

AFFIDAVIT OF POSTING

ORDINANCE #158

STATE OF WILSONVILLE )  
COUNTIES OF CLACKAMAS )  
AND WASHINGTON )  
CITY OF WILSONVILLE )

I, the undersigned, City Recorder of the City of Wilsonville, State of Oregon, being first duly sworn on oath depose and say:

On the 15th day of October, 1980, I caused to be posted copies of the attached Ordinance #158, an ordinance establishing procedures for the impounding and disposition of abandoned and hazardous vehicles on City streets, in the following four public and conspicuous places of the City, to wit:

Wilsonville Post Office  
Wilsonville City Hall  
Lowrie's Food Market  
Kopper Kitchen

The ordinance remained posted for more than five (5) consecutive days prior to the time for said public hearing on the 20th day of October, 1980.

  
DEANNA J. THOM, City Recorder

Subscribed and sworn to before  
me this 30th day of October, 1980

  
NOTARY PUBLIC, STATE OF OREGON

My commission expires: May 10, 1981

ORDINANCE NO. 158

AN ORDINANCE ESTABLISHING PROCEDURES FOR THE IMPOUNDING AND DISPOSITION OF ABANDONED AND HAZARDOUS VEHICLES ON CITY STREETS

THE CITY OF WILSONVILLE DOES ORDAIN AS FOLLOWS:

Section 1. Definitions. As used in this ordinance, unless the context requires otherwise, the following words and phrases mean:

Abandoned vehicle. A vehicle left unoccupied or unclaimed or in a damaged or dismantled condition such that the vehicle is inoperable and/or related auto parts thereto.

Police. Any authorized law enforcement officer of the City.

Hazardous Vehicle. A vehicle left in a location or condition such as to constitute an immediate and continuous hazard to the safety of persons using the streets within the City. For example, and not by limitation, the following are hazardous vehicles:

(1) Vehicles blocking public or private right-of-ways.

(2) Vehicles with leaks in gas tanks.

(3) Vehicles blocking fire hydrants.

Owner. A person with a claim, either individually or jointly, or ownership of any interest, legal or equitable, in a vehicle.

Private Garage. A reputable, private storage yard, garage, or other storage place selected by the City Administrator.

Vehicle. Every device in, upon or by which a person or property is or may be transported or drawn upon a public highway, except devices moved exclusively by human power or used exclusively upon stationary rails or tacks.

Section 2. Abandoned Vehicles Prohibited.

(1) No vehicle which the Police have reason to believe is disabled or abandoned shall be parked or left standing upon the right-of-way of any City street or alley or upon any City property for a period in excess of five days.

(2) A vehicle so parked or left standing may be taken into custody by the Police as set forth in Section 38, Traffic Control Commission Order No.3, and shall be held at the expense of the owner or person entitled to possession of the vehicle. The Police may utilize its own personnel, equipment and facilities for the removal and preservation of the vehicle, or may hire other personnel, equipment, and facilities for that purpose.

Section 3. Impounding Hazardous Vehicles.

(1) It shall be the duty of the Police, upon discovering a hazardous vehicle, to order the owner or operator of the vehicle to remove it, and if the vehicle is unattended, to immediately cause the vehicle to be towed and impounded.

(2) The owner of the vehicle shall be responsible for the cost of towing and storing the vehicle.

Section 4. Towing and Storage Liens.

(1) A person who, at the request of the Police, takes a vehicle into custody under the provisions of this ordinance, 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.

(2) If the vehicle is taken into custody under the provisions of this ordinance and held by the Police, rather than by private garage, the vehicle shall be disposed of in the manner provided in ORS 483.386 to 483.394.

Section 5. Pre-Towing Investigation and Notice.

(1) It shall be the duty of the Police, whenever a vehicle is found in violation of Section 2 to:

(a) Make a routine investigation to discover the owner and request removal of the vehicle; or

(b) 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.

(c) If the owner is identified, mail a notice to the owner at the address shown with the Motor Vehicles Division.

