

Title 10

VEHICLES AND TRAFFIC

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ADOPTION OF STATE PROVISIONS

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The common council for the city adopts by reference the following chapters of the Oregon Revised Statutes: Chapters 801, 802, 803, 805, 806, 807, 809, 810, 811, 813, 814, 816, 818, 819, 820, 821 and 822. (Ord. 189 § 2, 1995)

INVOLUNTARY IMPOUNDMENT OF VEHICLES

Section:

10.080.010 Purpose

10.080.020 Policy

10.080.030 Notice

10.080.040 Hearing

10.080.050 Release of Vehicle

10.080.010 Purpose: The purpose of this section provides procedures for the involuntary impoundment of vehicles.

10.080.020 Policy: It is the policy of the City of Metolius to impound vehicles, as allowed under ORS 809.720, involving the following violations of the Motor Vehicle Code:

- a. Driving while license suspended or revoked. (ORS 811.175 or 811.182)
- b. Driving while under the influence of intoxicants. (ORS 813.010)
- c. Operating without driving privileges or in violation of license restrictions.
- d. Driving uninsured. (ORS 806.010)

10.08.030 Notice: Written notice shall be provided to the owners of the vehicle and any lessors or security interest holders (as shown in ODOT records). By certified mail within 48 hours (Not including Saturday, Sundays and holidays) after the vehicle is taken into custody and impounded. The notice shall state:

- a. That the vehicle has been taken into custody and removed, and the law enforcement agency authorizing the impoundment;
- b. The identity, location, and contact information for the tow company that removed the vehicle;
- c. The location of the vehicle;
- d. The statute, ordinance or rule under which the vehicle was taken into custody;
- e. That the vehicle is subject to the towing and storage charges specified on exhibit "A", attached to this ordinance;
- f. The date on which the vehicle was taken into custody;
- g. That the vehicle and its contents are subject to a lien for payment of the towing and storage charges, and the vehicle and its contents will be sold by the tow operator to cover the charges if the charges are not paid;

- h. That the owner, possessor, or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and its removal, and to contest the reasonableness of the charges.
- i. That a hearing must be requested to the City within five (5) calendar days after the date that the notice is mailed as evidenced by the postmark (not including Saturdays, Sundays, or holidays);
- j. 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 the charges, or deposit of bond or cash security equal to the charges.

10.08.040 Hearing: Any person entitled to lawful possession of the impounded vehicle may request a hearing to contest the impoundment or the amount of the charges. The request must be made within five (5) calendar days after the date the notice is mailed, as evidenced by the postmark (not including Saturdays, Sundays, or holidays). A hearing shall be held by the municipal judge or his/her designee, and shall be scheduled four (4) calendar days after the request is received, excluding Saturdays, Sundays, and holidays, unless a postponement is requested by the person requesting the hearing. Notice of the hearing shall be provided to the person requesting the hearing and to any other lessors or security interest holders shown in ODOT records. The impounding police officer shall have the burden of proving by a preponderance of the evidence that there were reasonable grounds to believe that the vehicle was being operated in violation of the laws specified in Section 10.08.020, above.

The hearing officer may be an officer, official or employee of the impounding authority, but shall not have participated in any investigation or other action related to taking into custody and removing the subject vehicle. If the hearings officer finds that the impoundments was improper, the hearing officer shall order the vehicle released to the person entitled to possession, and shall enter a finding that the owner or person entitled to possession is not liable for any towing or storage costs resulting from the impoundment. The hearing officer shall further order that any towing and storage charges be paid by the impounding police agency. The determination of the hearings officer shall be final and not subject to appeal.

10.08.050 Release of Vehicle: The City of Metolius shall authorize release of an impounded vehicle upon payment of the towing and storage costs to a person entitled to lawful possession, upon compliance with the following:

- a. Submission of proof that a person with valid driving privileges will be operating the vehicle.
- b. Submission of proof of compliance with financial responsibility requirements for the vehicle; and
- c. Payment to the police agency of an administrative fee as set by resolution of the City Council.

Subsections a and b shall not be applied to a security interest holder. Subsection c shall not apply to a towing operator who is foreclosing its lien under ORS 87.152. (Ord. 231 § 1, 2004)