

Chapter 5.25
MOTOR VEHICLES IMPOUND

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5.25.010 Definitions

- (1) “Owner” or “Owner of a motor vehicle” shall be the same definition as that of Oregon Revised Statute 801.375 or any successive definition.

5.25.020 Vehicle(s) Subject to Forfeiture

- (1) A motor vehicle being operated by a person whose operator's license is suspended, canceled, or revoked for any felony conviction under the Oregon Vehicle Code (Oregon Revised Statute Chapters 801 through 823, inclusive) is declared a nuisance and subject to forfeiture.
- (2) A motor vehicle being operated by a person whose operator's license is suspended, canceled, or revoked as a result of a conviction for driving under the influence of intoxicants in violation of the provisions of Oregon Revised Statute Chapter 813 is declared a nuisance and subject to forfeiture.
- (3) Forfeiture proceedings pursuant to this chapter shall be done in accordance with the provisions of Oregon Law.

5.25.030 Vehicle(s) Subject to Impound

- (1) Notwithstanding Section 5.25.010 above, whenever a motor vehicle is being operated by a person whose operators license or driving privilege is suspended, canceled, or revoked and a traffic citation is issued or a physical arrest made for any violation of the Oregon Vehicle Code or North Plains City Code, or, the driver of the motor vehicle is without proof of liability insurance as required by the Oregon Vehicle Code, the motor vehicle shall be subject to immediate tow by a licensed towing company.
- (2) Whenever the owner of a motor vehicle has failed to transfer the title or failed to register the vehicle, the motor vehicle shall be subject to immediate tow by a licensed towing company.

- (3) A vehicle being operated by a motorist who is taken into police custody for any reason, but which vehicle is not otherwise subject to impound, shall be subject to tow to protect the property and interests of the person arrested and of the City of North Plains.
- (4) A vehicle towed shall be towed to a storage place licensed by the State of Oregon for purposes of vehicle impound or storage.
- (5) A vehicle towed for reasons of suspended, unlicensed, unprivileged or uninsured driver may be redeemed by the owner upon presentation of a valid operator's license and proof of insurance.
- (6) Vehicles towed and unclaimed or unredeemed may be disposed of after a time and in a manner by the tow company as prescribed by Oregon Law. All notices and actions associated with the disposal of any unclaimed or unredeemed vehicle is the responsibility of the tow company having taken the possession of the vehicle.

5.25.040 Towing and Storage Liens, Costs

- (1) The owner of a motor vehicle, when redeeming the impounded vehicle, shall be responsible for any and all towing bills and storage fees owed to the towing company.
- (2) The owner of an impounded vehicle shall pay the City of North Plains an administrative fee at the time the vehicle is authorized for release. The amount of the administrative fee shall be established by the North Plains City Council by resolution.
- (3) A vehicle towed under Section 5.25.030(3) shall not be subject to the administrative fee established in Section 5.25.040(2).
- (4) Any towing company taking a vehicle into custody under the provisions of this chapter 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. The lien that attaches to the vehicle shall be a possessory chattel lien in accordance with ORS 87.142 and shall be foreclosed in the manner provided in ORS 87.152 to 87.212. If the appraised value of the vehicle is \$750 or less, the vehicle shall be disposed of in the manner provided in ORS 819.220

5.25.050 Hearing

(1) Request for Hearing

The owner of the vehicle must request a hearing within five calendar days after vehicle impound. The request must be made in writing to the City Recorder. Failure to make a timely request for a hearing shall constitute a waiver of the right to a hearing.

(2) Hearing Procedure

- (a) When a timely request for a hearing is made, a hearing shall be held before the Municipal Judge or the Municipal Judge Pro-Tem.
- (b) The hearing shall be set and conducted within four calendar days of receipt of the request, excluding holidays, Saturdays, and Sundays. The hearing may be set for a later date if the owner of the vehicle so requests.
- (c) At the hearing the person may contest the validity of the impound, providing proof of insurance for the vehicle and driver at the time of the tow and providing proof of the validity of the driver's driving privilege at the time of the tow.
- (d) The City of North Plains shall have the burden of proving by a preponderance of evidence the validity of the impound. The City may present evidence by oral or written testimony of the police officer and all documents which provide testimony of the cause for impound.

(3) Decision of the Municipal Judge

- (a) If the Municipal Judge finds that the impound of the vehicle was proper, the Judge shall:
 - (i) enter an order supporting the removal, and
 - (ii) find that the owner is liable for any towing and storage charges resulting from the impound; and
 - (iii) find that the owner is liable for the costs of the tow hearing, including costs of the Municipal Judge and any witnesses.

- (b) If the Municipal Judge finds that the impound of the vehicle was improper, the Judge shall:
 - (i) order the vehicle released to the owner;
 - (ii) find that the owner is not liable for any towing and storage charges resulting from the impound; and
 - (iii) order the City to satisfy the towing and storage lien.
- (c) Any time a owner of a vehicle properly insured at the time of the traffic stop presents such proof to the Municipal Judge, but in where proof of such insurance was not provided the police officer at the time of the stop, a decision of proper impound shall be entered.
- (d) The decision of the Municipal Judge is final.
- (e) Failure to appear at the hearing.

If the person requesting the hearing does not appear at the scheduled hearing, the Municipal Judge may enter an order supporting the impound and assessment of towing and storage costs, and shall add an assessment for the costs of the Municipal Judge and any witnesses who appeared at he time set for the hearing.

(Ord. 223, July 9, 1993; repealing Ord. 218)