

ORDINANCE NO. 3562

**TITLE:** An Ordinance for the impounding and disposition of abandoned vehicles, and declaring an emergency.

**Section 1: DEFINITIONS**

As used in this Ordinance, unless the context requires otherwise:

- (1) "ABANDONED" shall mean left unoccupied and unclaimed or in a damaged or dismantled condition upon the streets or alleys of the city for more than forty-eight (48) hours.
- (2) "CITY" shall mean the city of Albany, Oregon.
- (3) "COSTS" shall mean the expense of removing, storing, and selling an impounded vehicle.
- (4) "CHIEF OF POLICE" includes any authorized law enforcement officer of the city.
- (5) "OWNER" shall mean any individual, firm, corporation, or unincorporated association with a claim, either individually or jointly, or ownership or any interest, legal or equitable, in a vehicle.
- (6) "VEHICLE" shall mean every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.
- (7) "IMPOUND AREA" shall mean a fenced and secured area with controlled access.

**Section 2: NOTICE OF NUISANCE**

- (1) It shall be the duty of the police department, whenever a vehicle is found abandoned upon the streets or alleys in the same position or within 200 feet of the same location for a period of forty-eight (48) hours, to:
  - (a) Make a routine investigation to discover the owner and request removal of a vehicle, or

- (b) Failing to discover the owner by such a process, to make a diligent inquiry as to the name and address of the owner of the vehicle by examining such vehicle for license number, I. D. number, make, style, and any other information which will aid in the identification of the ownership of the vehicle, and transmitting all available information pertaining to such vehicle to the Department of Motor Vehicles of this state with an inquiry for the name and address of the owner, whenever such vehicle is required by law to be registered with that office.
  - (c) If the owner is not identified, to place a notice upon the windshield, or some other part of the vehicle easily seen by the passing public.
- (2) The notice shall state that the police department will cause the removal and the impounding of the vehicle under the provisions of this Ordinance 24 hours after the time of the posting, unless the owner causes the vehicle to be removed.

Section 3: IMPOUNDING NUISANCE

- (1) An abandoned vehicle which remains in the same position for a period of 24 hours after an owner has been requested to remove it or after a notice to remove has been posted upon the vehicle, and no person has appeared to show good cause why the vehicle should not be moved, shall constitute a nuisance.
- (2) It shall be the duty of the police department to arrange for the vehicle to be removed to an impounded area and hold the vehicle until released or sold at public auction.
- (3) The vehicle may not be released from impoundment except when authorized by the Chief of Police after being furnished proof of interest or ownership.
- (4) The City of Albany shall not be liable for the vehicle during impounding nor responsible for impounded vehicles once they are placed in the impound area.

Section 4: NOTICE OF IMPOUNDMENT AND SALE

If the owner is identified, he shall be notified immediately by registered or certified mail that such vehicle is held by the police department by the city. The notice to the owner shall also state:

- (1) The reason for impounding the vehicle.

- (2) The existing costs charged against the vehicle.
- (3) That unless the owner redeems the vehicle, within 15 days from the day of mailing the notice and pays all the costs, the vehicle will be sold.

Section 5: PUBLIC SALE NOTICE

- (1) If no claim is made by the owner within the time specified by Section 4 (3) of this Ordinance, but the owner cannot be identified after compliance with Section 2, the Chief of Police shall cause to be published in a newspaper of general circulation within the city a notice of sale. The notice of sale shall state:
  - (a) The sale is of abandoned property in the possession of the city.
  - (b) A general description of the vehicle.
  - (c) The terms of the sale.
  - (d) The date, time and place of the sale.
- (2) The notice of sale shall be published once, five (5) days prior to the sale and notice of the sale posted in three (3) public places five (5) days prior to the sale.

Section 6: PUBLIC SALE

- (1) If no claim shall have been made to redeem an impounded vehicle and the owner cannot be identified before the time set for the sale of such vehicle, the Chief of Police shall hold a sale at the time and place appointed within the view of the vehicle to be sold.
- (2) The vehicle shall be sold to the highest and best bidder, providing that if no bids are entered, or those bids which are entered are less than the cost incurred by the city, the Chief of Police may enter a bid on behalf of the city in an amount equal to such costs.
- (3) At the time of the purchase, the Chief of Police shall execute a certificate of sale, in duplicate, the original of which shall be delivered to the purchaser, and the copy thereof filed with the City Recorder.
- (4) The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. \_\_\_\_\_ entitled, "An Ordinance for the Impounding and Disposition of Abandoned Vehicles" and pursuant to due notice of the time and place of sale, I did on the \_\_\_\_ day of \_\_\_\_, 19\_\_\_\_, sell at public auction to \_\_\_\_\_ for the sum of \$\_\_\_\_\_ cash, he being the highest and best bidder, and that being the highest and best sum bid therefor, the following described personal property, to-wit:

(BRIEF DESCRIPTION OF PROPERTY)

and in consideration of the payment of the said sum of \$\_\_\_\_\_, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the forgoing property.

DATED this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

NOTE: The City of Albany assumes no responsibility as to the condition of title of the above described property. In case this sale shall be for any reason invalid, the liability of the city is limited to the return of the purchase price.

Section 7: REDEMPTION

- (1) An owner may redeem a vehicle impounded under the provisions of this Ordinance, before a sale or disposition has taken place, by applying to the police department, whereupon he shall:
  - (a) Submit evidence of his ownership or interest in the vehicle, satisfactory to the Chief of Police, that such claim is right-ful, and
  - (b) Pay the costs due and owing at the time the application to redeem is made.
- (2) Upon compliance with subsection (1) of this section, the Chief of Police shall execute a receipt for the owner and cause the vehicle to be returned to him.

Section 8: SALE AND PROCEEDS

- (1) Upon a sale being consummated, the Chief of Police shall deliver the vehicle and the certificate of sale to the purchaser. The sale

and conveyance shall be without redemption.

(2) The proceeds of a sale shall be applied:

(a) To the payment of costs incurred by the city, and

(b) Then, for such other services as may be rendered connected with impounding.

(c) The balance, if any, shall be transferred to the Recorder of the city to be credited to the general fund.

Section 9: APPLICATION

This Ordinance shall apply to all abandoned vehicles now in the possession of the city as well as to abandoned vehicles that are hereafter impounded.

Section 10: CHARGES

In the enforcement and execution of the provisions of this Ordinance, the Chief of Police shall charge and collect a fee for the impoundment, which shall be the actual expenses incurred but not more than \$20.00.

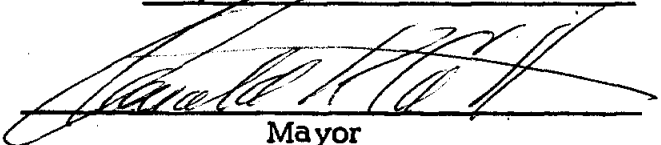
Section 11: EMERGENCY CLAUSE

WHEREAS, the peace, health, and safety of the people of the city of Albany require that this ordinance become immediately effective, therefore, an emergency is hereby declared to exist and this ordinance shall become effective immediately upon its final passage by the Council and approval by the Mayor.

Passed by the Council: June 9, 1971

Approved by the Mayor: June 9, 1971

Effective date: June 9, 1971

  
\_\_\_\_\_  
Mayor

ATTEST:

  
\_\_\_\_\_  
City Recorder