

11/23/2016

BEFORE THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY

AN ORDINANCE ADOPTING)	ORDINANCE No: 2016-11-02
DOUGLAS COUNTY CODE)	First Reading: <u>11/2/2016</u>
CHAPTER 10.08 (PARKING AND)	Second Reading: <u>11/23/2016</u>
TOWING).)	Effective Date: <u>2/23/2017</u>

THE BOARD OF COUNTY COMMISSIONERS OF DOUGLAS COUNTY
ORDAINS AS FOLLOWS:

SECTION ONE: The attached shall be codified as Douglas County Code
chapter 10.08 – Parking and Towing Chapter of the Douglas County Code.

SECTION TWO: If any section, paragraph, subdivision, clause, sentence or
provision of chapter 10.08 is declared by a court or administrative agency to be invalid,
such declaration shall not affect, impair, invalidate, or nullify the remainder of this
ordinance.

Dated: November 16, 2016

BOARD OF COUNTY COMMISSIONERS
OF DOUGLAS COUNTY

By [Signature]
Chair

By [Signature]
Commissioner

By [Signature]
Commissioner

Recording Secretary

By Tina L Ray

Approved as to form:

By [Signature]

County Counsel

Date 11/23/2016

DOUGLAS COUNTY OREGON
FILED

NOV 23 2016

PATRICIA K. HITT, COUNTY CLERK

Chapter 10.08

PARKING AND TOWING

10.08.010 Title. This chapter shall be known as the "Parking and Towing Chapter" of the Douglas County Code.

10.08.020 Definitions. This chapter incorporates, in addition to the definitions set forth immediately below this paragraph, the definitions of ORS Chapters 801 through 822 ("Oregon Vehicle Code") and ORS Chapter 368 ("County Roads"), except to the extent that they are inconsistent with the following definitions, in which case the following definitions shall have precedence.

"Abandon a vehicle" or "abandoning a vehicle" means leaving a vehicle in the same location continuously for more than 72 hours without authorization by statute, ordinance, or rule when one or more of the following circumstances or conditions exist: (1) the vehicle has expired, obliterated, or unreadable registration stickers or an expired, obliterated, or unreadable trip permit affixed to it; (2) the vehicle lacks state-issued license plates; (3) the vehicle appears to be inoperable or disabled; or (4) the vehicle appears to be wrecked or partially or wholly dismantled; (5) the vehicle is registered to an address that is not near the location where the vehicle is parked; (6) circumstances or conditions other than those described immediately above support an objectively reasonable belief by an authorized official that the vehicle has been abandoned.

"Board" means the Board of Commissioners for Douglas County, Oregon.

"County" means Douglas County, Oregon.

"County official" means any officer, employee, agent, or contractor of the County authorized by the Board to regulate parking and enforce parking regulations on County property other than roads.

"County property" means any real property within Douglas County that is owned, held under a lease or by other interest less than fee, or otherwise is lawfully in the County's possession and control. For purposes of this chapter only, "County property" does not include public roads under County jurisdiction.

"Public roads under County jurisdiction" means and includes both county roads and local access roads within the jurisdiction of the County.

"Disabled vehicle" means a vehicle that appears to be incapable of being legally operated on a public road due to its physical or mechanical condition. Indications that a vehicle is disabled include but are not limited to the absence of vehicle components or equipment used in the legal operation of the vehicle or the existence of broken windows, flat tires, or other obvious, visible vehicle damage that affects the vehicle's operability.

“Hazard” or “hazardous” refers to a vehicle parked in such a manner as to jeopardize public safety in any way or the efficient movement of vehicle or pedestrian traffic, including but not limited to situations described in ORS 819.120.

“Hearings officer” means a person designated by the Board to hold hearings, make decisions, and act on the Board’s behalf in accordance with this chapter.

“Owner” means a person responsible for the parking of a vehicle and who is liable for the cost of removal and disposition of the vehicle. For purposes of this chapter, the owner shall be presumed to be the person(s) to whom a vehicle is registered according to state motor vehicle division records, unless other evidence leads an authorized officer reasonably to believe that another person is responsible.

