

TIGARD MUNICIPAL CODE

Chapter 7.60 ABANDONED VEHICLES.

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7.60.010 Definitions.

A. As used in this chapter, unless the context requires otherwise:

1. "Abandoned" or "abandoned vehicle" means any vehicle that has been deserted or relinquished. A vehicle shall be considered abandoned if it has remained in the same location for more than twenty-four hours and one or more of the following conditions exist:

- a. The vehicle has an expired license plate; or
- b. The vehicle appears to be inoperative or disabled; or
- c. The vehicle appears to be wrecked,

partially dismantled or junked; or

d. The vehicle appears to have been "stored" as that term is defined in Section 10.28.022(3) of this Code; or

e. The vehicle has remained in the same position, or within the five hundred foot radius of its earlier position, for a period of at least thirty (30) days.

2. "City" means the City of Tigard.

3. "Costs" means all expenses associated with the towing, storing and selling a vehicle in violation of Section 7.60.015.

4. "Chief of Police" includes the Chief, designee of the Chief or any authorized law enforcement officer of the City, including code enforcement officers.

5. "Owner" means any individual, firm, corporation or unincorporated association, partnership, limited liability company or other entity with a claim, either individually or jointly, of ownership or any interest of record, legal or equitable, in a vehicle.

6. "Vehicle" means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices used exclusively upon stationary rails or tracks. (Ord. 97-04; Ord. 92-31 §1, 1992; Ord. 90-04 §1, 1990; Ord. 73-24 §1, 1973).

7.60.015 Abandoned Vehicles--Offense.

1. It shall be unlawful for any person to abandon a vehicle on any public right of way or other public property within the City of Tigard. The owner(s) of the vehicle shall be responsible for any and all monies incurred or charges associated with the cost of the removal, storage, detention, maintenance and disposition of the

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abandoned vehicle.

2. Except for those vehicles subject to the provisions of subsection 3 below, a vehicle found to be in violation of subsection 1 above, is subject to the provisions for notice, removal, impoundment and disposition as provided for under 7.60.020, 7.60.030, 7.60.050, and 7.60.070 to 7.60.110 of this Chapter.

3. In the event a vehicle is abandoned upon a public right of way or on public property which vehicles has, on two prior occasions within a one (1) year period, been identified by the Chief of Police as abandoned and the owner thereof has been given notice consistent with the terms of Section 7.60.020 on both prior occasions, then the vehicle is deemed to be a threat to the traveling public and can therefore be immediately towed and impounded by the City without prior notice to the owner or apparent owner thereof. However, notice consistent with 7.60.050 shall be sent to the owner/apparent owner thereof within forty-eight (48) hours of the impoundment, excluding Saturdays, Sundays and legal holidays.

4. The violation of this Chapter is a Class B traffic infraction. (Ord. 97-04; Ord. 90-04 §1, 1990).

7.60.020 Removal--Notice.

A. It shall be the duty of the Chief of Police, whenever a vehicle is found abandoned on any public right-of-way or public property, to determine the owner(s) thereof, by any reasonable means necessary including but not limited to examining the records of the appropriate Department of Motor Vehicles.

B. If a vehicle is found abandoned as described above, the City shall give notice to remove the vehicle by both the following methods:

1. By affixing a notice to tow the vehicle

with the information set out in subsection C. below; and

2. By mailing notice, by certified mail with the receipt stamped as proof of mailing, at least five (5) days prior to towing the vehicle. The five-day period under this paragraph does not include holidays, Saturdays or Sundays.

C. The notice referenced in subsection B. above shall state:

1. That the vehicle violates Chapter 7.60 of this the Tigard Municipal Code and as a result, is subject to being towed and impounded if the vehicle is not removed within twenty-four hours.

2. That the vehicle, if towed and impounded, will be subject to towing, storage and other related charges and costs and may be sold to satisfy those charges.

3. That the owner or lawful possessor having an interest in the vehicle is entitled to a hearing, to contest the proposed tow and the reasonableness of any charge resulting from the tow as well as for any cost of impoundment.

4. That a hearing must be requested within five (5) business days of the mailing date of the notice.

D. In the event a vehicle is abandoned in a location or manner as to constitute an imminent or immediate hazard or obstruction to traffic, the Chief of Police may immediately take custody of and remove said vehicle without giving the notice provided for above prior to the tow and impoundment. (Ord. 97-04; Ord. 90-04 §3, 1990; Ord. 73-24 §2, 1973).

