

ORDINANCE No. 558

AN ORDINANCE PRESCRIBING THE PROCESS BY WHICH PARKING IS RESTRICTED AND VEHICLES TOWED FROM SELECTED STREETS IN THE CITY OF STAYTON

WHEREAS, the City of Stayton finds it necessary to temporarily prohibit all parking on certain streets under construction, repair or resurfacing; designated as parade routes, or otherwise necessitating complete clearance; and,

WHEREAS, vehicles parked on streets from which parking has been duly prohibited constitute a hazard to construction crews and other users of the public way, and removal of said vehicles requires prompt action and secures an important governmental interest; and,

WHEREAS, the City wishes to institute an expeditious yet fair procedure for removal of vehicles so obstructing the public right-of-way,

NOW THEREFORE,

THE CITY OF STAYTON ORDAINS AS FOLLOWS:

Section 1. Street Clearance; Notice.

Whenever the Council determines that a street should be cleared and parking temporarily prohibited, it shall be the duty of the City Engineer or his designate to post notice on said street at least 24 hours in advance. Such notice shall state the period for which parking is restricted and must state that a vehicle parked in violation of the notice will be subject to impoundment if not removed by a stated time. It must further indicate that the vehicle will be subject to towing and storage charges and that a lien will attach to it, the satisfaction of which will require the sale of the vehicle if it is not redeemed.

Section 2. Parked Vehicles Prohibited; Impoundment.

- (1) No vehicle shall be parked or left standing on a street that has been posted according to Section 1 above.
- (2) A vehicle so parked or left standing may, at the direction of the Chief of Police, be impounded and held at the expense of the owner or person entitled to possession of the vehicle. The City may utilize its own personnel, equipment and facilities for the removal and preservation of the vehicle, or it may hire other personnel, equipment and facilities for that purpose.

Alternatively the City, at its discretion may choose not to impound the car but tow it to the nearest convenient location.

Reasonable effort shall be made to notify the owner as to the new location of the vehicle. The owner of such relocated car shall not be responsible for the cost of towing nor shall the City be liable for any loss incurred by such towing.

Section 3. Towing and Storage Liens.

- (1) The owner of the vehicle towed and impounded shall be responsible for the cost of towing and storing the vehicle.
- (2) The person or entity who takes custody of the 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.

Section 4. Post-Towing Notice.

- (1) After a vehicle has been taken into custody, notice must be provided to the owner indicating the fact that the vehicle has been impounded under authority of this Ordinance, indicating the location of the vehicle and the means available for recovering it. It must also indicate that the vehicle is subject to a lien for payment of towing and storage charges, and that the vehicle will be sold to cover these charges if they are not otherwise satisfied by a stated date. The notice must also indicate that the owner is entitled to a prompt hearing to contest the validity of the towing and the reasonableness of any charges, and must inform the owner of the means for exercising these rights.
- (2) Notice is deemed given when a certified letter addressed to the registered 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 Chief of 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 addresses 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 5. Hearing.

- (1) Upon request of the legal owner or the person entitled to possession of the vehicle, a hearing shall be held before the City Administrator.
- (2) The hearing shall 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 Chief of Police in taking the vehicle into custody; and
 - (b) The creation and amount of the lien attached to the vehicle.
- (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 by posting with the City Police security in the form of cash in an amount sufficient to cover costs of removing and storage.
- (5) If the City Administrator finds that the action of the Chief of Police in taking the vehicle into custody was proper, the City Administrator shall enter an order supporting the removal.
- (6) If the City Administrator finds that the action of the Chief of Police in taking the vehicle into custody was invalid, the City Administrator 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.
- (7) The action of the City Administrator is final.

PASSED BY THE COMMON COUNCIL THIS 20th DAY OF July, 1981.

Signed by the Mayor this 21st day of July, 1981.

x Henry A. Porter
Mayor

ATTEST:

Ellis Sandberg
City Administrator