“Park” or “Parking,” means stopping, stationing, or letting stand a vehicle, whether the vehicle is occupied or not, other than temporarily for the purpose of, and while actually engaged in, loading or unloading passengers or freight or in obedience of traffic regulations, signs, or signals. “Parked” refers a vehicle so stopped, stationed, or left to stand.

“Public road” means a road over which the public has a right of use that is a matter of public record.

“County road” means a public road under the jurisdiction of the County that has been designated as a county road under ORS 368.016.

“Local access road” means a public road under the jurisdiction of the County that is not a county road.

“Recreational vehicle” means a vehicle, with or without motive power, designed for human occupancy and to be used temporarily for recreational, seasonal, or emergency purposes.

“Road” means the entire right of way of any public or private way that provides ingress to or egress from property by means of vehicles or other means or that provides travel between places by means of vehicles. “Road” includes, but is not limited to: (a) ways described as streets, highways, throughways, or alleys; (b) road-related structures that are in the right of way, such as tunnels, culverts, or similar structures; and (c) structures that provide for continuity of the right of way, such as bridges.

“Sheriff” means the Douglas County Sheriff or a deputy of the Sheriff.

“Store” or “storage” means holding a vehicle at any appropriate facility under the provisions of this chapter or of Oregon law.

“Tow” or “towing” means taking possession of a vehicle and moving it to a storage facility at the request of an authorized officer or a law enforcement officer.

“Vehicle” means 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, including but not limited to campers, recreational vehicles, pickup truck canopies, utility trailers, boat trailers, and motor homes.

10.08.030 Purpose and limitations of ordinance. This chapter is enacted to provide authority and procedures for the regulation of the parking of vehicles on County property and public roads under County jurisdiction. The authority provided by this chapter shall supplement rather than limit in any manner the authority provided by Oregon law or other ordinances to tow, impound, inventory, store, and dispose of vehicles. No provision of this chapter shall be interpreted as limiting in any way the authority of the Sheriff or other County officials to take any lawful action concerning vehicles under other ordinances or under state law.

10.08.040 Prior parking ordinances repealed. The provisions of this chapter supersede and replace those of Douglas County Code Chapter 10.04 and all prior County parking ordinances and on the effective date of this chapter, Douglas County Code Chapter 10.04 is repealed.

10.08.050 Authority to regulate parking on County property. The heads of the following County departments are authorized to adopt rules consistent with the provisions of this chapter governing when, where, and how vehicles may be parked on County property for which they have management responsibility: Building Facilities, Fairgrounds, Library, Museum, Parks, Public Works, and Salmon Harbor. They may install signs, effect curb or pavement markings, or provide other forms of notice of such rules and of the provisions of this chapter. They may not implement parking fees, parking fines, or rules pertaining to the disposition of vehicles without Board approval and, in the case of the Fairgrounds and Salmon Harbor, approval of the Douglas County Fair Board and Salmon Harbor Management Committee, respectively.

10.08.060 Prohibited acts. The following acts are prohibited on public roads under County jurisdiction and on County property in both unincorporated and incorporated areas of the County:

A. Abandoning a vehicle.

B. Except as provided in subparagraphs B(1) and (2), immediately below, residing, camping, or sleeping overnight in a vehicle.

(1) A person may temporarily occupy a recreational vehicle that is otherwise legally parked on a public road under County jurisdiction in a residential zone, if all of the following circumstances exist:

a. The period of occupancy is no longer than 72 consecutive hours in any one-week period;

b. The recreational vehicle is owned by the resident or a guest of the resident of a dwelling immediately in front of or adjacent to which the vehicle is parked; and

c. The recreational vehicle is parked and used in a manner that does not violate any other provision of this chapter or any federal, state, or local law.

(2) A person may camp or sleep overnight in a recreational vehicle on County property designated by the County as a campground or campsite, camping area, or RV park, provided that such use occurs in full compliance with all rules and policies established and administered by County officials for the use of such areas.

