

# 360: Towing and Storage of Vehicles on Port Property

ENACTED NOVEMBER 13, 1991

## AN ORDINANCE TO ALLOW FOR TOWING AND STORAGE OF MOTOR VEHICLES ILLEGALLY PARKED, STORED OR ABANDONED ON PORT PROPERTY.

### Section 1. Definitions

As used in this Ordinance:

A. "**Abandoned**" or "**abandoned vehicle**" means any vehicle that has been deserted or relinquished without any intent on the part of last operator to return to the vehicle. A vehicle shall be considered abandoned if it has remained in the same location for more than 24 hours and one or more of the following conditions exist:

- The vehicle has an expired license plate, invalid temporary permit or invalid or revoked registration affixed to it;
- The vehicle reasonably appears to be inoperative or disabled; or
- The vehicle appears to be wrecked, partially dismantled or junked.

B. "**Storage**" means the holding of a vehicle, with the attendant fees for such holding, at any storage facility.

C. "**Towing**" means the taking of possession of a vehicle and removing it to a storage facility or physically restraining or immobilizing it by means of a "boot" or similar type device at the direction of a Port officer or employee.

D. "**Vehicle**" includes every device in, upon, or by which any person or property is or may be transported or drawn upon any street or highway, including any hulk or component thereof. The term "vehicle" also includes fixed wing aircraft and helicopters.

E. "**Law enforcement agency**" means any state, federal, local or regional governmental authority authorized to enforce any civil or criminal law.

F. "**Tow Hearings Officer**" shall be the Code Hearings Officer for the City of Portland, Oregon as set out in Title 22 of the Portland City Code (1991).

### Section 2. Towing and Storage of Motor Vehicles

A. **Authority to Tow.** Any vehicle found on any property owned, operated, leased or controlled by the Port in violation of the regulations set out below or as may be lawfully promulgated from time to time may be towed and/or stored upon the order of a Port officer, employee or the Tow Hearings Officer, and taken to or kept in a storage area designated by the Port, and held at the expense of the owner or other person entitled to possession thereof.

B. **Towing After Notice.** Vehicles may be towed or stored, after first giving the notice provided for in Section 2D(1) when:

- The vehicle is parked or kept in violation of a posted parking or other restriction but where there is no reasonable need to immediately remove the vehicle;
- The vehicle is parked on Port-owned, controlled or operated property without express Port permission;
- The vehicle is parked or kept in a manner so as to violate duly enacted or adopted Port policies relative to that class or type of vehicle;
- Otherwise permitted by law; or
- The vehicle is abandoned.

**C. Towing Prior to Notice.** Vehicles may be towed without prior notice only under one or more of the following circumstances:

- The vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic;
- The vehicle is illegally parked or kept in a conspicuously noticed or posted space, zone, traffic lane or taxiway where parking is limited to designated classes of vehicles or is prohibited in excess of a designated time period, during certain hours, on designated days, or otherwise where the vehicle interferes or is reasonably likely to interfere with the intended use of such a space, zone, traffic lane or taxiway;
- The vehicle is blocking construction and/or maintenance work;
- The vehicle poses an imminent threat to the public safety;
- The vehicle was driven by a person who was taken into custody by a federal, state or local law enforcement officer;
- A federal, state or local law enforcement officer believes the vehicle to be stolen; or
- Federal, state or local law otherwise requires or permits such removal without notice.

### **Section 3. Notice to Interested Parties of Vehicle Towing**

**A. Notice Prior to Towing.** Prior to towing or storing a vehicle pursuant to Section 2B(1) through (5), notice shall be given of the Port's authority and intention to tow and/or store the vehicle as well as the procedures available for obtaining a hearing to contest the validity of the proposed tow and/or storage by (1) affixing a warning for the vehicle at least seven (7) days prior to the proposed tow or storage, and (2) mailing a notice within 48 hours (Saturdays, Sundays, and holidays excluded) after the warning is affixed to the vehicle to the registered owner(s) and any other persons who reasonably appear to have an interest of record in the vehicle.

The tow warning and the mailed notice shall state (1) that the vehicle is parked in violation of a Port ordinance or other applicable law; (2) that the Port intends to cause the vehicle to be towed, removed and/or stored if the violation is not corrected; and (3) that a hearing is available to contest the validity of the intended tow as well as the time to request said hearing.

If a timely request for hearing is made and received pursuant to Subsection 3B, the vehicle shall not be towed or stored until the Tow Hearings Officer so orders or allows.

**B. Notice Subsequent to Towing.**

(1) After a vehicle has been towed and/or stored pursuant to Section 2C, notice shall be provided to the registered owner(s) and such other person(s) who reasonably appear to have an interest of record in the vehicle. Notice shall be mailed to such persons within forty-eight (48) hours after the towing of the vehicle, Saturdays, Sundays, and holidays excluded, and shall state:

- That the vehicle has been towed;
- The location of the vehicle and that it may be reclaimed only upon evidence that the claimant is the owner or other person entitled to possession;
- The address and telephone number of the person or facility that may be contacted for information on the charges that must be paid before the vehicle will be released and the procedures for obtaining the release of the vehicle;
- That the vehicle and its contents are subject to a lien for the towing and storage charges; that if the vehicle is not claimed within thirty (30) days after the mailing date of the notice, the vehicle and its contents may be subject to sale and that failure to reclaim the vehicle within the thirty (30) day time period will constitute a waiver of all interest in the vehicle; and

- That a hearing may be requested to contest the validity of the tow and shall set forth the time in which a hearing may be requested and the method for requesting such a hearing.

