the records of the Oregon Motor Vehicle Division of its impoundment as provided in subsections C and D of this Section.
- (C) Notice required by this Section shall be:
 - (1) Sent by certified mail to the owner(s) and person with a financial interest in the vehicle as shown on the records of the Oregon Motor Vehicle Division; and
 - (2) Posted in a public place at or near the location of the vehicle when it was impounded and in a public place at or near the front doors of the Canby City Hall; and
 - (3) If the vehicle exceeds one thousand dollars (\$1,000) in value, published once a week for two (2) consecutive weeks in a daily newspaper of general circulation a summary description of the vehicle, its location at the time of impoundment and who to contact for additional information.
- (D) The notice required in subsection C (1) and (2) of this Section shall specify:
 - (1) The name of the City employee issuing the notice and how the employee may be contacted.
 - (2) The description of the vehicle and the reason it

was impounded, including a reference to the Sections of this Code violated and authorizing the impoundment.

- (3) The place where the vehicle is stored and that the towing and storing of the vehicle is at the owner's expense.
 - (4) Where any person may assert his or her claim of financial interest in the vehicle so long as it is done within thirty (30) days of the date of the notice, and that a failure to do so will constitute a waiver of any financial interest they may claim in the vehicle.
 - (5) How any interested person may secure the release of the vehicle upon posting bail and paying outstanding fines and fees for parking offenses to Municipal Court and upon paying towing and storage fees to the person having custody of the vehicle.
 - (6) The vehicle may be sold or junked if it is not redeemed.
 - (7) Any person securing release of the vehicle may challenge the validity of the citation issued and the creation and amount of the towing and storage charges at the time and place set for the court appearance on the citation issued at impoundment, provided the person securing release of the vehicle had no notice of the opportunity for a hearing under subsection E of Section 10.04.100 of this Code.
- (E) This Section shall not apply to vehicles impounded under the direction of a police officer for:
- (1) Criminal investigative purposes; or
 - (2) For safekeeping when the operator of the vehicle is unable to safely and lawfully park the vehicle.
 - (3) If the owner fails to claim the vehicle within five (5) days after its impoundment or notice of its release from criminal investigations, it shall be impounded, redeemed or sold as provided in this Section

SECTION 10.04.115 IMPOUNDMENT-OWNER'S RESPONSIBILITY

- (A) The owner of a vehicle shall be responsible for the cost of booting, towing, and storage of the vehicle impounded plus the costs of notice and sale as provided in Sections 10.04.090, 10.04.095, 10.04.110, and 10.04.120.

SECTION 10.04.120 IMPOUNDMENT - REVIEW OF IMPOUND FEES

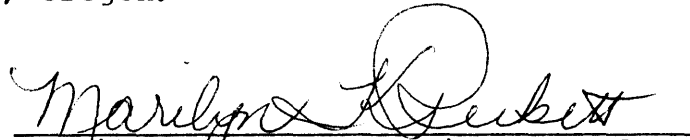
- (A) At the time and place set for court appearance on a citation issued in connection with an impoundment authorized by Section 10.04.110, the Municipal Judge shall hear in addition to any challenge to the validity of the citation, any challenges to the amount of the towing and storage paid or to be paid by the person securing release of the vehicle.

SECTION 10.04.125 PENALTY

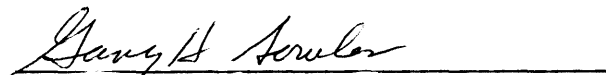
- (A) Violation of any provision of this Code shall be punishable by a fine not to exceed five hundred dollars (\$500) for each violation.

Section 2. An emergency is hereby declared in order to prescribe and update regulations governing parking to better promote the health, safety and welfare of the citizens of the City of Canby, and this ordinance shall take effect immediately upon final reading and action by the Canby City Council.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, November 5, 1986; ordered posted as provided by the Canby City Charter and scheduled for a second reading and action of the City Council at a regular meeting thereof to be held on November 19, 1986, after the hour of 7:30 o'clock p.m. at the Council meeting chambers at the Canby City Hall in Canby, Oregon.


Marilyn K. Perkett, City Recorder

PASSED on final reading of the Canby City Council at a regular meeting thereof on the 19th day of November, 1986, by the following vote: YEAS 6 NAYS 0


Gary Sowles, Acting Mayor

ATTEST:


Marilyn K. Perkett, City Recorder