7.60.030 Removal--Procedure.

A. An abandoned vehicle which remains in the same position, or remains within a five hundred

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foot radius of its earlier position for a period of five days (holidays, Saturdays and Sundays not included) after an owner has been requested to remove it or after notice has been served as required by Section 7.60.020, may be removed by the police department using their own personnel, equipment or facilities or those of others. (Ord. 97-04; Ord. 92-31 §2, 1992; Ord. 90-04 §4, 1990; Ord. 73-24 §3, 1973).

7.60.040 Information Provided By Tower.

A. A person who tows a vehicle at the request of the City shall provide notice to the person claiming the vehicle, containing the following information:

1. That the vehicle has been towed for violation of the Tigard Municipal Code; and
2. That a hearing may be requested to contest the validity of the tow, the time within which to make the request, and the method for making the request.

B. Each person who redeems a vehicle shall sign a copy of the receipt issued, indicating that they have received notice of their right to a hearing. (Ord. 97-04; Ord. 90-04 §5, 1990; Ord. 73-24 §4, 1973).

7.60.050 Impoundment--Notice.

A. If the City takes custody of a vehicle, it shall provide, by certified mail with the receipt stamped as proof of mailing, within forty-eight hours of the removal, notice to the owners of the vehicle as shown in the records of the Department of Motor Vehicles of the availability of a right to a hearing to contest the towing and impoundment. The forty-eight hour period does not include holidays, Saturdays or Sundays.

B. Any notice given under this section after a

vehicle is taken into custody and removed shall state all of the following:

1. That the vehicle has been impounded as a result of its violation of Chapter 7.60 of the Tigard Municipal Code;

2. The place where the vehicle is impounded or the telephone number and address of the appropriate authority that will provide the information;

3. That the vehicle is subject to towing and storage charges as well as the accruing rate for the daily storage charges;

4. That the vehicle and its contents are subject to lien for payment of the towing and storage charges and that the vehicle and its contents may be sold by the City or the towing and storage facility to cover the charges if the charges are not paid within fifteen (15) days;

5. That the owner of the vehicle and/or its contents is entitled to a prompt hearing to contest the validity of custody and the reasonableness of the charges therefor;

6. That the hearing must be requested not more than five (5) days, (holidays, Saturdays or Sundays not included), from the mailing date of the notice and the method for requesting a hearing;

7. That the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and payment of all the accrued towing and storage charges. (Ord. 97-04; Ord. 90-04 §6, 1990; Ord. 73-24 §5, 1973).

7.60.055 Hearing To Contest Validity Of Custody And Removal.

A. An owner or any other person who

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reasonably appears to have an interest in the vehicle may request a hearing to contest the validity of the tow and/or impoundment of a vehicle by submitting a written request for hearing with the City not more than five (5) days from the mailing date of the notice. The request shall state the reason(s) why the owner or other interested person believes that tow and/or impoundment is or would be improper. A hearing shall comply with all of the following:

1. Upon receipt of a proper request for a hearing, the City shall set a time for a hearing within seventy-two (72) hours of the receipt of the request and shall provide notice of the hearing to the owners of the vehicle. The seventy-two hour period in this subsection does not include holidays, Saturdays or Sundays.

2. Hearings held under this section may be informal in nature, but shall afford a reasonable opportunity for the person requesting the hearing to demonstrate by the statements of witnesses and other evidence, that the tow and/or storage of the vehicle was invalid, or for any other reason not justified.

3. The City shall provide a written statement of the results of the hearing to the person requesting the hearing.

4. If the City finds after a hearing that the custody and removal of a vehicle was:

a. Invalid, the City shall order the immediate release of the vehicle to the owner or other person who demonstrates a right to possession of the vehicle. If the vehicle is ordered released, the person to whom the vehicle is released is not liable for any predecision towing or storage charges. If the person has paid the towing and storage charges, the City shall reimburse the person for the payment. The person shall be liable for storage charges incurred more than twenty-four hours after the time the vehicle is officially

ordered released to the person.

b. Valid, the City shall order the vehicle be held until the costs of the hearing and all towing and storage costs are paid. If the vehicle has not yet been removed, the City shall order its removal.