(2) If a vehicle has been reclaimed prior to the time required for the mailing of the notice, no notice need be mailed or provided; except that the person(s) reclaiming the vehicle shall be provided, at the time the vehicle is released, with written notice of the opportunity for a hearing to contest the tow and/or storage consistent with Section 2E.

(3) In those circumstances where it can reasonably be anticipated that mailing of notice may hinder or prevent the apprehension of a suspect in an ongoing criminal investigation, the mailing of notice may be delayed until such time as will not prejudice that investigation or apprehension.

**C. When Notice Not Required.** No notice need be mailed when the vehicle does not display license plates or other identifying markings by which the ownership of the vehicle can be determined or when the identity of the owner of the vehicle is not otherwise available from the appropriate State or Federal vehicle licensing or registration authority.

**D. Notice of Right to Hearing.** Written notice of the opportunity to contest the validity of the tow of a vehicle, together with a statement of the time in which a hearing may be requested and the method of requesting a hearing, shall be given each person who seeks to redeem a vehicle which has been towed pursuant to this Ordinance by the tow company or other facility holding such vehicle.

#### **Section 4. Hearing to Contest Validity of Vehicle Tow**

**A. Right to Hearing.** After a vehicle has been towed pursuant to Section 2C or prior to towing pursuant to Section 2B, and upon timely application filed with the Tow Hearings Officer, either the owner or any other person who appears to have an interest in the vehicle shall be entitled to request a hearing to contest the validity of the tow.

(1) In the case of a vehicle towed pursuant to Section 2C, such application shall be received by the Tow Hearings Officer not later than five (5) days after mailing of the notice.

(2) In the case of a vehicle covered by Section 2B, such application shall be filed with and received by the Tow Hearings Officer not later than five (5) days after affixing the tow warning to the vehicle.

(3) The Tow Hearings Officer may, for good cause, grant a request for hearing filed after the time limits set out above. If the notice was delayed pursuant to Section 2E(3), the Tow Hearings Officer shall grant a request for hearing received within ten (10) days after the mailing date of the notice or ten (10) days after the date the vehicle was reclaimed, whichever first occurs.

**B. Request for Hearing.** The request for hearing must be in writing and shall state the grounds upon which the person requesting the hearing believes the tow to be invalid. In addition, all requests for hearing shall have the following information: applicant's name; applicant's address where notice of hearing is to be sent; applicant's telephone number; vehicle make and model; license number; date towed; and place and approximate time of tow, if the latter is known.

**C. Scheduling of Hearing.** The Tow Hearings Officer shall conduct a hearing on the matter within 14 days of receipt of a proper request filed pursuant to this Section; provided, in all cases where a vehicle has been towed and not yet released, the Tow Hearings Officer shall set and conduct the hearing within 72 hours, excluding Saturdays, Sundays and holidays, of receipt of the request.

D. **Conduct of Hearing.** The hearing shall afford a reasonable opportunity for the person(s) requesting it to demonstrate by the statements of witnesses and other competent evidence, that the basis for towing or storage of the vehicle was invalid.

E. **Tow or Storage Found Invalid.** If the Tow Hearings Officer finds the tow invalid, the Tow Hearings Officer shall order that the vehicle be released and as appropriate, order the return of all monies paid for tow and/or storage charges, to the person who paid such charges. If such vehicle is yet to be towed, the Tow Hearings Officer shall order that such vehicle not be. In any case where the Tow Hearings Officer orders the vehicle released, the vehicle must be picked up within 24 hours to avoid further storage charges.

F. **Tow or Storage Found Valid.** If the Tow Hearings Officer finds that the tow was valid, the Tow Hearings Officer shall order the vehicle held. If such vehicle is yet to be towed, the Tow Hearings Officer shall order that such vehicle be towed and impounded.

G. **No Appeal.** The decision of the Tow Hearings Officer is final, and is not appealable.

### **Section 5. Towing and Storage Charges, Redemption of Vehicles**

A. **Towing and Storage Charges.** All towing and storage charges shall be paid prior to release of a vehicle towed or stored pursuant to this Ordinance and shall constitute a lien pursuant to ORS 87.152.

B. **Waiver of Payment of Charges by Port.** The accrued towing and storage charges assessed under Section 5A above, shall be waived by the Tow Hearings Officer if, after hearing, the basis for having the vehicle towed and stored is found to be invalid or unjustified, and no other basis exists for the vehicle to be held. A person's inability to pay the towing and storage charges, in and of itself, is not a sufficient basis for the waiving of such charges.

C. **Release of Vehicle.** If the required towing and storage charges have been paid or if the Tow Hearings Officer orders the vehicle released and no other grounds exist for the continued impoundment of the vehicle, the vehicle shall be immediately released to the person(s) entitled to its lawful possession.

D. **Person to Whom Vehicle May be Released.** A vehicle towed pursuant to this Ordinance may be released to the owner of record as shown on the records of the appropriate State motor vehicles authority, to the person who was lawfully in possession or control of the vehicle at the time it was towed, or to such other person who presents to the Tow Hearings Officer sufficient evidence as the Tow Hearings Officer in the exercise of his discretion, believes shows a right to possession and/or control of the vehicle.