

A BILL FOR AN ORDINANCE AMENDING)	ORDINANCE BILL NO. <u>25</u>
SECTION 10.22.010 OF THE LEBANON)	FOR 2006
MUNICIPAL CODE, VEHICLE TOWING)	
AND IMPOUNDMENT, AND DECLARING)	ORDINANCE NO. <u>2716</u>
AN EMERGENCY)	

WHEREAS, the Ninth Circuit Court of the United States Court of Appeals has decided the case of *Miranda, v. City of Cornelius*, decided November 17, 2005, which concerns the ability of cities to impound vehicles pending a due process hearing; and

WHEREAS, the City Council desires to ensure that the ordinances of the city comply with applicable constitutional principles; and

WHEREAS, the City finds that a procedure for impounding vehicles is important in maintaining the health, safety and welfare of the citizens of the City.

NOW, THEREFORE, THE CITY ORDAINS AS FOLLOWS:

Section 1. Section 10.22.010 of the Lebanon Municipal Code, concerning the towing and impoundment of vehicles, is amended to read as follows:

10.22.010 When vehicle towed and impounded.

1. A. Whenever a traffic citation is issued, or an arrest is made for violation of Oregon Vehicle Code or local traffic ordinances and probable cause exists that the driver's license of the operator of the motor vehicle is suspended or revoked, or probable cause exists that the vehicle or its operator are without liability insurance as required by the financial responsibility laws of the state of Oregon, or probable cause exists that the operator of the motor vehicle was under the influence of intoxicants at the time of operation, **and the vehicle jeopardizes public safety, the efficient movement of vehicular traffic or is a hazard to other drivers, or is a target for vandalism or theft, or if the driver is unable to remove the vehicle from a public location without continuing the illegal operation of the vehicle**, the vehicle shall be impounded, without prior notice, and towed at the owner's expense, and stored at the owner's expense. **In making the decision to order the vehicle towed, the police officer shall consider the location of the vehicle and whether the vehicle is impeding traffic or threatening public safety and convenience of the streets, or the likelihood that the vehicle can be used in an illegal fashion.**

B. Whenever a traffic citation has been issued by the city of Lebanon and the individual cited has not contested the citation, or was determined by the municipal court to be guilty of the infraction for which the individual was cited, and the penalty assessed has not been discharged as required by law, ordinance or the municipal court, then any vehicle owned by such individual, either individually or jointly with others, may be incapacitated with a "booting"

device or be towed and stored at the owner's expense in the manner allowed by the provisions of this code.

C. Vehicles booted or towed under authority of Section 10.22.010(B) shall be released only upon full payment of the original fine amount still owing, towing fee if any, and any additional fee as established by city council resolution. Said payment shall only be by cash, cashier's check, or credit card.

Section 2. Insofar as the towing and impoundment of vehicles within the city under certain conditions are necessary to preserve and protect the public safety, health and welfare for the citizens of the city, an emergency is hereby declared and the provisions of this ordinance shall be effective upon their passage by the City Council

Passed by the Lebanon City Council on the 26 day of July, 2006 by a vote of 4 for and 1 against.


Kenneth I. Toombs, Mayor [X]
Ron Miller, Council President []

ATTEST:


Linda G. Kaser, City Clerk/Recorder