

ORDINANCE NO. 4053

AN ORDINANCE RELATING TO VEHICLES AND
TRAFFIC, AMENDING
BEAVERTON CODE CHAPTER SIX

WHEREAS, state law has changed respecting notice requirements that must be fulfilled prior to the removal of a non-hazardous abandoned vehicle left on a street; and

WHEREAS, the City should adopt definitions and notice provisions for impounding vehicles that bring the City Code into closer compliance with applicable state law; and

WHEREAS, vehicles with anti-theft alarms which sound for long periods of time are disturbing and annoying and raise public concern that a crime is in progress or has been committed; and

WHEREAS, amending the procedures for handling non-hazardous abandoned vehicles and other provisions of Chapter Six of the Beaverton Code can result in cost savings to citizens, more expeditions handling of code violations, further accommodation of Police Department impound and inventory policies, and clear code language; now, therefore,

THE CITY OF BEAVERTON ORDAINS AS FOLLOWS:

The following sections of Chapter Six of the Beaverton code are amended to read as follows:

Section 1. Beaverton Code, section 6.02.010, is amended to read as follows:

"6.02.010 Short Title. BC 6.02.010-900 shall be known and may be cited as the "Beaverton Uniform Traffic Ordinance" and may also be referred to as "this ordinance."

Section 2. Beaverton Code, section 6.02.030, is amended to read as follows:

"6.02.030 Definitions.

A. In addition to those definitions contained in the Oregon Vehicle Code, the following mean:

Abandoned Vehicle - A vehicle on a street that has not been moved at least one tenth of a mile within 72 hours, unless all of the following apply:

1. the vehicle is parked on a street with the permission of the abutting property owner or tenant;
2. the vehicle is not a discarded vehicle;
3. the vehicle does not interfere with or obstruct the

free movement of traffic in or onto the street; and,
4. the vehicle has moved at least one tenth of a mile in the past 30 days.

Block - That portion of street frontage on one side of the street between two intersecting streets.

Bus stop - A space on the edge of a street designated by sign for use by buses loading or unloading passengers.

Business district - Any area of the City designated as a commercial district by the Development Code.

Discarded vehicle - A vehicle that is inoperable or not currently licensed. For purposes of this definition a vehicle includes, but is not limited to, the major parts of the vehicle, such as the body, the engine, the transmission or the rear end. [Added by Ordinance No. 3278, 8/17/82]

Driveway - Any alley or access drive to public or private property from a street. The term driveway shall include all portions of the curb that have been sloped, tapered and/or depressed to accommodate vehicle movement.

Emergency - For purposes of BC 6.02.320, a situation where an unforeseen combination of circumstances calls for immediate action in order to avoid damage to a vehicle or where a vehicle was rendered inoperable, but does not include a situation where the vehicle is left standing in excess of 24 hours.

Holiday - New Year's Day, Independence Day, Labor Day, Thanksgiving Day, Christmas Day, and any other day designated by the Council to be a holiday.

Loading zone - A space on the edge of a street designated by sign for the purpose of loading or unloading passengers or materials during specified hours of specified days.

Mayor - The mayor or the mayor's designee.

Motor vehicle - Every vehicle that is self-propelled, including tractors, fork-lift trucks, motorcycles, road-building equipment, street-cleaning equipment, and any other vehicle capable of moving under its own power, notwithstanding that the vehicle may be exempt from licensing under the motor vehicle laws of Oregon.

Parade - A gathering of at least ten persons or ten vehicles or both traveling more than 100 feet on public streets, sidewalks or alleys for a common purpose of public demonstration.

Police chief - The chief of the police department or the police chief's designee.

Street - Every public way, road, highway, thoroughfare and place, including bridges, viaducts and other structures, open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right.

Taxicab stand - A space on the edge of a street designated by sign for use by taxicabs.

Traffic lane - That area of the street used for the movement of a single lane of traffic.

Vehicle - Any device in, upon or by which any person or property is or may be transported or drawn upon a street and includes vehicles that are propelled or powered by any means."

Section 3. Beaverton Code, section 6.02.310, is amended to read as follows:

"6.02.310 Prohibited Parking or Standing. No person shall park or stand:

A. A vehicle in violation of state motor vehicle laws or on the public right of way in violation of a lawfully erected parking limitation sign.

B. A vehicle in an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of 30 consecutive minutes.

C. A motor truck as defined by the Oregon Vehicle Code on a street between the hours of 9:00 p.m. and 7:00 a.m. of the following day in front of or adjacent to a residence, motel, apartment house, hotel, or other sleeping accommodation.