C. Parking in a manner likely, as reasonably determined by a County official, to: (1) obstruct or impede the normal flow of traffic; (2) obstruct ingress to or egress from any public or private property other than that over which the person causing the obstruction has exclusive legal authority to exercise control; (3) obstruct or impede access to a mail receptacle or to emergency equipment or services; (4) constitute a hazard.

D. Except by permission of a County official or as expressly authorized by rules applicable to specific parking areas or by permit (e.g., in County campgrounds), parking in the same location continuously for more than 72 consecutive hours.

E. Parking in violation of any County parking rule or regulation established as provided in Section 10.08.050, above, of which notice has been given to a vehicle owner by any reasonable means, including but not limited to signage, pavement or curb marking, language included in a County-issued parking, day use, or camping permit, pass, or fee receipt; or by issuance of written or verbal notices or warnings by a County official.

10.08.070 Violations.

A. The department heads described in Section 10.08.050 are authorized to issue citations for violation of any provision of Section 10.08.060, and shall be deemed to be "enforcement officers" within the meaning of ORS 153.005 to 153.121.

B. Acts prohibited by Section 10.08.060 shall be violations under ORS 153.008 and shall be punishable by the fines established by statute for unclassified violations.

C. Violation proceedings shall follow the process set forth in ORS 153.005 to 153.121.

D. This chapter shall not be construed as requiring that a citation be issued prior to or in conjunction with having a vehicle towed and stored. An enforcement officer may elect to have a vehicle towed and stored without issuing a citation either before or at the time that towing is effected, or may issue a citation(s) in addition to or in lieu of having a vehicle towed.

E. An enforcement officer may address a continuing violation by issuing a new citation for each 24-hour period during which a vehicle remains in violation of a provision of Section 10.08.060.

10.08.080 Authority to have vehicles in violation of Section 10.08.060 towed and stored.

A. A County official, for violations occurring on County property, or the Sheriff, for violations occurring on either public roads under County jurisdiction or County property, may have vehicles in violation of the provisions of Section 10.08.060 towed and stored, either by using the County's own personnel, equipment, and facilities or by engaging other personnel, equipment, and facilities for that purpose.

10.08.090 Procedures for having vehicles towed and stored.

A. The County may have any vehicle in violation of the provisions of paragraph C of Section 10.08.060 towed and stored either with or without prior notice to the owner.

B. Following the towing and storing of a vehicle that has occurred without prior notice, notice shall be given as described immediately below.

(1) Notice shall be sent by certified mail within 48 hours to the owner and to any lessors or security interest holders as shown in the records of the Department of Transportation. The 48-hour period does not include holidays, Saturdays, or Sundays.

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

(a) That the vehicle has been towed and stored;

(b) The location of the vehicle or the telephone number and address at which that information can be obtained;

(c) 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;

(d) 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 specified date;

(e) 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 the towing and storage and the reasonableness of the charges if a hearing is timely requested;

(f) The time within which a hearing must be requested and the method for requesting a hearing; and

(g) That the vehicle and its contents may be immediately reclaimed by presentation 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.

C. The County may have any vehicle in violation of the provisions of paragraph A, B, D, or E of Section 10.08.060 towed and stored after notice has been given as described immediately below. (Vehicles in violation of paragraph C of Section 10.08.060 may be towed with or without prior notice.)

(1) Notice shall be affixed to the vehicle at least 72 hours before taking the vehicle into custody. The 72-hour period includes holidays. The notice shall state:

(a) That the vehicle will be towed if the vehicle is not removed before the specified time;

(b) The provision of Section 10.08.060 violated and, if the violation is of paragraph E of Section 10.08.060, the specific parking rule violated;

(c) The place where the vehicle will be held in custody or the telephone number and address where that information can be obtained;

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

(e) That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not paid within 30 days;

(f) 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 towing and storage if a hearing is timely requested;

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

(h) The time within which a hearing must be requested and the method for requesting a hearing.

D. If there is no visible vehicle identification number on a vehicle and there are no registration plates and no other markings through which the Department of Transportation could identify the owner of the vehicle, then the notice required by this section is not required, and the vehicle may be towed and disposed of as though notice and an opportunity for a hearing had been given.

