

TITLE 5

PUBLIC, PEACE, HEALTH, SAFETY, AND WELFARE

CHAPTER 510

ABANDONED VEHICLE CODE

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510.000 Title

The title of this Chapter is "The Linn County Abandoned Vehicle Towing Code."

[Adopted 80-297 §1 8/20/80 eff 11/18/80; amd 14-395 § 1 12/16/14 eff 3/16/15]

510.010 Definitions

(A) "**Abandoned vehicle**" means a vehicle which is in one or more of the following conditions:

- (1) Left unattended;
- (2) Inoperative or disabled;

(3) Wrecked, partially dismantled, or junked; and/or

(4) Without a lawfully affixed, unexpired registration plate.

(B) "**Board**" means the Linn County Board of Commissioners.

(C) "**County**" means Linn County.

(D) "**County Property**" means any real property owned or operated by the County.

(E) "**Hazard or obstruction**" means any vehicle that is so parked so as to constitute a "hazard or obstruction" under ORS 819.120(2).

(F) "**Hearings Officer**" means a hearings officer appointed by the County to conduct hearings as provided in this Chapter.

(G) "**ODOT**" means the Oregon Department of Transportation.

(H) "**Owner**" means the legal owner, registered owner, any Person(s) entitled to possession of the vehicle, and/or any Person(s) with an interest recorded on the title of the vehicle.

(I) "**Person**" means an individual, firm, copartnership, association, and/or corporation.

(J) "**Sheriff's Office**" means the Linn County Sheriff's Office.

(K) "**State Police**" means the Oregon State Police.

(L) "**State Property**" means any real property owned or operated by the State of Oregon.

(M) "**Tow Authority**" means either the Sheriff's Office, the State Police, or ODOT.

(N) "**Vehicle**" means any device in, upon, or by which any person or property is or may be transported or drawn upon a public highway and includes vehicles that are propelled or powered by any means.

[Adopted 2020-013 eff 5/4/20]

510.050 [Repealed]

[Adopted 14-395 §2 12/16/14 eff 3/16/15; repealed 2020-013 eff 5/4/20]

510.100 Abandonment of vehicles prohibited

(A) No vehicle which a Tow Authority has reason to believe is an abandoned vehicle shall be parked or left standing upon the right of way of any Linn County road or State of Oregon highway outside the corporate limits of incorporated cities or towns in Linn County or upon the right of way of an interstate highway in Linn County for a period in excess of 24 hours.

(B) No abandoned vehicle shall be parked or left standing upon any County Property or State Property without the express consent of the County or State. Any vehicle so parked or left standing may be taken into custody by a Tow Authority in accordance with this Chapter.

(C) Any vehicle taken into custody under this Section shall be held at the expense of the Owner.

(D) Any abandoned vehicle parked or left standing in violation of this Section may be taken into immediate custody by a Tow Authority if the vehicle is in such a location as to constitute a hazard or obstruction to motor vehicle traffic using the road or highway.

[Adopted 80-297 §3 8/20/80 eff 11/18/80; amd 2020-013 eff 5/4/20]

510.120 [repealed]

[Adopted 80-297 §4 8/20/80 eff 11/18/80; amd 14-395 § 4 12/16/14 eff 3/16/15; repealed 2020-013 eff 5/4/20]

510.200 [repealed]

[Adopted 80-297 §5 8/20/80 eff 11/18/80; repealed 2020-013 eff 5/4/20]

510.210 Notice requirements for abandoned vehicles prior to tow

(A) Before any abandoned vehicle can be taken into custody under LCC 510.100(A) or 510.100(B), an abandoned vehicle notice must be issued to the Owner by posting on the vehicle at least 24 hours before taking the vehicle into custody. The notice shall contain the following information:

(1) That the vehicle will be subject to being taken into custody and towed by the Tow

Authority if the vehicle is not removed before the time set by the Tow Authority;

(2) The statute, ordinance, or rule violated by the vehicle and under which the vehicle will be towed;

(3) The telephone number and address of the Tow Authority that, if the vehicle is towed, will be able to provide the location where the vehicle will be held in custody;

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

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

(6) That the Owner is entitled to a hearing, before the vehicle is impounded, to contest the proposed custody and towing, if a hearing is timely requested;

(7) That the Owner may also challenge the reasonableness of any towing and storage charges at the hearing; and

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

(B) If the Owner requests a hearing before the abandoned vehicle is taken into custody, the vehicle shall not be taken until a hearing is set and held in accordance with LCC 510.300, unless the vehicle constitutes a hazard or obstruction as provided in LCC 510.110(C).

[Adopted 80-297 §6 8/20/80 eff 11/18/80; amd 14-395 § 6 12/16/14 eff 3/16/15; amd 2020-013 eff 5/4/20]

510.220 Written notice to Owner after abandoned vehicle has been taken into immediate custody

(A) If an abandoned vehicle has been taken into immediate custody pursuant to LCC 510.100(C), notice must be subsequently provided in conformance with this Section.

(B) Notice must be provided to the registered owner, and owner and any lessors or security interest holders as shown in the records of ODOT. The notice shall contain the following information:

(1) That the vehicle has been taken into custody and towed by the Tow Authority;

(2) The statute, ordinance or rule under which the vehicle has been taken into custody and towed;

(3) The location of the vehicle or the telephone number and address of the Tow Authority department or employee that will provide the information;

(4) 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;

(5) 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 date specified by the Tow Authority;

(6) That the Owner is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and towing it and to contest the reasonableness of the charges for towing and storage, if a hearing is requested;

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

(8) That the vehicle and its contents may be immediately reclaimed by presentation to the Tow Authority 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 with the appropriate authority.

