

ORDINANCE NO. 03-741-O

AN ORDINANCE AMENDING ORDINANCE NO. 543 CONTROLLING VEHICULAR AND PEDESTRIAN TRAFFIC AND PROVIDING PENALTIES; REPEALING ORDINANCE NUMBER 605 AND ITS AMENDMENTS (ORDINANCES 619, 626, AND 739), THE CONTENTS IN THEIR ENTIRETY ARE INCORPORATED HEREIN.

THE CITY OF TALENT ORDAINS AS FOLLOWS:

Section 1. Short Title. This ordinance may be cited as the "Talent Uniform Traffic Ordinance."

Section 2. Applicability of State Traffic Laws. Oregon Revised Statutes, chapter 153, and the Oregon Vehicle Code, ORS chapters 801 and 822, are adopted by reference. Violation of an adopted provision of those chapters is an offense against this city.

Section 3. Definitions. In addition to the definitions contained in the Oregon Vehicle Code, the following mean:

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

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

Person - An individual, firm, partnership, association or corporation.

Street - The terms "highway", "road", and "street" shall be considered synonymous, unless the context precludes such construction. "Street" includes alleys and both public and private streets.

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

Traffic Control Device - Any sign, signal, marking or device placed, operated or erected by order of the Traffic Safety and Transportation Commission for the purpose of guiding directing, warning or regulating traffic.

Traffic Lane - That area of the roadway used for the movement of a single line of traffic.

Traffic Safety and Transportation Commission - Responsible authority designated to review transportation related issues and, when appropriate,

determine where traffic safety measures shall be implemented on all highways, roads, streets, and alleys, other than state and county highways, within the boundaries of the incorporated City limits.

Section 4. Powers of the Council

- (1) Subject to state laws, the city council **hereby authorizes the Traffic Safety and Transportation Commission to be the municipal traffic authority for the City and reserves the right to override the Traffic Safety and Transportation Commission on any traffic related matter** [shall exercise all municipal traffic authority for the City except those powers specifically and expressly delegated by this or another ordinance].
- (2) The powers of the council include, but are not limited to:
  - (a) Designation of through streets.
  - (b) Designation of one-way streets.
  - (c) Designation of truck routes.
  - (d) Designation of parking [meter] zones **and parking control devices.**
  - (e) Designation of certain streets as bridle paths and prohibition of horses and animals on other streets.
  - (f) Authorization of greater maximum weights or lengths for vehicles using city streets than specified by state law.
  - (g) Initiation of proceedings to change speed zones.
  - (h) Revision of speed limits in parks.
  - (i) Temporary blocking or closing of streets.
  - (j) Establishment of bicycle lanes and paths and traffic controls for such facilities.
  - (k) Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage.
  - (l) Issuance of oversize or overweight vehicle permits.
  - (m) Establishment, removal or alteration of the following classes of traffic controls:
    - (i) Crosswalks, **traffic calming devices,** safety zone and traffic lanes.
    - (ii) Intersection channelization and areas where drivers of vehicles shall **be prohibited from making** [to make] right, left or U-turns and the times **when the prohibitions apply** [applies].
    - (iii) Parking areas and time limitations, including the form of permissible parking (e.g., parallel or diagonal).
    - (iv) Loading zones and **temporary** stops for vehicles.
    - (v) Traffic control [signals] **devices including stop, yield, and other traffic control signs.**
- (3) A Traffic Safety and Transportation Commission shall be designated to act on behalf of the Council in making decisions related to the powers

enumerated in Section 4, (2) above. In executing its responsibilities regarding traffic controls, the Commission shall apply all reasonable conditions and standards designed to enhance public safety. The Traffic Practices Handbook for Local Roads and Streets in Oregon prepared by the Oregon Department of Transportation should be used as a reference to ensure uniformity and consistency throughout the state. In addition, the Commission shall be responsible for reviewing traffic safety related programs.