10.08.100 Hearing procedures.

A. If the County receives a request for hearing before a vehicle is towed under the provisions of this chapter, the vehicle may not be towed prior to the hearing unless the vehicle constitutes a hazard.

B. A request for hearing shall be in writing and shall state grounds upon which the person requesting hearing believes that towing and storage of the vehicle are not justified.

C. Upon receipt of a request for hearing, the County shall set a time for the hearing within 72 hours of the receipt of the request and shall provide notice of the hearing to the person requesting the hearing and to the owners of the vehicle and any lessors or security interest holders shown in the records of the Department of Transportation, if not the same as the person requesting the hearing. The 72-hour period in this section does not include holidays, Saturdays, or Sundays.

D. If the hearings officer finds, after hearing and by substantial evidence on the record, that the custody and towing of the vehicle were:

(1) Not justified, the County shall order the immediate release of the vehicle to the owner or person with right of possession. If the vehicle is released under this paragraph, the person to whom the vehicle is released is not liable for any towing or storage charges. If the person has already paid the towing and storage charges on the vehicle, the County shall reimburse the person for the charges. New storage costs on the vehicle will not start to accrue until more than 24 hours after the time the vehicle is officially released to the person under this paragraph.

(2) Justified, the County shall order the vehicle to be held in custody until all towing and storage costs are paid by the party claiming the vehicle. If the vehicle has not yet been towed, the County shall order that the vehicle be towed.

E. A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the hearings officer for the person's failure to appear.

F. The County is only required to provide one hearing under this section for each time the County has a vehicle towed or provides notice of its intent to do so.

G. In addition to providing an opportunity for the owner to challenge whether the towing and storage of the vehicle are justified, hearing under this section may be used to determine the reasonableness of the charges for towing and storage of the vehicle. Towing and storage charges set by law, statute, ordinance, or rule shall be presumed to be reasonable.

H. The County shall provide a written statement of the results of a hearing held under this section to the person requesting the hearing.

I. Hearings held under this section shall be informal in nature. The hearings officer may establish rules consistent with this section for the orderly presentation of evidence and to allow the owner and any other person with an interest in the vehicle a reasonable opportunity to demonstrate, through the statement of witnesses and presentation of other evidence, that the towing and storage of the vehicle are not justified or that the towing and storage fees are unreasonable.

J. The decision of the hearings officer is the County's final decision.

10.08.110 Exemption from notice and hearing requirements for vehicle held in criminal investigation. A vehicle held as part of a criminal investigation is not subject to the requirements of this chapter.

10.08.120 Towing and storage liens.

A. Except as otherwise provided by this section, a person shall have a lien on the vehicle and, under the conditions described in paragraph C of this section, the vehicle's contents, if the person, at the County's request, tows a vehicle under the provisions of this section.

B. A lien established under this section shall be on the vehicle for the just and reasonable charges for the towing service performed and any storage provided. However, if the person that tows the vehicle fails to comply with the notice requirements of this section, the amount of any lien claimed under this section is limited to an amount equal to the just and reasonable charges for the towing service performed and storage provided for a period not exceeding 15 days from the date the vehicle was placed in storage. The lien is subject to the provisions for liens under ORS 98.812. The person holding the lien may retain possession of the vehicle until the charges on which the lien is based are paid.

C. A lien shall attach to the contents of the vehicle only if the vehicle has been towed for violation of paragraph A (abandoning a vehicle) of Section 10.08.060 and only after 15 days have passed from the date of the towing.

D. A person that tows any vehicle at the County's request shall send by first-class mail with a certificate of mailing, within 15 days after the vehicle is placed in storage, written notice approved by the County containing information on the procedures necessary to obtain a hearing under the provisions of this chapter. The notice shall be provided to the owner, a person entitled to possession, or any person with an interest recorded on the title to the vehicle.

10.08.130 Remedies not exclusive. The remedies available to the County as set forth in this chapter are not exclusive. Nothing in this chapter shall preclude any remedy otherwise available to the County, either in law or in equity.