D. A vehicle upon a bridge, viaduct, or other elevated structure used as a street or within a street tunnel unless authorized.

E. A vehicle upon a parkway or freeway, except as authorized.

F. An abandoned vehicle on a street.

G. A vehicle for a period in excess of a maximum parking time limit where so designated by sign or other marking. Where maximum parking time limits are designated by sign, movement of a vehicle within a block shall not extend the time limits for parking.

H. Unless otherwise indicated, a vehicle within 20 feet of an intersection except momentarily to pick up or discharge a passenger.

I. Any trailer house, camp trailer, mobile home, auto home, camp car, recreational vehicle, boat, boat trailer, utility trailer, or any other device not primarily intended for the transportation of people, upon any street, such that the device has not moved at least one tenth of a mile within 48 hours.

J. A vehicle on a street or public place or premises open to the public without a license plate or a vehicle with a license plate or temporary licensing permit which is expired for more than one month.

K. A vehicle any place on premises occupied by the city police station that is marked as a place for police parking only.

L. A motor vehicle upon a sidewalk, curb, planting strip or median within the public right-of-way. [BC 6.02.310, amended by Ordinance No. 3278, 8/17/82; Ordinance No. 3365, 4/10/84; Ordinance

No. 3427, 1/22/85; Ordinance No. 3447, 5/14/85; Ordinance No. 3537, 10/21/86; Ordinance No. 3560, 4/14/87]"

Section 4. Beaverton Code, Title to Section 6.02.800, is amended to read Immobilization and Penalties.

Section 5. Beaverton Code, Section 6.02.800, is hereby repealed.

Section 6. Section 6.02.890 is added to the Beaverton Code to read as follows:

"6.02.890 Remedies Cumulative. Any impoundment or immobilization of a vehicle pursuant to this ordinance is in addition to, and not in lieu of, any other civil, criminal, or administrative penalty, sanction, or remedy otherwise authorized by law."

Section 7. Beaverton Code, Section 6.05.010, is amended to read as follows:

"6.05.010 Definitions. As used in this ordinance, the following mean:

Abandoned vehicle - A vehicle on a street that has not been moved at least one tenth of a mile within 72 hours, unless all of the following apply:

1. the vehicle is parked on a street with the permission of the abutting property owner or tenant;
2. the vehicle is not a discarded vehicle;
3. the vehicle does not interfere with or obstruct the free movement of traffic in or onto the street; and,
4. the vehicle has moved at least one tenth of a mile in the past 30 days.

Discarded vehicle - A vehicle that is inoperable or not currently licensed. For purposes of this definition a vehicle includes, but is not limited to, the major parts of the vehicle, such as the body, the engine, the transmission or the rear end.

Hazardous vehicle - A vehicle left in a location or in a condition that constitutes an immediate and continuous hazard to the health, safety or welfare of person or property. The term includes, but is not limited to, vehicles blocking fire hydrants, vehicles with leaking gas tanks, vehicles with an audible anti-theft alarm system that has sounded in excess of 20 minutes, vehicles located in violation of the Fire Prevention Code in effect within the City of Beaverton, vehicles blocking a public or private right-of-way, and vehicles occupying parking spaces designated for police parking only.

Law enforcement officer - A law enforcement officer of the City or other City employee authorized to enforce this ordinance.

Owner - A person with an individual or joint claim in or ownership of a legal or equitable interest in a vehicle.

Private garage - A private storage yard, garage or other storage place selected by the City.

Public property - Real property that is owned, leased, rented or lawfully used or operated by the state, a county, city or other governmental entity

Vehicle - As used in the Vehicle Impoundment Ordinance a device in, on, or by which a person or property can be transported or drawn on a street, except devices moved exclusively by human power or used exclusively on stationary rails or tracks. [BC 6.05.010, amended by Ordinance No. 3278, 8/17/82; Ordinance No. 3302, 11/3/82; Ordinance No. 3427, 1/22/85; Ordinance No. 3539, 10/21/86]"

Section 8. Beaverton Code, Section 6.05.020, is amended to read as follows:

"6.05.020 Abandoned Vehicles Prohibited.

A. An abandoned vehicle shall not be left parked on either (1) a street as defined in BC 6.02.030, or (2) public property without the consent of the owner or occupant of the property.

