

ORDINANCE NO. 196

AN ORDINANCE PROHIBITING ABANDONMENT, STORAGE AND PARKING OF CERTAIN VEHICLES ON PUBLIC WAYS AND ALLOWING FOR THEIR CUSTODY AND REMOVAL.

The City of Lakeside ordains as follows:

Section 1. PURPOSES

This ordinance authorizes the removal of disabled and abandoned vehicles from public property, roadways, alleys and right of ways located within the City of Lakeside and precludes storage of vehicles on all public property, roadways, right of ways and alleys located within the city.

Section 2. DEFINITIONS

The following definitions apply to this ordinance:

A. Abandoned Vehicle: Any vehicle left, parked or placed upon any public roadway, right of way, or other public property within the City of Lakeside for more than 72 hours without its removal within that time.

B. Alley: Any public roadway or other way of access primarily intended to provide access to the rear or side of lots or buildings.

C. Disabled Vehicle: Any temporarily or permanently inoperable vehicle left, placed, parked upon any public roadway, alley, right of way, or other public property within the City of Lakeside for more than 24 consecutive hours.

D. Roadway: Any portion of any public way that is improved, designed or ordinarily used for vehicular traffic and including the attending street right of way.

E. Storage: Failure to permanently remove any vehicle from any public roadway, alley, right of way, or other public property after 72 consecutive hours.

F. Vehicle: Any device in, upon, or by which any person or property is or may be transported or drawn upon a roadway and includes trailers and vehicles that are propelled or powered by any means, and includes motor vehicles as defined by the Oregon Vehicle Code.

Section 3. PROHIBITED ACTS

A. No vehicle shall be abandoned within the City of Lakeside, Oregon, on any public roadway, alley, right of way, or other public property.

B. No disabled vehicle shall be left, placed or parked upon any public roadway, alley, right of way, or other public property within the City of Lakeside, Oregon for more than 24 consecutive hours.

C. No vehicle shall be stored on any public roadway, alley, right of way or other public property within the City of Lakeside, Oregon.

#### Section 4. REMOVAL OF VEHICLES

A. The City of Lakeside may take custody of, remove or authorize removal of vehicles under the following circumstances:

1. Abandoned, disabled and stored vehicles may be removed:

(a) If the City has reason to believe the vehicle is abandoned, disabled or stored; and

(b) If the vehicle has been parked, left or standing upon any public roadway, alley, right of way or other public property for a period in excess of 72 hours in the case of a stored or abandoned vehicle, or 24 hours in the case of a disabled vehicle.

2. Vehicles constituting hazard or obstruction may be removed:

(a) If the City has reason to believe that a vehicle disabled, parked, abandoned, stored or left unattended on a public roadway, alley, right of way or other public property is in such a location as to constitute a hazard or obstruction to motor vehicle traffic.

(b) As used in this section, a hazard or obstruction includes, but is not necessarily limited to:

(i) Any vehicle that is parked, left or standing so that any part of the vehicle extends within the paved portion of a vehicular travel lane or bicycle lane.

(c) As used in this section a hazard or obstruction does not include parking in a designated parking area along a roadway or parking temporarily on the shoulder of a roadway as indicated by a short passage of time and by operation of the hazard lights of the vehicle, the raised hood of the vehicle, or advance warning with emergency flares or emergency signs.

3. The authority to take custody of and remove vehicles under any provisions of this section is in addition to all other provisions of this section.

4. All removal and storage costs shall be the responsibility of the vehicle owner, lessor, or security interest holder.

Section 5. PROCEDURE TO REMOVE VEHICLES

A. The City of Lakeside may remove or cause the removal of vehicles in accordance with the following procedures:

1. Abandoned and Stored Vehicles:

(a) Before removal, the City shall provide written notice to the owners of the vehicle, and to any lessors or security interest holders having an interest in the vehicle that are listed in the records of the Department of Transportation, and an explanation of procedures available for obtaining a hearing under ORS 819.190.

(b) Notice shall be given by both the following methods:

(i) By affixing the notice to the vehicle.

(ii) By mailing the notice by both first class and certified mail, at least three days before removing the vehicle, with the required information to the owners and to any lessors or security interest holders at the address shown by the records of the Department of Transportation. The three-day period under this paragraph does not include holidays, Saturdays or Sundays.

(c) The notice shall state all of the following:

(i) That the vehicle will be subject to being taken into custody and removed by the City if it is not removed after a stated date not less than 6 days from the date of the notice;

(ii) The ordinance violated by the vehicle and under which it will be removed;

(iii) The place where the vehicle will be held in custody or the telephone number and address of the city representative who will provide that information;

(iv) That the vehicle, if taken into custody and removed will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents;

(v) That the vehicle will be sold to satisfy the costs of towing and storage if those charges are not paid;

(vi) That the owner, possessor or person having an interest in the vehicle is entitled to a hearing before the vehicle is impounded,

to contest the proposed custody and removal if a hearing is requested within 5 days, not including holidays and weekends, from the mailing date of the notice;

(vii) That the owner, possessor or person having an interest in the vehicle may challenge the reasonableness of any towing and storage charges at the hearing; and

(viii) The date by which the hearing must be requested and that the hearing must be requested in writing received by that date.

2. Vehicles posing hazard or obstruction:

(a) In the case of vehicles posing a hazard or obstruction, the City may immediately take the vehicle into custody and remove or cause removal of the vehicle.

(b) Within 48 hours of removal the City shall send, by certified mail, written notice with an explanation of procedures for obtaining a hearing under ORS 819.190 to owners of the vehicle and to any lessors or security interest holders as shown in the Department of Transportation records. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedures for release of the vehicle and for obtaining a hearing. The 48 hour period under this paragraph does not include weekends or holidays.

(c) The notice given under this section after a vehicle is taken into custody and removed shall state all of the following:

(i) That the vehicle has been taken into custody and removed by the City of Lakeside and the ordinance under which the vehicle has been taken into custody and removed.

(ii) The location of the vehicle or the telephone number and address of the city official what will provide the information.

(iii) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.

(iv) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date no earlier than 6 days following the mailing of the notice.

(v) 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 removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(vi) The date by which a hearing must be requested in writing and the method for requesting such hearing.

(vii) That the vehicle and its contents may be immediately reclaimed by presentation to the City Recorder of satisfactory proof of ownership or right to possession and either payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the City Recorder.

#### Section 6. HEARINGS

A. All hearings held pursuant to Section 5 of this ordinance shall be held according to the provisions of ORS 819.190 and with like effect.

#### Section 7. EFFECTIVE DATE

This ordinance shall become effective 30 days following its enactment by the Lakeside City Council and signing of the Mayor.

#### Section 8. ENFORCEMENT

This ordinance may be enforced by the Oregon State Police or by the Coos County Sheriff's Office.

Passed by the Council of the City of Lakeside this 12th day of September, 1995.

Approved and signed by the Mayor of Lakeside, Oregon this 12th day of September, 1995.

  
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Peter Schoonover, Mayor

ATTEST:

  
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City Recorder