(C) Notice is deemed given under this Section when a registered or certified letter addressed to the Owner is mailed within 48 hours of the vehicle being taken into custody pursuant to LCC 510.100(C).

(D) Notice shall be addressed to the latest respective address(es) provided in the ODOT records. If there is no vehicle identification number on vehicle, and if there are no registration plates and no other markings through which ODOT can identify the Owner, then notice otherwise required to be provided under 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.

(E) If the Owner desires to request a hearing, they must submit such a request in writing not more than five (5) days from the mailing date of the notice. The request may be submitted either in person or through mail, but if submitted through mail, it must be postmarked no later than five (5) days after the date of the notice. Failure to submit such a request within the five (5) day period shall act as a waiver of the right to a hearing.

[Adopted 80-297 §7 8/20/80 eff 11/18/80; amd 14-395 § 7 12/16/14 eff 3/16/15; amd 2020-013 eff 5/4/20]

510.300 Hearing before Hearings Officer

Upon request of the Owner, a hearing shall be held before a hearings officer appointed by the Board. The hearing shall be set and conducted within 72 hours of receipt of the request, holidays, Saturdays and Sundays not to be included. The hearing can be set for a later date if the Owner so requests. At the hearing the Owner may contest:

(A) The validity of the action of the Tow Authority in taking the vehicle into custody; and

(B) The reasonableness of the charges for towing and storage.

[Adopted 80-297 §8 8/20/80 eff 11/18/80; amd 14-395 § 8 12/16/14 eff 3/16/15; amd 2020-013 eff 5/4/20]

510.400 Decision by Hearings Officer

(A) If the Hearings Officer finds that:

(1) The action of the Tow Authority in taking the vehicle into custody was invalid, the Hearings Officer shall:

(a) Order the vehicle released to the Owner;

(b) Find that the Owner is not liable for any towing or storage charges occasioned by the taking;

(c) If the Owner has already paid the towing and storage charges on the vehicle, the Tow Authority responsible for taking the vehicle into custody and towing the vehicle shall reimburse the Owner for the charges.

(d) Determine the amount of a just and reasonable towing and storage charge to be

paid by the Tow Authority in order to satisfy the lien.

(2) If the action of the Tow Authority in taking the vehicle into custody was proper, the Hearings Officer shall determine the amount of a just and reasonable towing and storage charge which shall be a lien on the vehicle in accordance with LCC 510.120.

(B) If the Owner does not appear at the scheduled hearing, either in person or in writing, and the Hearings Officer determines that notice was lawfully provided in accordance with this Chapter, the Hearings Officer may enter an order supporting the removal and assessment of towing and storage charges against the Owner.

(C) The Hearings Officer shall provide a written statement of the results of the hearing to the person requesting the hearing.

(D) The action of the Hearings Officer is final and not subject to appeal.

[Adopted 80-297 §9 8/20/80 eff 11/18/80; amd 14-395 § 9 12/16/14 eff 3/16/15; amd 2020-013 eff 5/4/20]

510.500 [repealed]

[Adopted 80-297 §10 8/20/80 eff 11/18/80; amd 14-395 § 10 12/16/14 eff 3/16/15; repealed 20-013 eff 5/4/20]

510.600 Exemptions from notice and hearing requirements

A vehicle that is being held as part of any criminal investigation is not subject to any notice and hearing requirements as outlined in this Chapter, unless the criminal investigation relates to the theft of the vehicle.

[Adopted 14-395 §11 12/16/14 eff 3/16/15]

510.700 [repealed]

[Adopted 80-297 §12 8/20/80 eff 11/18/80; amd 14-395 § 12 12/16/14 eff 3/16/15; repealed 20-013 eff 5/4/20]

510.800 Sale or disposal of vehicle not reclaimed

If the vehicle is taken into custody pursuant to this Chapter, and the vehicle is not reclaimed within 30 days after it is taken into custody, the vehicle shall be disposed of as follows:

(A) If the vehicle is appraised at greater than \$500, in the manner provided in ORS 87.192 to 87.196.

(B) If the vehicle is appraised at \$500 or less, in the manner provided in ORS 819.215.

[Adopted 2020-013 eff 5/4/20]

510.810 Tow liens

(A) Any person who, at the request of a Tow Authority, takes a vehicle into custody under the provisions of LCC 510.100 shall have a lien on the vehicle and its content for the just and reasonable towing 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. However, the storage charge is limited and subject to ORS 98.812(3).

(B) Any lien that attaches to a vehicle under this Section shall be a possessory chattel lien in accordance with ORS 87.152.

(C) A lien described under this Section does not attach to the contents of any abandoned vehicle taken pursuant to this Chapter until 15 days after taking the abandoned vehicle into custody.

[Adopted 2020-013 eff 5/4/20]

510.900 Penalties

(A) The offense described in LCC 510.100(A) is a Class B traffic violation.

(B) Violation of LCC 510.100(B) is a Class A infraction and may be enforced pursuant to LCC 240, the Linn County Enforcement Code.

[Adopted 2020-013 eff 5/4/20]

Statutory References and Authorities:

ORS 87.152 to 87.212; 203; ORS 819.100 to 819.215

Legislative History of Chapter 510:

Adopted 80-297 8/20/80 eff 11/18/80

Amendments to 80-297 and former LCC 5.20:

- #1 95-177 eff 5/10/95 (renumbering)
 - #2 14-395 eff 3/16/15
 - #3 20-013 eff 5/4/20
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