

## BAY CITY ORDINANCE

### Ordinance No. 608

#### AN ORDINANCE PROVIDING FOR THE IMPOUNDING, TOWING AND DISPOSITION OF VEHICLES, BOATS AND TRAILERS ON PUBLIC RIGHTS OF WAY AND REPEALING ORDINANCE 439

The City of Bay City ordains as follows:

- 1.0 Repeal. Ordinance 439, codified as Ordinance 7-10, is repealed in its entirety.
- 2.0 POLICY. It is the policy of the City of Bay City that it shall be unlawful to park, store, service, leave, abandon or to permit the parking, storage, servicing, abandonment or leaving of any vehicle, boat or trailer of any kind, licensed or unlicensed, upon a public way in excess of 48 consecutive hours unless it is a hazard, in which case, it may be towed in accordance with Section 6.0
- 3.0 DEFINITIONS: As used in this Ordinance, unless the content requires otherwise, the following mean:
  - 3.1 ABANDONED VEHICLE, BOAT OR TRAILER: A vehicle, boat or trailer is abandoned if it is continuously parked or placed on any public street, alley, highway or other public way including rights of way for a period of more than 48 consecutive hours, without authorization.
  - 3.2 BOAT: Boat means every description of water craft used or capable of being used as a means of transportation on water.
  - 3.3 HAZARDOUS VEHICLE, BOAT OR TRAILER: A vehicle, boat or trailer left in a location or condition such as to constitute an immediate and continuous hazard to the safety of persons using the public streets or alleys of the City. For example, and not by limitation, the following are hazardous vehicles, boats or trailers:
    - 3.3.1 Vehicles, boats or trailers blocking or obstructing in any way private rights of ways or driveways.
    - 3.3.2 Vehicles, boats or trailers with leaks in gas or oil tanks.
    - 3.3.3 Vehicles, boats or trailers blocking or obstructing in any way fire hydrants or the fire station.
    - 3.3.4 Vehicles, boats or trailers blocking clear vision areas.

- 3.3.5 Vehicles, boats or trailers parked so as to interfere with maintenance of the public streets, drainage ditches and rights of way.
- 3.3.6 A vehicle, boat or trailer parked in a “no parking” zone or area.
- 3.3.7 A vehicle, boat or trailer parked so that any part of the vehicle extends within the paved portion of the travel lane or is in anyway a hazard to traffic.
- 3.3.8 A vehicle parked on public property without permission or is in anyway a hazard to traffic.
- 3.3.9 The vehicle, boat or trailer was reported stolen.
- 3.3.10 The vehicle, boat or trailer is to be used as evidence in traffic or criminal prosecutions, or the operator has been taken into custody by a law enforcement agency.
- 3.4 IMPOUNDING AUTHORITY: A private towing company or person removing and/or storing the vehicle, boat or trailer at the request of the City.
- 3.5 JUNKED VEHICLE OR BOAT: A vehicle/boat is a junked vehicle/boat if it is in a rusted, wrecked, junked, partially dismantled, inoperable or abandoned condition, whether attended to or not, upon any public property within the City.
- 3.6 LAW ENFORCEMENT OFFICER: Any peace officer, police officer of the City, the Public Works Director or other City employee authorized to enforce this Ordinance.
- 3.7 LEGAL INTEREST: A person who claims some ownership interest in the subject property by direct ownership, security interest, or by way of marriage, partnership, inheritance or any other legally recognized method.
- 3.8 OWNER: A person shown by the records of the Oregon Department of Motor Vehicles to be the owner of the vehicle or another person with a claim or interest, either individually or jointly, in a vehicle, boat or trailer.
- 3.9 PRIVATE GARAGE: An individual or a commercial business which provides towing services, a private storage yard, garage, or other storage place for any vehicle, boat or trailer at the request of the law enforcement officer.

- 3.10 **SERVICING ON STREETS:** A vehicle, boat or trailer located on a public street or right of way dismantled or inoperable due to work, repair or maintenance being conducted on it.
- 3.11 **TRAILER.** Any device which has no independent power mechanism of its own, but which can be attached to a vehicle.
- 3.12 **VEHICLE:** Every device in, upon or by which a person may be transported except devices moved exclusively by human power or used exclusively upon stationary rails or tracks.
- 4.0 **NOTICE OF VIOLATION.** Notice shall be given by affixing to the vehicle, boat or trailer a written notice at least 24 hours before taking the vehicle into custody. The notice shall include the following:
- (1) the vehicle, boat or trailer shall be removed and taken into custody if it is not removed before the time set by appropriate authority,
  - (2) the ordinance provision it violates,
  - (3) the telephone number where information can be obtained as to the location of the towed item,
  - (4) that the vehicle 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, possessor or person having a legal interest in the vehicle is entitled to a hearing to contest the impoundment and removal if a hearing is timely requested, in writing.
  - (7) that the owner, possessor or person having an interest in the vehicle may also challenge the reasonableness of any towing and storage charges at the hearing;
  - (8) the time within which a hearing must be requested and the method for requesting a hearing.
- 5.0 **IMPOUNDMENT, TOWING AND FEES.** If the vehicle, boat or trailer is not moved by the removal deadline, the law enforcement officer shall cause the vehicle to be removed by the City or by a commercial tow truck, to any suitable place for storage of the vehicle, boat or trailer.

