

TITLE 10. VEHICLES AND TRAFFIC

CHAPTER 10.16

TOWING, STORAGE AND IMPOUNDMENT OF VEHICLES

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10.16.400 IMPOUNDMENT AND DISPOSITION OF VEHICLES: GENERAL REGULATIONS

1. In addition to the provisions herein, disposition of vehicles impounded, towed and stored shall be in accordance with Oregon law.
2. Impoundment of a vehicle does not preclude issuance of a citation for violation of a provision of this title.
3. A police officer who has probable cause to believe that a person, at or just prior to the time the police officer stops the person, has committed an offense described in this subsection may, without prior notice, order the vehicle impounded until a person with right to possession of the vehicle complies with the conditions for release (See ORS 809.720(3)) or the vehicle is ordered released by a hearings officer (See ORS 809.716). This subsection applies to the following offenses:
  - (a) Driving while suspended or revoked in violation of ORS 811.175 or 811.182.
  - (b) Driving while under the influence of intoxicants in violation of ORS 813.010.
  - (c) Operating without driving privileges or in violation of license restrictions in violation of ORS 807.010.
  - (d) Driving uninsured in violation of ORS 806.010.

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4. Abandoned (ORS 819.100) or hazardous (ORS 819.120) vehicles removed by the City may be towed and stored at the owner's expense.
5. Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.
6. A vehicle abandoned, as defined by state law in relation to abandon vehicles is subject to removal and sale in accordance with provisions of state law.
7. A vehicle which is stored in violation of the provisions of this code relating to storage of motor vehicles on streets is subject to removal and sale in accordance with provisions of state law on impoundment and disposition of abandoned vehicles – ORS 819.100 to 819.260.
8. Vehicles removed and impounded pursuant to SMC Section 10.12.270 shall be taken to a public garage or other suitable place for storage of the vehicle, and kept until released or otherwise disposed of pursuant to this section.
  - a. The owner of the vehicle, or any person authorized by the owner to act on the owner's behalf, may redeem the vehicle pursuant to the procedures of SMC Sections 10.16.410 through 10.16.490.
  - b. A motor vehicle so impounded shall be held and, if not lawfully redeemed, shall be disposed of as provided in ORS 819.210 through 819.260. A certificate of sale referenced therein shall contain the following notice:

The City of Stayton makes no warranty as to the condition or title of the above-described vehicle. In the event this sale shall for any reason be invalid, the liability of the City is limited to return of the purchase price.
9. In the event the Stayton Police impound a vehicle from outside the Stayton city limits, such impoundment shall be in accordance with Oregon law and the provisions of the Stayton Municipal Code, and the charges assessed shall be pursuant to the Stayton Municipal Code.
10. If the public right of way needs to be closed temporarily for an official purpose such as (but not limited to) street maintenance or an event, the Chief of Police or designee may post the street with a 24 hour notice to remove any vehicles or privately owned property from the right of way. If the vehicles or the privately owned property are not removed within the 24hour period the vehicles and property may be removed by the City at the owner's expense per SMC.

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### 10.16.410 IMPOUNDMENT AND STORAGE BY PRIVATE TOWING FIRM

1. In the enforcement and execution of the provisions of SMC Section 10.16.400, the City may contract the services of one or more competent towing service firms for the removal and storage of motor vehicles taken into custody of the City for any reason. The Stayton City Council shall by resolution establish a schedule of maximum charges for storage of such motor vehicles, which shall apply to vehicles stored by the City.
2. Where a private towing contractor is used, the following conditions shall apply:
  - a. The City shall not be liable for services rendered by a private towing service unless the City is the purchaser or owner of the stored or impounded vehicle.
  - b. The vehicle shall not be released from the private towing service except upon a receipt, signed by the Police Chief.
3. A towing service firm which, at the request of the City, takes a vehicle into custody shall have a lien on the vehicle and its contents for the just and reasonable towing charges, may retain possession of the vehicle and its contents until the charges are paid, and may cause the vehicle and its contents to be sold at public auction pursuant to SMC Section 10.16.470 and Oregon Revised Statutes.

### 10.16.420 POST-TOWING NOTICE TO OWNER

1. If a motor vehicle is taken into the custody of the City, the Chief of Police shall make reasonable efforts to ascertain the names and addresses of the registered owner and the legal owner, if any, and the person entitled to possession.
2. If the names and addresses of such owners or persons entitled to possession or either of them can be ascertained, the Chief of Police shall cause notice to be mailed within forty-eight (48) hours of the date of recovery, addressed to the registered owner of the vehicle and a similar letter addressed to the legal owner, if any. Such notice shall include the following information:
  - a. The statute or SMC or rule under which the vehicle has been taken into custody or removed.
  - b. The location where the vehicle may be redeemed by the owner or person entitled to possession upon satisfactory proof of ownership or right to possession.

