

ORDINANCE NO. A-202

AN ORDINANCE CONCERNING THE IMPOUNDMENT OF MOTOR VEHICLES, ESTABLISHING PROCEDURES THEREFORE, AUTHORIZING THE INVENTORY OF THE CONTENTS OF AN IMPOUNDED VEHICLE, REPEALING CONFLICTING ORDINANCES, AND DECLARING AN EMERGENCY TO EXIST

THE CITY OF COBURG ORDAINS AS FOLLOWS:

SECTION 1. PURPOSE

Under the laws of the State of Oregon, the ordinances of the City of Coburg or other lawful authority, the City of Coburg is sometimes authorized or required to impound motor vehicles, or to provide custodial care of vehicles or other personal property. This ordinance establishes the process to be followed in such circumstances and authorizes the establishment of fees for impoundment.

SECTION 2. IMPOUNDMENT OF VEHICLES

Whenever state law or an ordinance of the City of Coburg provides for the impoundment of a vehicle, it shall be removed under the direction of a police officer and taken to an appropriate facility. The Chief of Police may establish special procedures for vehicles impounded under the direction of a police officer for criminal investigation purposes, or for safekeeping when the operator of the vehicle is unable to safely and lawfully park the vehicle. No vehicle shall be released from impoundment unless an Impounded Vehicle Release Authorization form has been properly prepared and signed.

SECTION 3. NOTICE AND OTHER PROCEDURES

A. The Coburg Chief of Police, or other person designated by the Mayor, shall establish procedures consistent with this Ordinance governing the impoundment and subsequent release of vehicles, including policies to guarantee that notice of impoundment is provided in accordance with the federal constitutional requirement of due process of law.

B. Any person provided notice of an impoundment, or any other person entitled to lawful possession of an impounded vehicle may request a hearing to contest the validity of the removal and custody of the vehicle. Except where otherwise provided by law, a request for a hearing to contest the validity of the removal and impoundment must be filed, in writing, with the Coburg Police Department within ten (10) days of the date notice of the impoundment is mailed. When a timely request for a hearing is made, a hearing shall be held before the Coburg municipal court. The hearing shall be held within ten (10) days of the date the request for hearing is filed. Procedures and the authority of the court shall otherwise be as set forth in ORS 809.716 for impounded vehicle hearings.

C. The Chief of Police, or other designee, shall prepare an Impounded Vehicle Release Authorization form. No vehicle shall be released from impoundment without a valid, signed Impounded Vehicle Release Authorization form. A copy of the inventory developed pursuant to Section 4 of this ordinance shall be attached to the Impounded Vehicle Release Authorization. Except where otherwise required by law all inventoried property shall be returned when an Impounded Vehicle Release Authorization is issued and the owner signs a receipt acknowledging delivery of items on the inventory authorized pursuant to Section 4 of this ordinance.

SECTION 4. IMPOUNDMENT – INVENTORY

When a vehicle has been lawfully taken into custody or impounded, including when a vehicle is impounded under the direction of a police officer for criminal investigation purposes, or for safekeeping when the operator of the vehicle is unable to safely and lawfully park the vehicle, the contents of the vehicle shall be inventoried. Such an inventory shall be carried out as soon as it is safe and prudent to do so. An inventory conducted pursuant to this section shall be made for the following purposes:

- a) To ensure the protection of the owner's property while it is impounded;
- b) To reduce the potential assertion of false claims against the City or other persons for lost, stolen or damaged property; and
- c) To reduce the danger to police officers and others from the impoundment of uninventoried property.

The Chief of Police or other person designated by the Mayor shall adopt an administrative program for inventories conducted pursuant to this section. These internal policies shall be designed and administered so that the inventories are conducted for the purposes set forth in this section and under specific guidelines which ensure that the inventory involves no exercise of discretion by the person directing or taking the inventory.

SECTION 5. IMPOUNDMENT FEES AND RELEASE OF IMPOUNDED VEHICLES

In addition to all other charges or impositions which may be imposed on and collected from the owners of impounded vehicles, the City shall charge a fee for the release of any vehicle from impoundment. This fee shall recover the city's costs related to impoundment, inventory and release of an impounded vehicle. Until modified by a resolution of the City Council, the fee shall be set at \$110 for each impounded vehicle and the inventoried contents of the vehicle.

Impounded Vehicle Release Authorization forms will only be issued by Police Personnel and then only when all mandatory conditions for release are met including payment of fees. All payments required pursuant to this ordinance shall be made to the City Recorder, or to such other city employee that the Mayor may designate, who shall issue a receipt therefore. The City Recorder shall insure that full and accurate books and records of all such transactions are kept and maintained.

SECTION 6. IMPOUNDMENT – OWNER'S RESPONSIBILITY AND LIEN

The owner of a vehicle shall be responsible for the cost of impoundment, towing and storage of any vehicle impounded, plus the cost of disposal of the vehicle, should such become necessary. The owner's responsibility for costs associated with the impoundment of a vehicle also extends to any property found in the vehicle.

Any vehicle impounded by, or within the custodial care of the City for which a fee, charge, cost or expense authorized by this Ordinance or other law has been allowed by the owner of the vehicle to accrue for longer than 30 days shall have imposed thereupon a lien in favor of the City which may be satisfied or foreclosed as provided by law.

SECTION 7. REPEAL

Ordinance A-180 is repealed, and any other ordinance, or part thereof, which touches on the process of impoundment of vehicles, or otherwise concerns the subject matter of this ordinance is hereby repealed to the extent that any difference or conflict exists.

SECTION 8. SEVERABILITY

The sections or subsections of this ordinance are severable to the extent allowed by law. The invalidity of a section or subsection shall not affect the validity of the remaining sections or subsections of this ordinance, which shall remain in full force and effect.

SECTION 9. EMERGENCY DECLARED

Whereas it is necessary for the general welfare of the citizens of the City of Coburg that the procedures for impoundment of vehicles, and the fees therefore, be set so that the City may conduct impoundments in accordance with all applicable laws in a manner that will provide the best and safest methods of impoundment, an emergency is hereby declared to exist, and this ordinance shall take effect immediately upon its passage by the City Council and approval by the Mayor.

The foregoing ordinance was, by City Council consent, after public notice, public hearing and Council deliberations, read twice by title only in accordance with the City Charter on the 21st day of February, 2006, whereupon it was put to a vote, the results of which were:

YES: _____

NO: _____

ABSTAIN: _____

PASSED: _____

REJECTED: _____

SIGNED AND APPROVED this _____ day of _____, 2006

Judith A Volta, Mayor

ATTEST:

David Landrum, City Recorder