5. A person failing to appear at a hearing is not entitled to another hearing unless the person provides the City satisfactory proof for the person's failure to appear.

6. The City is only required to provide one (1) hearing each time it proposes to or takes a vehicle into custody and thereafter removes the vehicle.

7. The Hearings Officer may be an officer, official or employee of the City, other than the City police department, but may not have participated in any determination or investigation related to the tow and/or impoundment of the vehicle. The Hearings Officer may promulgate rules for conducting hearings.

8. The determination of the Hearings Officer at a hearing is final and not subject to appeal. (Ord. 97-04; Ord. 90-04 §7, 1990).

7.60.057 Exemption For Criminal Investigation.

A vehicle that is being held as part of any criminal investigation is not subject to any requirements of Section 7.60.020, 7.60.050 and 7.60.055. (Ord. 97-04; Ord. 90-04 §8, 1990).

7.60.060 Appraisals.

A person who is issued an appraiser certificate by the Department of Motor Vehicles shall be the only person qualified to appraise vehicles for sale under Sections 7.60.070 and 7.60.080 through 7.60.090. (Ord. 97-04; Ord. 90-

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04 §9, 1990: Ord. 73-24 §6, 1973).

7.60.070 Vehicles--Disposition.

A. As often as necessary, the Chief of Police shall be provided with a list of all unclaimed vehicles which have been towed and stored by or for the City.

1. If the vehicle has been stored for more than fifteen (15) days and has been appraised at seven hundred fifty dollars (\$750) or less, or has been in storage for thirty (30) days or longer, the Chief of Police shall as soon as convenient, authorize the sale of the vehicle in accordance with the provisions of any contract pertaining thereto. If there is no contract, the Chief of Police shall file with the Department of Motor Vehicles the license plates, if any, and an affidavit describing the vehicle, stating the location and appraised value of the vehicle, and stating that the vehicle will be junked or dismantled. The Chief of Police or designee shall state that notice of intent to junk or dismantle the vehicle has been sent with notification of the location of the vehicle to the owner.

2. Failure of the owner to reclaim the vehicle within fifteen (15) days after the date notification is mailed shall constitute a waiver of his interest in the vehicle.

3. Upon completion and forwarding of the affidavit and expiration of the time period stated in subsection 2. of this section, the Chief of Police may, without notice and public auction, dispose of the vehicle and execute a certificate of sale.

4. The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. 73-_____ entitled 'An Ordinance

Providing for the Impounding and Disposition of Abandoned Vehicles', I did on the ___ day of 19___, sell to _____, for the sum of \$_____ cash, the following described personal property, to-wit:

(Brief description of property)

Dated this _____ day of _____, 19___.

Note: The City of Tigard assumes no responsibility as to the condition of title of the above described property. In case this sale shall for any reason be invalid, the liability of the City of Tigard is limited to the return of the purchase price.

5. In the event a vehicle is sold in accordance with the provisions of a contract, the Chief of Police shall ensure that, at the time of sale, that a certificate of sale in substantially the same form as described in subsection 4. of this section is issued to the purchaser. (Ord. 97-04; Ord. 90-04 §§10, 11, 1990; Ord. 73-24 §7, 1973).

7.60.080 Sale--Notice.

A. The Chief of Police may decide to sell at public auction any vehicle which has not been claimed within thirty (30) days and which is valued at seven hundred fifty dollars (\$750) or more, if there is no contract authorized by the Council pertaining thereto. If there is to be a public auction, the Chief of Police shall cause to be published, in a newspaper of general circulation within the City, a notice of sale which shall state:

1. The sale is of abandoned property in the City's possession;

2. A description of the vehicle, including the type, make, license number, I.D. number and any other information which will aid in accurately identifying the vehicle;

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- 3. The terms of the sale;
- 4. The date, time and place of the sale.

B. The notice of sale shall be published two times. The first publication shall be made not less than ten (10) days prior to the date of the proposed sale, and the second shall be made not less than three (3) days prior to the date of the proposed sale. (Ord. 97-04; Ord. 90-04 §12, 1990; Ord. 73-24 §8, 1973).