- (a) The Traffic Safety and Transportation Commission shall consist of seven voting members including 2 City Council members, Public Works/City Engineer, Chief of Police, City Planner and 2 members from the community at large. The Mayor and City Council shall appoint at large members who may be non-residents.
- (b) The term of the voting members shall be for three years, expiring on December 31<sup>st</sup> of each year. Any vacancy shall be filled by appointment by the Mayor, with confirmation by the City Council, for the unexpired portion of the term. Any member absent from four or more meetings in a year shall be considered no longer active and the position vacant.
- (c) The Commission shall issue orders related to actions taken that would address any of the traffic safety issues covered in Section 4, (2) of this ordinance.
- (d) The Director of Public Works shall serve as Secretary to the Commission and shall ensure that minutes are taken of all meetings and an index of the orders of the Commission by type and date of adoption is maintained and distributed to all departments to ensure public access to these records.
- (e) The Commission may make rules and regulations for its government and procedures, consistent with the laws of the state and the City Charter and Ordinances.
- (f) In addition to traffic safety regulations the Commission shall be responsible for the following.
  - (i) To develop and coordinate traffic safety programs;
  - (ii) To recommend traffic safety priorities and actions for the City;
  - (iii) To coordinate common safety concerns with other commissions;
  - (iv) To promote public awareness of official City traffic programs, traffic law enforcement, and traffic engineering needs;
  - (v) To promote safety education programs to the public; and
  - (vi) To cooperate with the public and private school systems in promoting traffic safety education programs.

Section 5. Implementation of Regulations The city manager or his or her designee shall implement the ordinances, of the council, or orders of the commission by installing, maintaining, revolving and altering traffic control

devices. The installation shall be based on the standards contained in the "Oregon Manual on Uniform Traffic Control Devices for Streets and Highways."

Section 6. Public Danger. Under conditions constituting a danger to the public, the **City Manager** [administrator] or his or her designee may install temporary traffic control devices.

Section 7. Standards. The regulations of the **City Manager** [administrator] or his or her designee shall be based on:

- (1) Traffic engineering principles and traffic investigations.
- (2) Standards, limitations, and rules promulgated by the Oregon Transportation Commission.
- (3) Other recognized traffic control standards.

Section 8. Authority of Police and Fire **District No. 5** [Officers].

- (1) It is the duty of police officers to enforce the provisions of this ordinance.
- (2) In the event of a fire or other public emergency, officers of the police and fire departments may direct traffic as conditions require, notwithstanding the provisions of this ordinance.

(Sections 9 and 10 reserved for expansion)

#### General Regulations

Section 11. Crossing Private Property. No operator of a motor vehicle shall proceed from one street to an intersecting street by crossing private property or premises open to the public. This provision does not apply to the operator of a motor vehicle who stops on the property to procure or provide goods or services.

Section 12. Unlawful Riding.

- (1) No operator of a motor vehicle shall permit a passenger to, and no passenger shall, ride on a motor vehicle on a street except on a portion of the vehicle designed or intended for the use of the passengers. This provision does not apply to an employee engaged in the necessary discharge of a duty or to a person riding within a truck body in space intended for merchandise.
- (2) No person shall board or alight from a motor vehicle while the vehicle is in motion on a street.

Section 13. Skateboards.

- (1) No person shall ride a skateboard upon a street, except while crossing at a crosswalk or upon a play street, or in specifically designated areas such as a skateboard park, nor upon any sidewalk or parking surface in the downtown area defined as:

Highway 99 from West Valley View Road to Talent Avenue, south along Talent Avenue to Lapree Street, west on Lapree Street to Home Street, south on Home Street to East Main Street, west on East Main Street to the railroad tracks, south along the railroad tracks to East Wagner Avenue, to Talent Avenue, north on Talent Avenue to West Valley View Road, east on West Valley View Road along both sides of the road.

- (2) The Chief of Police and those sworn police officers acting under the command of the Chief of Police, upon probable cause that a person is in violation of Section (1) above, shall impound the skateboard, provided, however, that such impounding shall be done only as to persons who have one or more convictions for violation of Section (1) above within the twelve months.
  - a. First impoundment: The first time property is impounded due to violation under this ordinance, it shall be returned, after conviction of the violator and satisfaction of the terms of the sentence, to the owner, or if the person shall be acquitted of the charge, the impounded personal property shall be forthwith returned to the persons from whom it was taken for impoundment.
  - b. Second impoundment; additional impoundments: When property is impounded a second time, or multiple times, due to violations of this ordinance, it shall be disposed of according to the order of the court, provided that if the person shall be acquitted of the charge, the impounded personal property shall be forthwith returned to the persons from whom it was taken for impoundment.
- (3) No person shall use the streets for traveling on skis, toboggans, sleds, or similar devices, except where authorized.

