

ORDINANCE NO. 5249

AN ORDINANCE AMENDING THE ALBANY MUNICIPAL CODE CHAPTER 13.70 ABANDONED VEHICLES, SPECIFICALLY AMENDING SECTIONS 13.70.040 (1) TOWING AND STORAGE LIENS, 13.70.050 (1C) PRE-TOWING INVESTIGATION AND NOTICE, 13.70.060 (7) CONTENTS OF PRE-TOWING NOTICE, AND 13.70.070 (G) POST-TOWING NOTICE, TO COMPLY WITH STATE STATUTE REVISIONS, AND DECLARING AN EMERGENCY.

WHEREAS, the City of Albany established Albany Municipal Code Section 13.70, Abandoned Vehicles, to remove disabled or abandoned vehicles from the public right of way.

WHEREAS, Oregon Revised Statutes have been revised to reduce the waiting period after initial owner notification before towing and disposing of abandoned vehicle after removal.

WHEREAS, Oregon Revised Statutes have been revised to allow the pre-towing notice to be affixed to the abandoned vehicle rather than mail the notice to the owner.

NOW THEREFORE, THE PEOPLE OF THE CITY OF ALBANY DO ORDAIN AS FOLLOWS:

Section 1. Amending Albany Municipal Code Chapter 13.70 Abandoned Vehicles. Albany Municipal Code Chapter 13.70 Abandoned Vehicles, specifically amending Sections 13.70.040 (1) Towing and Storage Liens, 13.70.050 (1c) Pre-Towing Investigation and Notice, 13.70.060 (7) Contents of Pre-Towing Notice, and 13.70.070 (1g) Post-Towing Notice are hereby amended as follows:

13.70.040 Towing and storage liens.

(1) A person who, at the request of the Chief of Police, takes a vehicle into custody under the provisions of this chapter shall have a lien on the vehicle and its contents for 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 and its contents shall be a possessory chattel lien in accordance with ORS 87.152 and may be foreclosed in the manner provided in ORS 87.152 to 87.212. If the appraised value of the vehicle is ~~\$1,000~~ \$750.00 or less, the vehicle may be disposed of in the manner provided in ORS 819.220.

13.70.050 Pre-towing investigation and notice.

~~(c) Mail a pre-towing notice to the owner at the address shown on the Division records at least five days (excluding Saturday, Sunday, and holidays) before towing.~~
(c) Whether or not the owner is identified, affix place a pre-tow notice upon the vehicle where it can be easily seen.

13.70.060 Contents of pre-towing notice.

Notices sent or placed under Section 13.70.050 shall contain the following information:

(7) Contact the Albany Chief of Police in writing not more than five days (excluding Saturday, Sunday, and holidays) from the mailing date of the notice. The request must state grounds as to why the custody and removal is not justified.

13.70.070 Post-towing notice.

(g) That the vehicle and its contents may be reclaimed by presenting proof of ownership, ~~to the Albany Police Department and~~ payment of towing and storage charges, or the deposit of cash security, or a bond equal to the charges, with the ~~appropriate authority~~ Albany Police Department.

Section 2: Emergency Clause. Inasmuch as this ordinance is necessary for the immediate preservation of the peace, health, and safety of the citizens of the city of Albany, Oregon, an emergency is hereby declared to exist; and this ordinance shall be in full force and effect immediately upon its passage by the Council.

Passed by Council: June 26, 1996

Approved by Mayor: June 26, 1996

Effective Date: June 26, 1996



Mayor

ATTEST:



City Recorder

Chapter 13.70

ABANDONED VEHICLES

Sections:

13.70.010	Definitions.
13.70.020	Abandoned vehicles prohibited.
13.70.030	Impounding hazardous vehicles.
13.70.040	Towing and storage liens.
13.70.050	Pre-towing investigation and notice.
13.70.060	Contents of pre-towing notice.
13.70.070	Post-towing notice.
13.70.080	Hearing.
13.70.090	Decision of hearing.
13.70.100	Failure to appear.
13.70.110	Exemption from notice and hearing requirements.

13.70.010 Definitions.

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

(1) "Abandoned" means a vehicle left unoccupied and unclaimed; or in such a damaged or disabled or dismantled condition that the vehicle is inoperable; or not currently licensed through the division, if such a license is required by law.