B. A vehicle so parked or left standing may be taken into custody by a law enforcement officer after compliance with BC 6.05.060 and BC 6.05.070 and held at the expense of the owner or person entitled to possession of the vehicle. The law enforcement officer may use City personnel, equipment and facilities for removal and storage of the vehicle or may hire other personnel, equipment and facilities for that purpose. [BC 6.05.020, amended by Ordinance No. 3278, 8/17/82; Ordinance No. 3302, 11/3/82; Ordinance No. 3427, 1/22/85]"

Section 9. Section 6.05.035 is added to the Beaverton Code to read as follows:

"6.05.035 Remedies Cumulative. Any impoundment of a vehicle pursuant to this ordinance is in addition to, and not in lieu of, any other civil, criminal, or administrative penalty, sanction, or remedy otherwise authorized by law."

Section 10. Beaverton Code, Section 6.05.040, is amended to read as follows:

"6.05.040 Towing and Storage Liens.

A. A person who, at the request of a law enforcement officer, takes a vehicle into custody under provisions of this ordinance shall have a lien on the vehicle and its contents as provided under state law including, but not limited to ORS 87.152 and ORS 819.160, for

reasonable towing and storage charges and may retain possession of that vehicle consistent with this ordinance until such charges are paid or bond or some form of security is posted. Such lien shall attach and may be foreclosed as provided under state law. A lien described under this section does not attach to the contents of any vehicle taken into custody from public property until 15 days after taking the vehicle into custody. If the appraised value of the vehicle is \$750.00 or less, the vehicle shall be disposed of in the manner provided in the Oregon Vehicle Code.

B. If the vehicle is taken into custody under provisions of this ordinance and held by a law enforcement officer, rather than by a private garage, the vehicle shall be disposed of in the manner provided in the Oregon Vehicle Code.”

Section 11. Beaverton Code, Section 6.05.060, is amended to read as follows:

“6.05.060 Pre-towing Investigation and Notice.

A. When a vehicle is found in violation of BC 6.05.020 or parked or standing in violation of this Code or a City ordinance, the officer shall attempt to identify and locate the owner of the vehicle and to request the owner to remove the vehicle. If the officer’s attempt fails to accomplish prompt and satisfactory compliance with this code, the officer shall:

1. affix a notice to the vehicle on the windshield or another place it can easily be seen at least one week prior to the tow; and
2. mail a notice to the registered owner(s) of the vehicle within two working days after the notice is affixed to the vehicle.

B. This section does not apply to vehicles listed in BC 6.05.030.”

Section 12. Beaverton Code, Section 6.05.070, is amended to read as follows:

“6.05.070 Pretow Notice - Contents

A. Notices affixed to a vehicle or mailed pursuant to BC 6.05.060 shall state:

1. the name or badge number of the officer issuing the notice;
2. that the vehicle will be towed and taken into custody by the City if it is not removed within seven calendar days of the date of the notice;
3. the statute, ordinance or rule violated by the vehicle and under which the vehicle will be removed;
4. the place where the vehicle will be held in custody

or the telephone number and address where information concerning the vehicle can be obtained;

5. that the person who tows a vehicle pursuant to BC 6.05.005-.150 shall have a lien on the vehicle and its contents for 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;

6. that the owner of the vehicle is entitled to a hearing before the vehicle is towed to contest the validity of the tow if the hearing is timely requested;

7. that the owner of the vehicle is also entitled to challenge the reasonableness of any towing and storage charges at a hearing;

8. that a hearing on the validity of the towing must be requested within seven calendar days of the date on the notice to the owner; and

9. that a request for a hearing must be in writing to the Beaverton Municipal Court and must state the grounds upon which the person requesting the hearing believes the towing is invalid or the charges are unreasonable.

B. If the owner of the vehicle requests a hearing before the vehicle is taken into custody, the vehicle shall not be taken until a hearing is set and held in accordance with BC 6.05.120-.150.

C. The owner must request the hearing on the validity of the tow within seven calendar days of the date of the notice. The request must be made in writing and shall state the grounds upon which the person requesting the hearing believes the towing is invalid or the charges are unreasonable.

D. Failure to appear in person or to mail or deliver a request for hearing within seven calendar days of date of the notice shall act as a waiver of the right to a hearing on the validity of the tow."

Section 13. Beaverton Code, Section 6.05.080, is amended to read as follows:

"6.05.080 Pretow Notice When Four or More Citations Have Been Issued With Respect to a Vehicle.