7.60.090 Sale--Procedure.

A. If the Chief of Police decides to sell any vehicles under the provisions of Section 7.60.080, the sale shall be at the time and place appointed with the vehicle to be sold in view.

B. The vehicle shall be sold to the highest bidder, providing that if no bids are entered, or those bids which are entered, are less than the costs incurred by the City, the Chief of Police may enter in his discretion a bid on behalf of the City in an amount equal to such costs.

C. At the time of payment of the purchase price, the Chief of Police shall execute a certificate of sale, in triplicate, the original of which shall be delivered to the purchaser, a copy thereof filed with the City Recorder, and a copy transmitted to the Oregon Department of Motor Vehicles.

D. The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. 73-___ entitled, 'An Ordinance Providing for the Impounding and Disposition of Abandoned Vehicles', and pursuant to due notice of the time and place of sale, I did on the ___ day of ___, 19___, sell at public auction to _____, for the sum of \$ _____ cash, he being the

highest bidder, and that being the highest and best sum bid therefor, the following described personal property, to-wit:

(Brief description of the property)

And in consideration of the payment of the said sum of \$_____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this ___ day of ___, 19__.

Note: The City of Tigard assumes no responsibility as to the condition of title of the above described property. In case this sale shall for any reason be invalid, the liability of the City of Tigard is limited to the return of the purchase price. (Ord. 97-04; Ord. 90-04 §13, 1990; Ord. 73-24 §9, 1973).

7.60.100 Redemption Before Sale.

A. An owner may redeem a vehicle impounded under the provisions of this Chapter, before a sale or disposition has taken place, by applying to the Chief of Police. The redemption application shall include:

1. Evidence satisfactory to the Chief of Police of the applicant's ownership or other interest in the vehicle, that such claim is rightful; and

2. Pay any and all costs associated with the towing and storage of the vehicle due and owing at the time the application is made.

B. Upon compliance with subsection A of this section, the Chief of Police shall execute a receipt for the owner and cause the vehicle to be returned to him. (Ord. 97-04; Ord. 73-24 §10, 1973).

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7.60.110 Sale--Proceeds Disposition.

A. Upon a sale being consummated, the Chief of Police shall deliver the vehicle and the certificate of sale to the purchaser. The sale and conveyance shall be without redemption.

B. The proceeds of a sale shall be applied:

1. To payment of costs incurred by the City; and

2. The balance, if any, shall be transferred to the City Recorder, to be credited to the general fund of the City. (Ord. 97-04; Ord. 73-24 §11, 1973).

7.60.120 Application.

This Chapter shall apply to all abandoned vehicles now in the possession of the City, as well as to abandoned vehicles that are hereafter impounded. (Ord. 97-04; Ord. 73-24 §12, 1973).

7.60.130 Charges.

A person or owner entitled to a vehicle held under the provisions of this Chapter is not liable for nor shall be required to pay storage charges for a period in excess of sixty (60) days. (Ord. 97-04; Ord. 90-04 §14, 1990; Ord. 73-24 §13, 1973).

7.60.140 Forms.

All forms necessary to implement and enforce the provisions of this Chapter shall be prepared and on file in the City Recorder's office. (Ord. 97-04; Ord. 90-04 §15, 1990; Ord. 73-24 §14, 1973).

7.60.150 Claim Of Owner To Proceeds.

A. If the vehicle is sold by the Chief of Police under the provisions of Sections 7.60.070 or 7.60.080 and 7.60.090, then at any time within

two (2) years after the sale of the vehicle the former owner of the vehicle may recover the proceeds of the sale, as deposited in the general fund of the City pursuant to section 7.60.110, by filing a claim with the City Treasurer. Such claims shall be audited in the same manner as other claims against the City.

B. If the vehicle is sold under the provisions of a contract, the balance of the proceeds of the sale, with a return of sale, shall be transmitted to the City Treasurer for deposit in the general fund of the City. The towing and storage facility under contract may deduct from the proceeds of the sale the costs incurred in the sale and the costs and expenses in the removal, preservation and custody of the vehicle. At any time within two (2) years after the sale of the vehicle the former owner of the vehicle may recover the proceeds of the sale, as deposited in the general fund of the City, by filing a claim with the City Treasurer. (Ord. 97-04; Ord. 90-04 §16, 1990; Ord. 73-24 §15, 1973).■