

## VEHICLE IMPOUNDMENT

## 53.100 PURPOSE.

This ordinance is adopted pursuant to the authority of ORS Chapter 203, 368, 810, and 819 for the purpose of promoting the safety of the persons and their property using roads under the jurisdiction of Polk County. [Amended Ord. 09-05.]

## 53.200 IMPOUNDMENT OF VEHICLE.

(1) A police officer who has probable cause to believe that a person, at or just prior to the time that the police officer stops the person, was:

- (a) Driving an uninsured vehicle 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 the release or the vehicle is ordered released by a Hearings Officer.

(2) In addition to the grounds stated in section (1)(a) above, an officer may without prior notice, order a vehicle impounded (subject to release as ordered by a Hearings Officer) if the vehicle is found disabled, abandoned, parked or left standing unattended so as to constitute a hazard or obstruction to motor vehicle traffic using the public roadway. [Enacted Ord. 09-05.]

## 53.205 NOTICE.

Notice that the vehicle has been impounded shall be given to the same parties in the same manner and within the same time limits as provided in ORS 819.180 for notice after removal of a vehicle.

## 53.210 RELEASE AND DISPOSAL.

(1) A vehicle impounded under 53.200 of this ordinance shall be released to a person entitled to lawful possession upon proof that a person with a valid driving privilege will be operating the vehicle, proof of compliance with financial responsibility requirements for the vehicle, payment to the police agency for a fee of \$75, and payment of any towing and storage charges. Proof shall be presented to the impounding police agency, which shall authorize the person storing the vehicle to release it upon payment of the charges. [Amended Ord. 11-06]

(2) Notwithstanding subsection (1) of this section, a person who holds a security interest in the impounded vehicle may obtain release of the vehicle by paying the fees as provided in subsection (1).

(3) If a person entitled to lawful possession does not redeem the impounded vehicle within thirty (30) days after the vehicle is impounded or after the Hearings Officer's written determination, whichever is later, then such vehicle shall be disposed of in accordance with the procedure set forth pursuant to ORS 819.210 through 819.260.

### 53.300 HEARING REQUEST.

A person entitled to lawful possession of an impounded vehicle may request a hearing before the Polk County Hearings Officer to contest the validity of the impoundment. A request must be made within five calendar days of the impoundment. The request shall be made to a person designated by the impounding police agency to receive such requests.

### 53.305 HEARING PROCEDURES.

When a timely request for a hearing is made, a hearing shall be held before the Polk County Hearings Officer or a designee appointed by the Sheriff. The hearing shall be set for four 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. The Hearings Officer shall render a written determination. The Hearings Officer shall provide a copy of the written determination to the person requesting the hearing.

### 53.310 BURDEN OF PROOF.

(1) The impounding police agency shall have the burden of proving by a preponderance of the evidence that there was a probable cause to believe that at or just prior to the time the police officer stopped the person, the person committed an offense as described in 53.200, and/or that the vehicle was a hazard or obstruction to motor vehicle traffic. [Amended by Ord. 09-05.]

(2) The police officer that ordered the vehicle impounded may submit an affidavit or official report to the Hearings Officer in lieu of making a personal appearance at the hearing.

### 53.400 PROPER IMPOUNDMENT.

If the Hearings Officer finds that the impoundment of the vehicle was proper, the Hearings Officer 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 customary towing and storage costs. The Hearings Officer may also find the owner or person entitled to the possession of the vehicle liable for the costs of the hearing. The decision of the Hearings Officer is a final decision.

### 53.405 IMPROPER IMPOUNDMENT.

If the Hearings Officer finds that the impoundment of the vehicle was improper, the Hearings Officer shall order the vehicle released to the person entitled to the possession of the vehicle 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 costs, the Hearings Officer shall order it paid by the impounding police agency. The decision of the Hearings Officer is a final decision.

#### 53.410 WAIVER OF FEE.

If a person entitled to lawful possession of a vehicle impounded under 53.200 sufficiently establishes for the impounding police agency that the vehicle was being operated without the consent of the person entitled to lawful possession at the time that the vehicle was impounded, the impounding police agency may waive the fee of \$75 under 53.210. For purposes of this section, proof that a person entitled to lawful possession of the vehicle reported the vehicle as stolen to a police agency prior to the impoundment of the vehicle shall be strong evidence that the vehicle was being operated without the consent of the person. [Enacted Ord.98-9; amended by Ord. 08-05, Ord. 09-05 and Ord. 11-06]