Within 48 hours of the removal and storage of the vehicle by the law enforcement officer, the City shall give written notice to the registered owner of such vehicle by personal service or by certified mail, return receipt requested, that the vehicle, boat or trailer was impounded and stored for violation of this Ordinance and the location of the removed vehicle, boat or trailer, the costs incurred by the City for the removal or towing, the procedures

for obtaining a hearing, the storage charges accruing and that if the sum total of all the charges are not paid to the City Recorder within 10 days from the date of the notice, that the removed property shall be deemed to be the property of the impounding party. The 48 hours does not include Saturdays, Sundays or holidays.

If there is no vehicle identification number on a vehicle, no registration plates and no other markings to identify the owner of the vehicle, then no written notice is required under this Section.

6.0 EMERGENCY IMPOUNDMENT. In the event it is determined by the law enforcement officer that the vehicle, boat or trailer is an immediate hazard as per Paragraph 3.3, or is reported stolen, then the property may be impounded immediately, without prior notice to the owner. In such an event, written notice shall be given to the registered owner of the vehicle, boat or trailer in accordance with Section 5.0 herein, if there is a registered owner.

7.0 HEARINGS. Any person provided notice under Section 5.0 or any other person who reasonably appears to have a legal interest in the vehicle may request a hearing under this section to contest the validity of the removal and custody of the vehicle by submitting a request for hearing in writing to the City not more than 5 days from the mailing date of the notice, not including Saturdays, Sundays or holidays. The written request shall state the reasons that the person believes that the custody and removal of the vehicle was not justified and shall state the legal interest in the property claimed by that person. Upon receipt of a written request for hearing, **the City shall forward the request to the Tillamook County Justice Court, which shall hold a hearing.**

If the **Tillamook County Justice Court** finds, by substantial evidence, that the removal was justified, then the person has the option of redeeming the vehicle in accordance with Section 8.0 herein. If the **Tillamook County Justice Court** finds, by substantial evidence, that the removal was not justified, the City shall pay all towing and storage fees for releasing the vehicle to the person.

8.0 RELEASE OF IMPOUNDED PROPERTY. Said impounded vehicle, boat or trailer shall not be released until all charges connected with the removal, towing and storage of the vehicle, boat or trailer have been fully paid, as evidenced by the **City' or the Tillamook County Justice Court's** paid receipt, **as may be appropriate.** All payments shall be made by cash, money order or cashier's check. No personal, two party or employment checks shall be accepted.

9.0 SALE OF ABANDONED VEHICLES, BOATS OR TRAILERS. In the event that the removed personal property is unclaimed within the 10 day period as

per Section 5 herein, the removed personal property shall become the property of the City.

- 9.1 The law enforcement officer shall first give 20 days notice by certified mail, return receipt requested, to the registered owner of the property, at the owner's latest address shown on the records of the Oregon Department of Motor Vehicle or the Oregon Department of Fish and Wildlife, as may be applicable. If there are no registered owners, then notice shall be posted in three public places in the City, including the post office and City Hall. Said notice shall advise the unknown owner of the right to reclaim the described property by paying all costs and expenses incurred by the removal and storage of the property for a period of twenty (20) days from the date of mailing. If reclaimed and all costs are paid, the law enforcement officer or City Recorder, shall issue a Certificate of Sale for the reclaimed property.
- 9.2 The City Recorder, may, at anytime convenient, sell such vehicles, boats or trailers which remain unclaimed after the 20 day notice by auction or by sealed bids.

Notice of the time and place of the auction, or if sealed bids are accepted, the date, time and location for submitting bids, along with a description of the vehicle, boat or trailer, by make and model, odometer reading and vehicle identification number, if applicable, shall be posted at the City Hall, the City post office and one other location within the City at least 10 days prior to the sale. This notice may run concurrent with the notice in Section 9.0 herein. The City may, but is not required to publish notice of the sale in the *Headlight Herald*.

- 9.3 Certificate of Sale. If the vehicle, boat or trailer is sold as per Section 9.2, the City Recorder shall issue a Certificate of Sale in the following form:

“CERTIFICATE OF SALE

This is to certify that under the provisions of Bay City Ordinance 608, I did on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_ sell to \_\_\_\_\_ for the consideration \_\_\_\_\_ Dollars (\$\_\_\_\_\_) the following described personal property:

(Brief description of property)

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_

\_\_\_\_\_

City Recorder

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

9.4 The proceeds of such sale will be first applied to payment of the cost of such sale and expense incurred in the towing and storage of such vehicle, boat or trailer and the balance, if any, will be credited to the General Fund of the City.

10.0 SEVERABILITY. If any provision of this Ordinance is held invalid for any reason, such invalidity shall not affect any other provision of this Ordinance which can remain in effect without the invalid provision and to this end, the provisions of this Ordinance are severable.

11.0 ORS 819.100 et seq. In the event that any provision is not provided for in this Ordinance, applicable provisions of ORS 819 et seq, or any amendment thereto, provided that the application of the provision is not in conflict with the provisions of this Ordinance, shall apply.

PASSED and ADOPTED by the City Council this 12th day of October, 2004 and  
APPROVED by the Mayor this 12th day of October 2004.

/s/ Shaena E. Peterson  
Shaena E. Peterson, Mayor

ATTEST:

/s/ Linda M. Dvorak  
Linda Dvorak, City Recorder

First Reading: 10/12/04  
Second Reading: 10/12/04  
Adoption: 10/12/04  
Ayes: \_\_6\_\_\_\_\_  
Nayes: \_\_0\_\_\_\_\_