#### Section 14. Damaging Sidewalks and Curbs.

- (1) The operator of a motor vehicle shall not drive on a sidewalk or roadside planting strip except to cross at a permanent or temporary driveway.
- (2) No unauthorized person shall place dirt, wood, or other material in the gutter or space next to the curb of a street with the intention of using it as a driveway.
- (3) No person shall remove a portion of a curb or move a motor vehicle or a device moved by a motor vehicle onto a curb or sidewalk without first obtaining authorization from the City and posting bond if required. A person who causes damage shall be responsible for the cost of repair.

Section 15. Removing Glass and Debris. A party to a vehicle accident or a person causing broken glass or other debris to be on a street shall remove the glass or other debris from the street.

Section 16. Storage of Motor Vehicles, Trailers, and Personal Property on Streets. No person shall store, or permit to be stored on a street or other public property, without permission of the Council, motor vehicles, recreation vehicles, boat trailers, horse trailers, storage trailers, or other similar devices, and personal property for a period in excess of seventy-two (72) hours. In order to avoid a violation of this ordinance, vehicles, or other similar devices, or personal property shall be moved no less than 1000 feet from the original location in one direction and can only be at this new location for a period not greater than seventy-two (72) hours. Failure to move vehicles, or other similar devices, or personal property shall constitute prima facie evidence of storage of a motor vehicle.

(Section 16 as amended by Ordinance #564 adopted July 15, 1992.)  
(Amended by Council January 2, 2003.)

Section 17. Obstructing Streets. No person shall park or leave on a street, including an alley, parking strip, sidewalk or curb, a vehicle part, trailer, box, ware, merchandise of any description, or any other thing that impedes traffic or obstructs the view, except as is allowed by this or other ordinances of the City.

Section 18. Speed Limits in Public Parks. No person shall drive a vehicle on a street in a public park of this city at a speed exceeding 15 miles per hour unless signs erected indicate otherwise.

Section 19. Unnecessary Noise. No person shall operate a motor vehicle in the City in such manner as to create or cause excessive noise. The operation of compression brakes, commonly known as "Jacob" brakes, in a manner that creates unnecessary noise is prohibited.

(Section 20 reserved for expansion)

### Parking Regulations

Section 21. Method of Parking.

- (1) No person shall stand or park a motor vehicle in a street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within 12 inches of the edge of the curb, except where the street is marked or signed for angle parking.
- (2) Where parking spaces are designated on a street, no person shall stand or park a vehicle other than in the indicated direction and, within a single marked space, unless the size or shape of the vehicle makes compliance impossible.

- (3) The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street has priority to park in that space, and no other vehicle operator shall attempt to interfere.
- (4) When the operator of a vehicle discovers that the vehicle is parked close to a building to which the fire department has been summoned, the operator shall immediately remove the vehicle from the area, unless otherwise directed by police or fire officers.

Section 22. Prohibited Parking or Standing. No person shall park or stand:

- (1) A vehicle in violation of state motor vehicle laws or in violation of a lawfully erected parking limitation sign or marking.
- (2) 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 20 consecutive minutes in any two-hour period.

Section 23. Prohibited Parking. No operator shall park and no owner shall allow a vehicle to be parked on a street for the principle purpose of:

- (1) Displaying the vehicle for sale.
- (2) Repairing or servicing the vehicle, except repairs necessitated by an emergency.
- (3) Displaying advertising from the vehicle.
- (4) Selling merchandise from the vehicle, except when authorized.

Section 24. Use of Loading Zone. No person shall stop, stand or park a vehicle for any purpose or length of time other than for the expeditious loading or unloading of persons or materials, in a place designated as a loading zone when the hours applicable to that loading zone are in effect. When the hours applicable to the loading zone are in effect, the loading and unloading shall not exceed the time limits posted. If no time limits are posted, than the use of the zone shall not exceed 5 minutes for loading or unloading of passengers and personal baggage and 15 minutes for loading or unloading materials.