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- c. That a lien has arisen on the vehicle in favor of the person who towed the vehicle for just and reasonable towing and storage charges.
  - d. The amount of any fines or bail which must be paid or posted pursuant to SMC Section 10.12.260.
  - e. The date after which the vehicle will be subject to public sale.
  - f. That a hearing on the validity of the tow and on the creation and amount of the lien may be had if requested within five (5) days of mailing of the notice.
  - g. That the costs of hearing may be assessed against the vehicle owner.
3. Actual notice of a tow may be given personally to the owner or person entitled to possession. Such actual notice must include all the information required under Subsection 2. of this section. Actual notice may be used in lieu of the mailed notice required by Subsection 2.

### 10.16.430 REASONABLE STORAGE CHARGE

The maximum charge per day for storage of a motor vehicle towed and stored by the City in a City owned location is set by "Fees and Charges" Resolution.

### 10.16.440 HEARING PROCEDURE

1. Upon written request of the legal owner or the registered owner or any other person who reasonably appears to have an interest in the vehicle, delivered to the court having jurisdiction over municipal ordinance or SMC matters, a hearing shall be held before the judge hearing municipal ordinance or SMC matters. The written request shall state the grounds upon which the person requesting the hearing believes that the removal and custody of the vehicle is not justified.
2. The hearing shall be set and conducted within two (2) regular court days of receipt of the request, holidays, Saturdays, and Sundays not 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 enforcement officer in taking the vehicle into custody.
  - b. The reasonableness of the charge set for towing and storage of vehicle. Towing and storage charges set by ordinance or by contract entered into

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pursuant to ordinance are presumed to be reasonable for the purpose of this section.

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 may regain possession of the vehicle as provided by SMC Section 10.08.152 by depositing with the City security in the form of cash in an amount sufficient to cover costs of removing and storage and any fines or bails owed pursuant to SMC Section 10.12.340.
5. If the judge hearing municipal ordinance or SMC matters finds that:
  - a. The action of the city in taking the vehicle into custody was proper, the judge hearing municipal ordinance or SMC matters shall enter an order supporting the removal and may assess costs of the hearing against the person requesting the hearing.
  - b. The action of the enforcement officer in taking the vehicle into custody was invalid, the judge shall:
    - i. Order the vehicle released to the owner.
    - ii. Find that the owner is not liable for any towing or storage charges occasioned by the taking.
    - iii. Order the City to satisfy the towing and storage lien.
6. If the person requesting the hearing does not appear at the scheduled hearing, the judge hearing municipal ordinance or SMC matters may enter an order supporting the removal and assessment of towing and storage costs and apply any security posted against such costs.
7. The action of the judge hearing municipal ordinance or SMC matters pursuant to this section is final.

### 10.16.450 OWNER RECLAIMING VEHICLE

The legal owner, registered owner, or person entitled to possession of an unclaimed vehicle may reclaim such vehicle during normal business hours of the Stayton Police Department Records Office. The vehicle may be reclaimed after the vehicle is taken into custody, and before it is sold, upon presentation of satisfactory proof of ownership or right of possession, proof of insurance, a licensed driver to the Stayton Police

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Department and payment of an impoundment fee and storage charges or posting of security is made as required under this chapter. (Ord. 667, section 1[part], 1989) If redemption is not made after the vehicle is impounded, such vehicle shall be disposed of in accordance with provisions of state laws.

10.16.460 APPRAISAL OF UNCLAIMED VEHICLES

Within ten (10) days of any motor vehicle coming into the custody of the City for any reason, the Chief of Police shall cause such vehicle to be appraised by a person possessing a valid appraiser certificate under state law. (Ord. 667, section 1[part], 1989)

10.16.470 DISPOSITION OF MOTOR VEHICLE

Vehicles that have been unclaimed may be disposed of in accordance with the procedures set by Oregon Revised Statutes 819.210 to 819.260.

10.16.480 RESERVED

10.16.490 TO BE HELD AT EXPENSE OF OWNER

Except as provided in SMC Section 10.16.440(4), unclaimed motor vehicles which come into the custody, actual or constructive, of the City for any reason shall be held at the expense of the owner and any costs incurred by the city in finding, transportation, giving of notices, storage, care, and custody of such property shall be paid by the owner or other person lawfully entitled to possession thereof before such property may be released.