(2) "Chief of Police" means an authorized law enforcement officer of the City or another City employee authorized to enforce this chapter.

(3) "City" means the City of Albany, Oregon.

(4) "Division" means the Motor Vehicle Division of the State of Oregon or the corresponding state agency of the state in which the vehicle is registered or licensed.

(5) "Hazardous vehicle" means a vehicle left in a location or condition that constitutes an immediate and continuous hazard to the safety of persons using the streets or alleys of the City. For example, and not for limitation, the following are hazardous vehicles:

- (a) Vehicles blocking public or private rights-of-way.
- (b) Vehicles with leaking petroleum or other hazardous fluids.
- (c) Vehicles blocking fire hydrants.
- (d) Vehicles with broken glass/windows.

(6) "Owner" means any individual, firm, corporation, or unincorporated association with a claim, either individually or jointly, or ownership of any interest, legal or equitable, in a vehicle.

(7) "Private garage" means a private storage yard, garage, or other storage place selected by the Chief of Police.

(8) "Vehicle" means 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 tracks. (Ord. 4971 ~~REWRITE~~ 1, 1991; Ord. 3562 ~~REWRITE~~ 1, 1971).

13.70.020 Abandoned vehicles prohibited.

(1) No vehicle that the Chief of Police has reason to believe is abandoned shall be parked or left standing on the right-of-way of a City street, alley, or City property for a period in excess of 24 hours.

(2) A vehicle so parked or left standing may be taken into custody by the Chief of Police and shall be held at the expense of the owner of the vehicle. The Chief of Police may use department personnel, equipment, and facilities for removal and storage of the vehicle or may hire other personnel, equipment, and facilities for that purpose. (Ord. 4971 ~~REWRITE~~ 1, 1991; Ord. 3562 ~~REWRITE~~ 2, 1971).

13.70.030 Impounding hazardous vehicles.

(1) Upon discovering a hazardous vehicle, the Chief of Police may immediately cause the vehicle to be towed and impounded.

(2) The owner of the vehicle shall be responsible for all costs of towing and storing the vehicle. (Ord. 4971 ~~REWRITE~~ 1, 1991; Ord. 3562 ~~REWRITE~~ 3, 1971).

13.70.040 Towing and storage liens.

(1) A person who, at the request of the Chief of Police, takes a vehicle into custody under the provisions of this chapter shall have a lien on the vehicle and its contents for 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 and its contents shall be a possessory chattel lien in accordance with ORS 87.152 and may be foreclosed in the manner provided in ORS 87.152 to 87.212. If the appraised value of the vehicle is ~~\$1,000~~ \$750.00 or less, the vehicle may be disposed of in the manner provided in ORS 819.220.

(2) If the vehicle is taken into custody under the provisions of this chapter and held by the City rather than by a private garage, the vehicle and its contents shall be disposed of in the manner provided in ORS 819.210 to 819.260. (Ord. 4971 ~~REWRITE~~ 1, 1991; Ord. 3562 ~~REWRITE~~ 4, 1971).

13.70.050 Pre-towing investigation and notice.

(1) The Chief of Police investigating a vehicle in violation of Section ~~13.70.020~~ 13.070.020 shall:

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

(b) Failing to discover the owner by such a process, make a diligent inquiry as to the name and address of the owner by examining the vehicle for a license number, identification number, make, style, or any other information that will aid in the identification of the owner. When such vehicle is required by law to be registered with the Division, the Chief of Police shall inquire by license and/or VIN number with the Division for the name and address of the owner.

~~(c) Mail a pre-towing notice to the owner at the address shown on the Division records at least five days (excluding Saturday, Sunday, and holidays) before towing.~~

~~(c)(d)~~ Whether or not the owner is identified, affix place a ~~pre-tow~~ notice upon the vehicle where it can be easily seen.

(2) This section does not apply to a hazardous vehicle. (Ord. 4971 ~~REWRITE~~ 1, 1991; Ord. 3562 ~~REWRITE~~ 5, 1971).

13.70.060 Contents of pre-towing notice.

Notices sent or placed under Section 13.70.050 shall contain the following information:

(1) The name of the officer or other City employee issuing the notice.

(2) That if the vehicle is not removed within the time specified, the vehicle will be towed and taken into custody for violation of this chapter.

(3) The vehicle will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents.

(4) The vehicle and its contents will be sold to satisfy the towing and storage charges if they are not paid.