Section 25. Passenger Loading Zone. No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious loading or unloading of passengers in a place designated as a passenger loading zone when the hours applicable to that zone are in effect.

Section 26. Standing or Parking of Buses and Taxi-cabs. The operator of a bus or taxicab shall not stop, stand, or park the vehicle on a street in a business district other than at a bus stop or taxicab stand, respectively, except that this provision shall not prevent the operator of a taxicab from temporarily stopping the taxicab outside a traffic lane while loading or unloading passengers.

Section 27. Restricted Use of Bus and Taxicab Stands. No person shall stop, stand, or park a vehicle other than a taxicab in a taxicab stand, or a bus in a bus stop, except that the operator of a passenger vehicle may temporarily stop while

actually engaged in loading or unloading passengers when stopping does not interfere with a bus or taxicab waiting to enter or about to enter the restricted space.

Section 28. Lights on Parker Vehicles. No lights need to be displayed upon a vehicle that is parked in accordance with this ordinance on a street where there is sufficient light to reveal a person or object at a distance of at least 500 feet from the vehicle.

Section 29. Extension of Parking Time. Where maximum parking time limits are designated by sign, **the** movement of a vehicle within a block shall not **be interpreted to** extend the time limits for parking.

Section 30. Unattended Vehicles. When a police officer finds a motor vehicle parked or standing unattended with the ignition key in the vehicle, the officer is authorized to remove the key from the vehicle and deliver the key to the person in charge of the police station.

Section 31. Exemption. The provisions of this ordinance that regulate the parking, stopping, or standing of vehicles do not apply to:

- (1) A vehicle of the city, county, state, or a public utility while necessarily in use for construction or repair work on a street.
- (2) A vehicle owned by the United States while in use for the collection, transportation, or delivery of mail.
- (3) A vehicle of a disabled person who complies with the provisions of ORS 811-610 to 811-630.

(Sections 32 to 35 reserved for expansion)

### Bicycles

Section 36. Operating Rules. In addition to observing all other applicable provisions of this ordinance and state law pertaining to bicycles, a person shall:

- (1) Not leave bicycles, except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway, or building entrance.
- (2) Not ride a bicycle on any sidewalk within the city.

Section 37. Impounding of Bicycles.

- (1) No person shall leave a bicycle on private property without the consent of the owner or person in charge. Consent is implied on private business property unless bicycle parking is expressly prohibited.
- (2) A bicycle left on public property for a period in excess of 24 hours may be impounded by the police department.

- (3) In addition to any citation issued, a bicycle parked in violation of this ordinance, that obstructs or impedes the free flow of pedestrian or vehicular traffic or otherwise endangers the public, may be immediately impounded by the police department.
- (4) If the owner of a bicycle impounded by this ordinance can be readily determined, the police shall make reasonable efforts to notify the owner.
- (5) A bicycle impounded under this ordinance that remains unclaimed shall be disposed of in accordance with [the City's] **City and state laws** [procedures for disposal of abandoned or lost personal property].

Section 38. Bicycle Licensing Requirements.

- (1) Bicycle License Required. No person who resides in the City shall operate a bicycle on a street or public right-of-way without a current, valid bicycle license.
- (2) Bicycle License Issuance. The Police Chief or his authorized designee upon receipt of an application shall issue a bicycle license to a person if he finds:
  - (a) The bicycle has not been reported lost or stolen and not yet recovered; and
  - (b) The applicant provides documentary evidence of ownership of the bicycle.
- (3) Bicycle License Term. Bicycle licenses shall be valid for as long as an owner keeps a bicycle.

(Sections 39 to 40 reserved for expansion)

Pedestrians

Section 41. Pedestrians Must Use Crosswalks. No person shall cross a street other than within a crosswalk in blocks with marked crosswalks, except where there is no marked crosswalk within 200 feet from the point of crossing.

Section 42. Right Angles. No person shall cross a street other than by a route at right angles to the curb or by the shortest route to the opposite curb, unless crossing within a crosswalk.