(d) 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.

(2) This section does not apply to a hazardous vehicle.

Section 6. Contents of Notice.

(1) Notices sent or placed under Section 5 shall have the following information:

(a) The name and badge number of the officer issuing the notice.

(b) That if the vehicle is not removed within the legal time limit, the vehicle will be towed and taken into custody as an abandoned vehicle.

(c) That any person who, at the request of the Police, 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.

(d) That the owner of the vehicle may request a hearing on the validity of the proposed tow.

(e) 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.

(2) 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 Section 8.

#### Section 7. Post-Towing Notice.

(1) After an abandoned vehicle has been taken into custody, notice must be provided to the owner indicating:

(a) The location of the vehicle;

(b) That a lien has arisen on the vehicle in favor of the person who towed the vehicle;

(c) That the vehicle may be sold at public auction to satisfy the lien; and

(d) That a hearing on the validity of the tow and on the amount of the charges for the tow may be held, if requested;

(e) That the owner may regain possession of the vehicle by payment of the towing and storage charges;

(f) That if the validity of the tow or the charges are not upheld at the hearing, the owner will be entitled to a refund of the amount of towing and storage charges found to be unreasonable.

(2) Notice is deemed given when a certified letter addressed to the 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.

(3) 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.

Section 8. Hearing.

(1) Upon request of the legal owner or the person entitled to possession of the vehicle, a hearing shall be held before the Municipal Judge.

(2) If possible, the hearing will 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:

(a) The validity of the action of the Police in taking the vehicle into custody; and

(b) The creation and amount of the lien attached to the vehicle.

(c) In a pre-tow hearing, whether the vehicle is abandoned or not.

(3) The City shall have the burden of showing the validity of the taking of the vehicle.

(4) 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 payment of the towing and storage charges.

Section 9. Decision. If the Municipal Judge finds that:

(1) The action of the Police in taking the vehicle into custody was proper, the Municipal Judge shall enter an order supporting the removal and establishing the reasonable charges therefor.

(2) The action of the Police in taking the vehicle into custody was invalid, the Judge shall:

(a) Order the vehicle released to the owner;

(b) Find that the owner is not liable for any towing or storage charges occasioned by the taking; and

(c) Order the City to satisfy the towing and storage lien and refund to the owner towing and storage charges which have been paid.

(3) The action of the Municipal Judge is final.

Section 10. Failure to Appear. If the person requesting the hearing does not appear at the scheduled hearing the Judge may enter an order supporting the removal and assessment of towing and storage costs and apply any security posted against such costs.

Section 11. Emergency. There are presently vehicles abandoned on the City streets and it is in the interest of the public health, safety and welfare that they be removed. Therefore, an emergency is hereby declared to exist so that the terms and provisions of this ordinance shall become effective immediately upon its adoption by the council and approved by the Major under the provisions of the Charter of the City.


General

Section 12. Severability Clause. If a portion of this ordinance is for any reason held to be invalid, such decision shall not affect validity of the remaining portions of this ordinance.

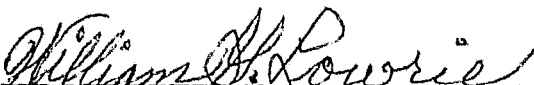
Section 13. Enactment. Submitted to the Council and read for the first time at a regular meeting of the Council on the 6th day of October, 1980, and scheduled for second reading at a regular meeting of the Council on the 20th day of October, 1980, commencing at the hour of 7:30 o'clock P.M., at the Council's regular meeting place at the Wilsonville City Hall.

  
DEANNA J. THOM, City Recorder

Enacted by the Council on the 20<sup>th</sup> day of Oct., 1980, by the following vote: YEAS 5 NAYS 0

  
DEANNA J. THOM, City Recorder

Dated and signed by the Mayor this 21<sup>st</sup> day of October, 1980.

  
WILLIAM G. LOWRIE, Mayor