

ORDINANCE NUMBER 1460

AN ORDINANCE OF THE CITY OF MILWAUKIE AMENDING ORDINANCE NUMBER 1360 BY PROVIDING FOR THE TOWING OF ABANDONED VEHICLES, REPEALING ORDINANCE NUMBER 1359, AND DECLARING AN EMERGENCY.

WHEREAS, Ordinance Number 1359 provides for the impoundment and disposition of abandoned vehicles, and

WHEREAS, recent court decisions require certain "due process" steps before and after abandoned vehicles are towed, and

WHEREAS, the Council determines that the necessary amendments to Ordinance Number 1359 can best be accomplished by repealing that ordinance and amending Ordinance Number 1360, now therefore,

THE CITY OF MILWAUKIE DOES ORDAIN AS FOLLOWS:

Section 1. Ordinance Number 1360 is amended by the addition of new Section 11 as follows and the renumbering of existing Sections 11 through 15 accordingly:

Section 11. Abandoned Vehicles

- (1) No vehicle shall be abandoned on any public right-of-way in the city or on public or private property without the express consent of the owner of the property.
- (2) Any vehicle which the police have reason to believe is abandoned may be towed and held at the owner's expense. Any person towing a vehicle shall have a lien on the vehicle for just and reasonable towing and storage charges and may retain the vehicle until the charges are paid. A lien on a vehicle valued at over \$300 may be foreclosed in the manner provided in ORS 87.152 to 87.212. Vehicles valued at \$300 or less may be disposed of by the police according to the procedure provided by ORS 483.395.
- (3) Before towing any vehicle, the police shall make a routine investigation to locate the owner and instruct him to remove the vehicle. If the owner cannot be immediately located or does not remove the vehicle, the police shall place a notice on the vehicle stating
 - (a) That the vehicle is in the violation of this ordinance.
 - (b) That the vehicle must be removed within 48 hours or it will be towed.
 - (c) That the person towing the vehicle will have a lien on the vehicle for just and reasonable towing and storage charges and may retain the vehicle until the charges are paid.

- (d) That the owner may request a hearing on the validity of the tow and the creation and amount of the lien.
 - (e) How and where the owner can get further information.
- (4) The notice in subsection (3) is not required when the vehicle is abandoned within the public right-of-way where it may be a traffic hazard. In such cases, the police may have the vehicle towed immediately upon its discovery.
- (5) After the notice required by subsection (3) has been posted and the owner has still not removed the vehicle or requested a hearing, the police may order the vehicle towed, using their own personnel, equipment or facilities or those of others.
- (6) The police shall send notice to the owner by registered mail, if the owner is known, within 48 hours after the tow. If the owner is not known, the notice shall be published once in a newspaper of general circulation in the city not less than ten days after the tow. The notice shall contain
- (a) The reason for the tow.
 - (b) The location of the vehicle, current towing and storage charges and an estimate of future charges.
 - (c) The appraised value of the vehicle.
 - (d) A statement that the person towing the vehicle has a lien on the vehicle for just and reasonable towing and storage charges, may retain the vehicle until the charges are paid and may sell the vehicle to satisfy the lien.
 - (e) The procedure necessary to redeem the vehicle.
 - (f) A statement that the owner may request a hearing on the validity of the tow and on the creation and amount of the lien within five days after receipt of the notice, and that failure to do so shall act as a waiver of the right to a hearing.
 - (g) Information regarding who to contact for further information.

- (7) The owner may redeem a towed vehicle before sale or disposition by submitting evidence of ownership and paying all towing and storage charges to the date of redemption. Upon redemption, a receipt shall be issued to the owner and the vehicle released. No redemption will be allowed after the vehicle is sold or disposed of.
- (8) Upon the request of the owner, a hearing shall be held before a hearings officer appointed by the City Manager, where the owner may contest the validity of the tow and the creation and amount of the lien. The hearing shall be held within 48 hours after receipt of a written request, holidays and weekends not included, unless requested otherwise by the owner and approved by the city.
- (9) If the hearings officer determines that the tow was invalid, he shall find that the owner is not liable for any towing and storage charges and order the vehicle released to the owner. If the hearings officer finds the tow was valid, he shall determine the amount of just and reasonable towing and storage charges which shall be a lien on the vehicle. If the owner does not appear at the hearing, the hearings officer may enter an order supporting the tow and the creation and amount of the lien. The decision of the hearings officer is final.

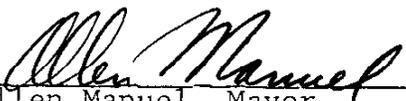
Section 2. Ordinance Number 1359 is repealed.

Section 3. Because abandoned vehicles may present a traffic hazard and this ordinance is necessary for the health, safety and welfare of the public, an emergency is declared to exist and this ordinance shall become effective immediately upon its passage by the Council and approval by the Mayor.

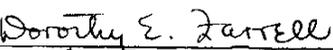
Read the first time on May 6, 1980, and moved to second reading by unanimous vote of the City Council.

Read the second time and adopted by the City Council on May 6, 1980.

Signed by the Mayor on May 6, 1980.


Allen Manuel, Mayor

ATTEST:


Dorothy E. Farrell, City Recorder

Approved as to form:


Greg Eades, City Attorney