(Sections 43 to 45 reserved for expansion)

Parades and Processions

Section 46. Prohibited Activity. No person shall organize or participate in a parade that may disrupt or interfere with traffic without obtaining a permit. A permit shall always be required of a procession of people using the public right-of-way and consisting of 100 or more persons or 10 or more vehicles.

Section 47. Parade Permit.

- (1) Application for parade permit shall be made to the **City Manager** [administrator] at least seven days prior to the intended date of the parade, unless the time is waived by him or her.
- (2) Applications shall include the following information:
  - (a) The name and address of the person responsible for the proposed parade.
  - (b) The date of the proposed parade.
  - (c) The desired route, including assembling points.
  - (d) The number of persons, vehicles, and animals that will be participating in the parade.
  - (e) The proposed starting and ending time.
- (3) The application shall be signed by the person designated as chairperson.
- (4) The **City Manager** [administrator] shall issue a parade permit conditioned on the applicant's written agreement to comply with the terms of the permit unless the **City Manager** [administrator] finds that:
  - (a) The time, route, and size of the parade will unreasonably disrupt the movement of other traffic.
  - (b) The parade is of a size or nature that requires the diversion of so great a number of police to properly police the line of movement and contiguous areas that allowing the parade would deny reasonable police protection to the city.
  - (c) The parade will interfere with another parade for which a permit has already been issued.
  - (d) Information contained in the application is found to be false or a material detail is omitted.
  - (e) The applicant refuses to agree to abide by or comply with all conditions of the permit.
- (5) If one of more of the conditions listed in subsection (4), other than subpart (e), exists, the **City Manager** [administrator] may impose reasonable conditions in the permit, including but not limited to:
  - (a) Requiring an alternate date.
  - (b) Requiring an alternate route.
  - (c) Restricting the size of the parade.
- (6) The **City Manager** [administrator] shall notify the applicant of the decision within three days after receipt of the application.
- (7) If the **City Manager** [administrator] proposes alternatives or refuses to issue a permit, the applicant shall have the right to appeal the decision of the Council.

Section 48. Appeal to Council.

- (1) An applicant may appeal the decision of the **City Manager** [administrator] **to the Council** by filing a written request of appeal [with the recorder] within 48 hours **of** [after] the **City Manager's**

[administrator] **decision** [has proposed alternatives or refused to issue a permit].

- (2) The Council shall schedule a hearing date, which shall not be later than three days following the filing of the written appeal [with the recorder], and shall notify the applicant of the date and time that he or she may appear either in person or by a representative.

Section 49. Offenses Against Parade.

- (1) No person shall unreasonably interfere with a parade or parade participant.
- (2) No person shall operate a vehicle that is not part of a parade between the vehicles or persons comprising a parade.

Section 50. Permit Revocable. The **City Manager** [administrator] may revoke a parade permit if circumstances clearly show that the parade can no longer be conducted consistent with public safety.

Section 51. Funeral Procession.

- (1) No permit is required for a funeral procession.
- (2) A funeral procession shall proceed to the place of interment by the most direct route that is both legal and practical.
- (3) The procession shall be accompanied by adequate escort vehicles for traffic control.
- (4) All motor vehicles in the funeral procession shall be operated with their lights on.
- (5) No person shall unreasonably interfere with a funeral procession.
- (6) No person shall operate a vehicle that is not a part of the procession between the vehicles of a funeral procession.
- (7) Each driver in the procession shall follow the vehicle ahead as closely as is practical and safe.

Section 52. Offenses Against Funeral. No person shall operate a vehicle that is not part of a funeral procession between the vehicles comprising the procession.

(Sections 53 to 55 reserved for expansion)

Parking Citations and Owner Responsibility

Section 56. Citation on Illegally Parked Vehicle. When a vehicle without an operator is found parked in violation of a restriction imposed by this ordinance, the officer finding the vehicle shall take its license number and any other information displayed on the vehicle that may identify its owner, and shall conspicuously affix to the vehicle a parking citation instructing the operator to **respond** [answer] to the charge or pay the penalty imposed within five days **at the stated time and location** [during specific hours and at a specific place].

