

ORDINANCE NO. 386-0

AN ORDINANCE AMENDING SECTIONS 7.10.300 THRU 7.10.335 OF THE PUBLIC SAFETY CODE.

WHEREAS, said sections should be amended to read Police Officer where City Administrator appears.

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THAT:

Section 1: Sections 7.10.300 thru 7.10.335 shall be amended as follows:

IMPOUNDMENT/TOWING

7.10.300 Abandoned Vehicles Prohibited.

A. No vehicle which the Police Officer has reason to believe is disabled or abandoned shall be parked or left standing for a period in excess of five days upon the right-of-way of any city street or alley or upon any city property.

B. No vehicle which the Police Officer has reason to believe is disabled or abandoned shall be parked or left standing for a period in excess of five days upon the right-of-way of any private street or alley or upon any private property which is used by business licensees, customers or the public.

C. No vehicle which the Police Officer has reason to believe is disabled or abandoned shall be parked or left standing upon private property for a period in excess of 10 days.

D. A vehicle so parked or left standing may be taken into custody by the Police Officer and shall be held at the expense of the owner or person entitled to possession of the vehicle. The Police Officer may utilize his own personnel, equipment and facilities for the removal and preservation of the vehicle, or may hire other personnel, equipment and facilities for that purpose.

7.10.305 Impounding Hazardous Vehicles.

A. It shall be the duty of the Police Officer upon discovering a hazardous vehicle, to immediately cause the vehicle to be towed and impounded.

B. The owner of the vehicle shall be responsible for the cost of towing and storing the vehicle.

7.10.310 Towing and Storage Liens.

A. A person who, at the request to the Police Officer, takes a vehicle into custody under the provisions of this chapter, shall have a lien on the vehicle for the just and reasonable towing and storage charges, may retain possession of the vehicle until the charges are paid, and may have the vehicle sold at public auction to satisfy the lien. The lien that attaches to the vehicle shall be a possessory chattel lien in accordance with ORS 87.152 and shall be foreclosed in the manner provided in ORS 87.152 to 87.212. If the appraised value of the vehicle is \$300 or less, the vehicle shall be disposed of in the manner provided in ORS 483.395.

B. If the vehicle is taken into custody under the provisions of this chapter and held by request, the vehicle shall be disposed of in the manner provided in ORS 483.386 to 483.394.

7.10.315 Pre-Towing Investigation and Notice.

A. It shall be the duty of the Police Officer, whenever a vehicle is found in violation of section 7.10.300, to:

1. Make a routine investigation to discover the owner and request removal of the vehicle; or

2. Failing to discover the owner by such a process, make a diligent inquiry as to the name and address of the owner of the vehicle by examining it for license number, I.D. number, make, style and any other information which will aid in the identification of the ownership, and transmitting all available information pertaining to the vehicle to the Motor Vehicles Division of this State with an inquiry for the name and address of the owner, whenever such vehicle is required by law to be registered with that office.

3. If the owner is identified, mail a notice to the owner at the address shown with the Motor Vehicles Division by registered mail, return receipt requested.

4. Whether or not the owner is identified, place a notice upon the windshield or some other part of the vehicle easily seen by the passing public.

B. This section does not apply to a hazardous vehicle.

7.10.320 Contents of Notice.

A. Notices sent or placed pursuant to section 7.10.315 shall have the following information:

1. The name and badge number of the officer or identification of other city employee issuing the notice.

2. That the vehicle is in violation of a city ordinance, the pertinent provisions of the ordinance, and the facts making the vehicle in violation.

3. That the vehicle will be towed unless the owner moves the vehicle or requests a hearing within ten days of the date of the notice.

4. That the owner of the vehicle may request a hearing on the validity of the proposed tow and the creation and amount of the lien.

5. That any person who, at the request of the Police Officer tows an abandoned vehicle shall have a lien on the vehicle for the just and reasonable towing and storage charges, may retain possession of the vehicle until the charges are paid, and may have the vehicle sold at public auction to satisfy the lien.