(5) The owner is entitled to a hearing, before the vehicle is towed, to contest the proposed custody and removal if a hearing is timely requested.

(6) The owner may challenge the reasonableness of any towing and storage charges at the hearing.

(7) Contact the Albany Chief of Police in writing not more than five days (excluding Saturday, Sunday, and holidays) from the mailing date of the notice. The request must state grounds as to why the custody and removal is not justified.

(8) If the vehicle is towed, its location may be obtained by contacting the Albany Police Department. (Ord. 4971 ~~REWRITE~~ 1, 1991; Ord. 3562 ~~REWRITE~~ 6, 1971).

13.70.070 Post-towing notice.

(1) After an abandoned or hazardous vehicle has been towed pursuant to this chapter, notice shall be mailed within 48 hours of removal (excluding Saturday, Sunday, and holidays) to the owner. The notice shall contain the following information:

(a) The Albany Police Department has removed the vehicle. The applicable statute or ordinance by which the vehicle was towed is cited.

(b) The location of the vehicle.

(c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of notice and daily storage charges.

(d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by the date specified.

(e) That the owner is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and to contest the reasonableness of the towing charges if a hearing is timely requested.

(f) If a hearing is desired, the owner must request a hearing within five days (excluding Saturday, Sunday, and holidays) from the mailing date of the notice. The request must be made in writing to the Chief of Police. The request must state the grounds as to why the custody and removal is not justified.

(g) That the vehicle and its contents may be reclaimed by presenting proof of ownership to the Albany Police Department and payment of towing and storage charges, or the deposit of cash security, or a bond equal to the charges, with the appropriate authority Albany Police Department.

(2) If the vehicle is registered in Division records, notice may be addressed to the owner at the latest respective address shown by Division records. If the vehicle is not registered, reasonable efforts shall be made to ascertain the name and address of the owner so that notice may be mailed, if reasonably possible, within the time period outlined in this section.

(3) Notice is considered given when a certified letter addressed to the owner of the vehicle, return receipt requested, and postage prepaid is mailed within 48 hours (excluding Saturday, Sunday, and holidays) after the vehicle is taken into custody. (Ord. 4971 REWRITE 1, 1991; Ord. 3562 REWRITE 7, 1971).

13.70.080 Hearing.

(1) Upon request of the owner, a hearing shall be held before the Municipal Judge. If the vehicle has not been taken into custody before the hearing request, it will not be removed unless it is a hazard.

(2) A hearing shall be set within 72 hours (excluding Saturday, Sunday, and holidays) of receipt of the request and the owner shall be notified.

(3) Towing and storage charges set by law, ordinance, or rule or that comply with law, ordinance, or rule are reasonable for purposes of this hearing.

(4) Hearings may be informal in nature, but the presentation of evidence shall be consistent with the presentation of evidence required for contested cases under ORS 183.450. (Ord. 4971 REWRITE 1, 1991; Ord. 3562 REWRITE 8, 1971).

13.70.090 Decision of hearing.

If the Municipal Judge finds that:

(1) The action of the Chief of Police is valid:

(a) The vehicle will be held in custody until the costs of the hearing, towing, and storage are paid by the owner.

(b) If the vehicle has not yet been towed, its removal shall be ordered.

(2) The action of the Chief of Police is invalid:

(a) Order the immediate release of the vehicle to the owner.

(b) Find that the owner is not liable for towing or storage charges incurred prior to the hearing.

(c) Order the City to satisfy towing and storage charges incurred prior to the hearing.

(3) The Municipal Judge shall provide a written statement of the results of the hearing to the person requesting the hearing.

(4) The action of the Municipal Judge is final. (Ord. 4971 **REWRITE** 1, 1991; Ord. 3562 **REWRITE** 9, 1971).

13.70.100 Failure to appear.

If the person requesting the hearing does not appear at the scheduled hearing, the Judge shall enter an order supporting the removal and assessment of towing and storage costs. (Ord. 4971 **REWRITE** 1, 1991; Ord. 4017 **REWRITE** 1, 1977; Ord. 3562 **REWRITE** 10, 1971).

13.70.110 Exemption from notice and hearing requirements.

A vehicle that is being held as part of any criminal investigation is not subject to any part of this chapter. (Ord. 4971 **REWRITE** 1, 1991).

(Rev. 6/96)