Section 57. Failure to Comply With Parking Citation Attached to Parked Vehicle. If the operator does not respond to a parking citation affixed to a vehicle within five working days, the municipal court may send a letter to the owner of the vehicle informing the owner of the violation and giving notice that if the citation is disregarded for a period of 10 days:

- (1) The fine will be doubled; and
- (2) The vehicle is subject to impoundment and may be sold if not redeemed.

Section 58. Cancellation of Parking Citation. No person shall cancel or solicit the cancellation of a parking citation in any manner, except when approved by the municipal judge.

Section 59. Owner Responsibility. The owner of a vehicle in violation of a parking restriction shall be responsible for the offense, unless the use of the vehicle was secured by the operator without the owner's consent.

Section 60. Registered Owner Presumption. In a proceeding against a vehicle owner charging a violation of a restriction on parking, proof that the vehicle was registered to the defendant at the time of the violation shall constitute a presumption that the defendant was the owner.

(Section 61 to 65 reserved for expansion)

#### Impoundment and Penalties

**Section 66. Impounding the Vehicle. As provided in this section, a vehicle may be removed by a police officer without prior notice and taken to a garage, parking lot, or other suitable storage place and held until the owner or an authorized agent files an application for redemption. A vehicle may be removed when:**

**(Section 1 amended by Ordinance #03-739 – adopted June 18, 2003)**

- (1) The vehicle is illegally parked on a public street in a traffic lane where parking is prohibited to designated classes of vehicles or periods of time, or at any time when the vehicles interferes with the intended use of such traffic land;**
- (2) The vehicle was in possession of a person taken into custody by a police officer and no other disposition of the vehicles was available; or**
- (3) The police officer reasonable believes the vehicle operator does not possess a valid operator's license and/or is driving uninsured, or has been arrested for driving under the influence of intoxicants. (Subsection C amended by Ordinance #626 – adopted October 15, 1997; Subsection B & C amended by Ordinance #03-739-adopted June 18, 2003)**

A vehicle impounded pursuant to this section shall be held at the expense of the owner or person entitled to possession of the vehicle. Personnel, equipment, and the facilities of the City or private tow companies may be used for the removal and storage of the vehicle.

Section 67. Post Impoundment Notice. After a vehicle has been impounded pursuant to Section 1 notice shall be provided to the registered owner, if known, indicating:

- (1) The location of the vehicle;
- (2) That a lien has arisen on the vehicle in favor of the person who towed and is storing the vehicle;
- (3) That the vehicle may be sold at public auction to satisfy the lien; and
- (4) That a hearing on the validity of the impoundment may be held, if requested within five (5) calendar days of receipt of notice by the owner. (Section 2 and Subsection D as amended by Ordinance #03-739 –adopted June 18, 2003)

Section 68. Redemption. A vehicle which has been impounded under this ordinance may be released to the registered owner or legal owner, if different, or to the person operating the vehicle at the time of impoundment if:

- (1) The owner or driver of the vehicle has paid all of the accrued towing and storage costs, unless otherwise ordered by the hearings officer; and
- (2) The owner of the vehicle has paid a \$100.00 administrative fee to the City and has provided proof of insurance for the impounded vehicle and proof of registration in the owner's name if there is a violation of 1C of this Ordinance; and
- (3) The police department has released its hold, if any, on the vehicle. (Section 3 as amended by Ordinance #619 – adopted July 16, 1997; Section 3 and subsection B as amended by Ordinance #03-739 adopted June 18, 2003)

Section 69. Sale.

- (1) If the vehicle is not redeemed within thirty (30) days, then it shall be sold in accordance with the applicable provisions relating to the sale of abandoned vehicles; or
- (2) If a tow company took the vehicle into custody, it 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 \$750.00 or less, it shall be disposed of in the manner provided in ORS 819.220.

Section 70. Hearing.