A. A vehicle may be towed or immobilized on order of the municipal court if:

1. it is a vehicle that has been used in the commission of at least four or more violations of City parking ordinances for which citations have been issued and have been outstanding for more than 30 days; and

2. the citation issued stated that the vehicle could be immobilized or towed if bail was not posted or a hearing scheduled; and

3. a delinquent parking citation notice was mailed to the registered or legal owner at least ten days prior to the towing or immobilization stating the following:

a. the license plate number, the citation numbers, the violation dates and the amount of bail due;

b. that the vehicle will be immobilized and towed and taken into custody by the City if the total bail is not paid within ten calendar days;

c. the statutes, ordinances or rules violated by the vehicle for which the citation is issued;

d. that if the vehicle is immobilized or towed, the place where the vehicle will be held in custody or the telephone number and address of the City department where information concerning the vehicle can be obtained;

e. that if the vehicle is immobilized an immobilization fee will be assessed for removal of the immobilization device in addition to any penalties assessed pursuant to the Code;

f. that the person who tows the vehicle pursuant to this ordinance at the request of a law enforcement officer shall have a lien on the vehicle and its contents for reasonable towing and storage charges, may retain possession of the vehicle until the charges are paid, and may have the vehicle sold at a public auction to satisfy the lien;

g. that the owner of the vehicle is entitled to a hearing before the vehicle is immobilized or towed to contest the validity of the citations or proposed immobilization or towing if a hearing is timely requested;

h. that if the vehicle is towed, the owner of the vehicle is entitled to challenge the reasonableness of any towing and storage charges at a hearing;

i. that a hearing on the validity of the citations, proposed immobilization or towing must be requested in person at the court or in writing within ten calendar days of date of the notice and that the request must include the grounds upon which the owner believes the towing is invalid.

B. If the owner of the vehicle requests a hearing before the vehicle is taken into custody, the vehicle shall not be immobilized or towed until a hearing is set and held in accordance with BC 6.05.110-.130.

C. The owner must request the hearing on the validity of the citations, proposed immobilization or towing within ten days of the date of the delinquent parking citation notice. The request must be made in writing or in person and shall state the grounds upon which the person requesting the hearing believes the citations and/or

proposed immobilization or towing are invalid.

D. Failure to appear in person or to mail or deliver a written request for a hearing within ten calendar days after date of the delinquent parking citation notice shall act as a waiver of the right to contest the validity of the citations or the tow."

Section 14. Beaverton Code, Section 6.05.090, is amended to read as follows:

"6.05.090 Post-Towing Notice - Hazardous Vehicles

A. When a vehicle is impounded under either BC 6.05.020 or BC 6.05.030, notice shall be provided to the owner stating:

1. that the City has had the vehicle towed;
2. the statute, ordinance or rule under which the vehicle was towed;
3. location of the vehicle or telephone number or address where information concerning the vehicle can be obtained;
4. that the vehicle is subject to towing and storage charges that have accrued and/or continue to accrue;
5. that a lien for towing and storage charges has arisen on the vehicle and its contents in favor of the person who towed the vehicle;
6. that the vehicle may be sold at public auction to satisfy the lien if the charges are not paid within a specific period of time;
7. that, if requested, a prompt hearing shall be held on the validity of the tow and the creation and amount of the lien;
8. the time within which a hearing must be requested and the method for requesting the hearing;
9. that, if the owner requests a hearing, the owner may immediately recover possession of the vehicle before the hearing by:
 - a. presenting proof of ownership or right to possession; and
 - b. either paying the towing and storage charges or posting a security deposit in accordance with the security deposit schedule authorized in BC 6.05.110, with the City for towing and storage charges that have accumulated as of the date of the request for hearing.

B. Notice is considered given when a certified letter addressed to the registered owner of the vehicle and a similar letter addressed to the legal owner, if different, return receipt requested, are mailed within 48 hours not including Saturdays, Sundays and holidays after the vehicle is taken into possession by the law enforcement officer.

C. If the vehicle is registered in the office of the state Motor Vehicles Division, notice may be addressed to the registered owner and the legal owner at the latest addresses shown on records in that office. If the vehicle is not registered, reasonable efforts shall be made to ascertain the names and addresses of the legal owner and persons entitled to possession of the vehicle so that notice can be mailed within the time period prescribed in subsection B.

D. The owner must request a hearing within ten calendar days of the date of the notice. The request may be made in person or in writing and shall state the grounds upon which the person requesting the hearing believes the towing is invalid or the charges unreasonable. Failure to appear in person or to mail or deliver a written request within ten calendar days of the date of the notice shall act as a waiver of the right to a hearing.”

First reading this 17th day of July, 1999.

Passed by the Council this 2nd day of August, 1999.

Approved by the Mayor this 3RD day of AUGUST, 1999.

ATTEST:

APPROVED:

Darleen Coxburn
DARLEEN COGBURN, City Recorder

Rob Drake
ROB DRAKE, Mayor