

ORDINANCE NO. 915

AN ORDINANCE AUTHORIZING THE TOWING OF VEHICLES OPERATED BY AN UNINSURED INDIVIDUAL, ESTABLISHING NOTICE REQUIREMENTS, HEARING PROCEDURES AND SETTING FEES AND COSTS.

WHEREAS, there is an ever increasing problem with vehicles that are operated by individuals that are uninsured; and

WHEREAS, the present Municipal Code is inadequate to meet demands of this problem; and

WHEREAS, in order to protect the health, safety and welfare of the public, regulation of vehicles operated by uninsured individuals is necessary, now therefore

THE CITY OF CANBY ORDAINS AS FOLLOWS:

Section 1. Impounding of Uninsured Vehicles Authorized.

A. A police officer who reasonably believes that a person is operating a motor vehicle on any highway or premises open to the public without either: (1) being insured while driving the vehicle under a motor vehicle liability insurance policy that meets the requirements described under ORS 806.080; or (2) the person or the owner of the vehicle providing the Department of Transportation with other satisfactory proof of compliance with the financial responsibility requirements of this state in violation of ORS 806.010 may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release or the vehicle is ordered released by the Tow Hearings Officer.

B. A vehicle impounded under this ordinance shall be released to a person entitled to lawful possession upon proof of compliance with financial responsibility requirements for the vehicle, payment to the police agency of a fee of fifty (\$50.00) dollars and payment of any towing and storage charges. Proof shall be presented to the Canby Police Department, which shall authorize the person storing the vehicle to release it upon payment of the charges.

Section 2. Notice after Removal.

A. If the Canby Police Department takes custody of a vehicle pursuant to this ordinance, it shall provide, by certified mail within forty-eight (48) hours of the removal, written notice with an explanation of procedures available for obtaining a hearing under Section 3. of this ordinance to the owners of the vehicle and any lessors or security interest holders as shown in the records of the Department of Transportation. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for the release of the vehicle and for obtaining a hearing under Section 3 of this ordinance. The forty-eight (48) hour period under this section does not include holidays, Saturdays or Sundays.

B. Any notice given under this section after a vehicle is taken into custody and removed shall state all of the following:

1. That the Canby Police Department took the vehicle into custody and removed the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and removed.
2. The location of the vehicle or the telephone number and address of the Canby Police Department that will provide the information.
3. That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.
4. That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the Canby Police Department.
5. That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.
6. The time within which a hearing must be requested and the method for requesting a hearing.
7. That the vehicle impounded under this ordinance shall be released to a person entitled to lawful possession upon proof of compliance with financial responsibility requirements for the vehicle, payment to the police agency of a fee of fifty (\$50.00) dollars and payment of any outstanding towing and storage charges.

Section 3. Hearing Before Tow Hearings Officer, Procedure and Costs.

A. A person entitled to lawful possession of a vehicle impounded under this ordinance may request, in writing, a hearing to contest the validity of the impoundment. The written request must be made within five (5) calendar days of the impoundment. The request shall be made to the Chief of Police or his designee.

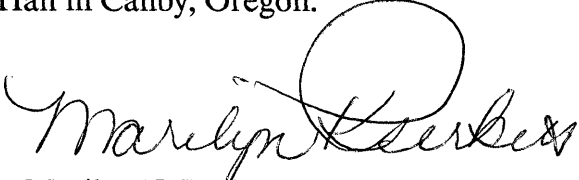
B. When a timely request for a hearing is made, a hearing shall be held before the Tow Hearings Officer designated by the City of Canby. The hearing shall be set within four (4) calendar days after the request is received, excluding Saturdays, Sundays and holidays, but may be postponed at the request of the person asking for the hearing.

C. The Canby Police Department shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of ORS 806.010. The police officer who ordered the vehicle impounded may submit an affidavit to the Tow Hearings Officer in lieu of making a personal appearance at the hearing.

D. If the Tow Hearings Officer finds that the impoundment of the vehicle was proper, he shall enter an order supporting the removal and shall find that the owner or person entitled to possession of the vehicle is liable for usual and customary towing and storage costs. The Tow Hearings Officer may also find the owner or person entitled to possession of the vehicle liable for costs of the hearing.

E. If the Tow Hearings Officer finds that impoundment of the vehicle was improper, the hearings officer shall order the vehicle released to the person entitled to possession and shall enter a finding that the owner or person entitled to possession of the vehicle is not liable for any towing or storage costs resulting from the impoundment. If there is a lien on the vehicle for towing and storage charges, the hearings officer shall order it paid by City of Canby.

SUBMITTED to the Canby City Council and read the first time at a regular meeting thereof on Wednesday, April 6, 1994, ordered posted as provided by the Canby City Charter and scheduled for second reading and action of the Canby City Council at a regular meeting thereof on Wednesday, April 20, 1994, commencing after the hour of 7:30 p.m., in the Council Meeting Chambers at Canby City Hall in Canby, Oregon.


Marilyn K. Perkett
City Recorder

ENACTED by the Canby City council at a regular meeting thereof on April 20, 1994, by the follow vote: YEAS NAY


Scott Taylor, Mayor

ATTEST:


Marilyn K. Perkett
City Recorder