- (1) The registered owner or legal owner, if different, may request a hearing within five (5) calendar days after receipt of the notice described in Section 2. The request must be made in writing to the Chief of Police. Failure to make a timely request for a hearing shall constitute a waiver of the right to a hearing.
- (2) Hearing Procedures:
  - (a) When a timely request for a hearing is made, a hearing shall be held before a hearing officer.
  - (b) The hearing shall be set and conducted within seventy-two (72) hours of receipt of the request, excluding holidays, Saturdays, and Sundays. The hearing can be set for a later date if the owner wishes to contest the validity of the impoundment.
  - (c) At the hearing, the owner may contest the validity of the impoundment.
  - (d) The City shall have the burden of providing by preponderance the validity of the impoundment. (Subsection 2, 3 & 4 as amended in Ordinance 03-739-adopted June 18, 2003)
- (3) Decision of the Hearings Officer. If the hearings officer finds that:
  - (a) Impoundment of the vehicle was proper, the hearings officer shall:
    - (i) Enter an order supporting the removal; and
    - (ii) Find that the owner or person entitled to possession is liable for any towing and storage charges resulting from the impoundment.
  - (b) Impoundment of the vehicle was improper, the hearings officer shall:
    - (i) Order the vehicle released to the owner or person entitled to possession.
    - (ii) Find that the owner or person entitled to possession is not liable for any towing or storage resulting from the impoundment; and
    - (iii) Order the City to satisfy the towing and storage lien. (Subsection 1, 1 (b), 2 & 2(a) as amended by Ordinance 03-739-adopted June 18, 2003)
- (4) Failure to Appear at the Hearing. If the person requesting the hearing does not appear at the scheduled hearing, the hearings officer may enter an order supporting the impoundment and assessment of towing and storage costs. (Section D as amended by ordinance 03-739-adopted June 18, 2003)

**Section 71. Classification of the Fee. The fees specified in Section 1 of this ordinance are classified as not subject to the limits of Section 11b of Article XI of the Oregon Constitution (Ballot Measure #5).**

[Section 66. Impoundment of Vehicles.

- (1) When a vehicle is placed in a manner or location that constitutes an obstruction to traffic or a hazard to public safety, a police officer shall order the owner or operator of the vehicle to remove it. If the vehicle is unattended, the officer may cause the vehicle to be towed and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, even if the vehicle was parked by another or if the vehicle was initially parked in a safe manner but subsequently became an obstruction or hazard.
- (2) The disposition of a vehicle towed and stored under authority of this section shall be in accordance with position of vehicles abandoned on the city streets.
- (3) The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this ordinance.
- (4) Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.
- (5) Whenever a police officer observes a vehicle parked in violation of a provision of this ordinance or state law, if the vehicle has five or more unpaid violations outstanding against it, the officer may, in addition to issuing a citation, cause the vehicle to be impounded. An impounded vehicle shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this subsection shall be disposed of in the same manner as provided in subsection (2) of this section.

Section 67. Penalties.

- (1) Violation of sections 9 to 19 is punishable by fine not to exceed \$100.
- (2) Violation of sections 21 to 52 is punishable by fine not to exceed \$50.
- (3) Violation of a provision identical to a state statute is punishable by fine not to exceed the penalty prescribed by state statute.]

Section **72** [68]. Severability. The sections and subsections of this ordinance are severable. The invalidity of any one section or subsection shall not effect the remaining sections or subsections.

Section **73** [69]. Existing Control Devices and Markings. Parking and traffic control devices and markings installed prior to the adoption of this ordinance are lawfully authorized.

Section **74** [70]. Repeal. Ordinance No. 282, adopted September 2, 1972, and Ordinance No. 465, adopted December 18, 1985, are hereby repealed.

Section 75 [71]. Saving Clause. The repeal of any ordinance by Section 70 shall not preclude any action against any person who violated the ordinance prior to the effective date of this ordinance.

Section 76 [72]. Effective Date. Under the provisions of the Charter of the City of Talent, Chapter VIII, Section 33 [35], this Ordinance shall take effect on the thirtieth day after its enactment. Upon passage this evening, the effective date of this ordinance will be August 16, 2003.

Duly enacted by the City Council in open session on July 16, 2003 by the following vote:

AYES: 6      NAYS: 0      ABSTAIN: 0      ABSENT: 0



---

Betty Wheeler, City Recorder and Custodian of City records