

AN ORDINANCE OF THE CITY OF MILWAUKIE, OREGON, AMENDING CHAPTER 10.40, IMPOUNDING VEHICLES,

WHEREAS, the City of Milwaukie would like to amend their existing Abandoned Vehicles ordinance to provide for the impoundment of vehicles under certain situations other than those already stated in this ordinance; and,

WHEREAS, the Chief of Police recommends impoundment for the offense of driving while uninsured without prior notice to the owner where the manager reasonably believes that the vehicle is not insured; and,

WHEREAS, it would be fair and just for the Police Department to issue warnings about the ordinance to drivers to whom they issue citations for driving uninsured during the thirty days after the ordinance goes into effect; and,

WHEREAS, it would be fair and just for the City, during the first six months of the ordinance, to pay the towing fee and up to three days storage cost incurred in the event the manager, acting in good faith, orders the towing of a vehicle which was, at the time of its towing, insured as required by state law, limited to one time per vehicle and one time per household or business, now; therefore,

The City of Milwaukie does ordain as follows:

Section 1: Chapter 10.40 is amended as follows:

Section 10.40.010 Impounding Vehicles

(A) A vehicle may be towed without prior notice when:

1. The manager reasonably believes the vehicle operator does not possess a valid operator's license and is driving uninsured.
2. The vehicle is abandoned within the public right-of-way where it may be a traffic hazard. In such cases, the manager may have the vehicle towed immediately upon its discovery.

(B) A vehicle may be towed with prior notice when:

1. The vehicle has been abandoned on any public right-of-way in the City or on public property. A vehicle shall be deemed abandoned if it is disabled or left standing for a period in excess of twenty-four (24) hours.

Section 10.40.020 Towing - Lien

(A) Any vehicle in violation of Section 10.40.010 may be towed and held at the owner's expense. Any person towing a vehicle shall have a lien on the vehicle and its contents for just and reasonable towing and storage charges and may retain the vehicle until the charges are paid. A lien on a vehicle valued at over seven hundred fifty dollars may be foreclosed in the manner provided in ORS 87.152 to 87.212. Vehicles valued at seven hundred fifty dollars or less may be disposed of by the manager according to the procedure provided by ORS 483.395. The manager may use the personnel, equipment and facilities of the City for the removal and storage of the vehicle, or may hire a private garage for that purpose.

Section 10.40.030 Notice

(A) After a vehicle has been impounded pursuant to section 10.40.010 (A), notice must be provided to the registered owner, if known, indicating:

1. The location of the vehicle;
2. That a lien has arisen on the vehicle in favor of the person who towed and is storing the vehicle;
3. That the vehicle may be sold at public auction to satisfy the lien; and
4. That a hearing on the validity of the tow may be held upon receipt of request written by the owner.

(B) Before towing any vehicle pursuant to section 10.40.010 (B), the manager shall make a routine investigation to locate the owner. If the owner is known, the manager shall make personal contact or mail notice by certified mail, requesting that the vehicle be moved. If the owner cannot be immediately located or does not remove the vehicle, the manager shall place a notice on the vehicle stating:

1. That the vehicle is in violation of this chapter;
2. That the vehicle must be removed within forty-eight hours (not including weekends or holidays) or it will be towed;
3. That the person towing the vehicle will have a lien on the vehicle and its contents for just and reasonable towing and storage charges and may retain the vehicle until the charges are paid or sell the vehicle to satisfy the towing and storage charges;
4. That the owner may request a hearing on the validity of the tow and the creation and amount of the lien;

5. How and where the owner can get further information.

(D) After the notice required by subsection B of this section has been posted and the owner has still not removed the vehicle or requested a hearing, the police may order the vehicle towed, using the equipment as stated in section 10.40.20 (A).

Section 10.40.040 Notice to owner after towing

(A) The manager shall send notice to the owner by certified mail, if the owner is known, within seventy-two hours after the tow (not including weekends and holidays). If the owner is not known, the notice shall be published once in a newspaper of general circulation in the city not more than ten days after the tow. The notice shall contain:

1. The reason for the tow;
2. The location of the vehicle, current towing and storage charges and an estimate of future charges;
3. A statement that the person towing the vehicle has a lien on the vehicle and its contents for just and reasonable towing and storage charges, may retain the vehicle until the charges are paid and may sell the vehicle to satisfy the lien;
4. The procedure necessary to redeem the vehicle;
5. A statement that the owner may request a hearing on the validity of the tow and on the creation and amount of the lien within five days after receipt of the notice, and that failure to do so shall act as a waiver of the right to a hearing;
6. Information regarding who to contact for further information.

Section 10.40.050 Redemption of vehicle

(A) The owner may redeem a towed vehicle by submitting evidence of ownership and paying all towing and storage charges to the date of redemption. Upon redemption, a receipt shall be issued to the owner and the vehicle released. No redemption will be allowed after the vehicle is sold or disposed of.

Section 10.40.060 Hearing - Request

(A) Upon the request of the owner, a hearing shall be held before the city manager or their designee where the owner may contest the validity of the tow and the creation and amount of the lien. The hearing shall be held within forty-eight hours after

receipt of a written request (not including weekends and holidays), unless requested otherwise by the owner and approved by the city. If a request for hearing is received prior to towing the vehicle, the vehicle shall not be removed pending the outcome of the hearing, unless it constitutes a traffic hazard.

Section 10.40.070 Hearing - Findings

(A) If the hearings officer determines that the tow was invalid, it shall be found that the owner is not liable for any towing and storage charges and order the vehicle released to the owner and the refund of any charges already paid. If the hearings officer finds the tow was valid, it shall be determined that the amount of just and reasonable towing and storage charges which shall be a lien on the vehicle. If the owner does not appear at the hearing, the hearings officer may enter an order supporting the tow and the creation and amount of the lien. The decision of the hearings officer is final.

Section 2: The City Council may by resolution establish time limits for issuing warnings for driving while uninsured and for the payment of towing and storage fees.

Read the first time on August 17, 1993 and moved to second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council on August 17, 1993.

Signed by the Mayor on September 3, 1993.


Mayor

ATTEST:

City Recorder

APPROVED AS TO FORM:


O'Donnell, Ramis, Crew & Corrigan

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