6. How and where the owner of the vehicle may get information about the opportunity for a hearing and the location of the vehicle, if it has been towed.

B. If the owner of the vehicle requests a hearing before the vehicle is taken into custody, the vehicle shall not be taken until a hearing is set and held in accordance with sections ____ to ____.

7.10.325 Post-Towing Notice.

A. After an abandoned vehicle has been taken into custody, notice must be provided to the owner indicating:

1. The location of the vehicle.
2. That a lien has arisen on the vehicle in favor of the person who towed the vehicle.
3. That the vehicle may be sold at public auction to satisfy the lien.
4. That a hearing on the validity of the tow and on the creation and amount of the lien may be held, if requested.
5. That at any time prior to the requested hearing, the owner or person entitled to possession of the vehicle may regain possession of the vehicle by posting with the City security in the form of cash in an amount sufficient to cover costs of removing and storage.

B. Notice is deemed given when a certified letter addressed to the registered owner of the vehicle and a similar letter addressed to the legal owner, if any, return receipt requested and postage prepaid thereon, is mailed within 24 hours after the vehicle is taken into possession by or at the direction of the Police Officer.

C. If the vehicle is registered in the office of the Motor Vehicles Division of this state, notice may be addressed to the registered owner and the legal owner, if any, at the latest respective address of each shown by the records in the office of the Motor Vehicles Division. If the vehicle is not so registered, reasonable efforts shall be made to ascertain the names and addresses of the legal owner and persons entitled to possession

of the vehicle so that notice may be mailed, if reasonably possible, within the time period outlined in this section. The owner must request a hearing within five days after receipt of the notice. The request may be made in person or in writing, and failure to appear in person or to mail a letter within five days after receipt of the notice shall act as a waiver of the right to a hearing.

D. The Police Officer shall make reasonable inquiry to discover the telephone number where the owner or person entitled to possession of the vehicle may be reached and shall make reasonable attempts to telephone that person to advise them of the contents of the notice required by this section within 24 hours after the vehicle is taken into possession.

7.10.330 Hearing.

A. Upon request of the legal owner or the person entitled to possession of the vehicle, a hearing shall be held before a hearings officer.

B. The hearing shall be set and conducted within 48 hours of receipt of the request, holidays, Saturdays and Sundays not to be included. The hearing can be set for a later date if the owner or person entitled to possession so requests. At the hearing, the owner may contest:

1. The validity of the action of the Police Officer in taking the vehicle into custody.

2. The creation and amount of the lien attached to the vehicle.

C. The city shall have the burden of showing the validity of the taking of the vehicle.

D. At any time prior to the requested hearing, the owner or the person entitled to possession of the vehicle may regain possession of the vehicle by posting with the city security in the form of cash in an amount sufficient to cover costs of removing and storage.

7.10.335 Decision. If the hearings office finds that:

A. The action of the Police Officer in taking the vehicle into custody was proper, the hearings officer shall enter an order supporting the removal.

B. The action of the Police Officer in taking the vehicle into custody was invalid, the hearings officer shall:

1. Order the vehicle released to the owner.

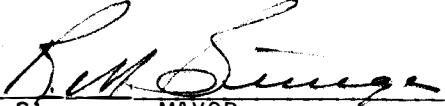
2. Find that the owner is not liable for any towing or storage charges occasioned by the taking.

3. Order the city to satisfy the towing and storage lien.

C. The action of the hearings officer is final.

ADOPTED BY THE COMMON COUNCIL OF THE CITY OF TROUTDALE THIS 8th
DAY OF June 1982.

Yeas: 6
Nays: 0



R.M. Sturges, MAYOR
Date Signed: 6-9-82

ATTEST:



Nancy B. Nixon
FINANCE DIRECTOR/CITY RECORDER