

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]

510.050 Abandoning a vehicle

(A) A person commits the offense, under ORS 819.100, of abandoning a vehicle if the person abandons the vehicle upon a highway or upon any public or private property.

(B) The owner of the vehicle as shown by the records of the Department of Transportation shall be considered responsible for the abandon-

ment of a vehicle in the manner prohibited by this chapter and shall be liable for the cost of towing and disposition of the abandoned vehicle.

(C) A vehicle abandoned in violation of this chapter is subject to the provisions for towing and sale of abandoned vehicles under ORS 819.110 to 819.215.

(D) The offense described in LCC 510.050 is a Class B traffic violation.

[Adopted 14-395 § 2 12/16/14 eff 3/16/15]

510.100 Abandonment of vehicles prohibited

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

(B) No vehicle shall be parked or left standing upon the right of way of any County road or State highway outside the corporate limits of incorporated cities or towns in Linn County or upon any State property or the right of way of any interstate highway in Linn County for a period in excess of five (5) days.

(C) No vehicle shall be parked or left standing upon any private property in Linn County without the consent of the owner or person in lawful possession or control of the property in excess of five (5) days.

(D) Any vehicle so parked or left standing may be taken into custody by the Sheriff of Linn County if the vehicle is upon the right of way of a County road or by the Department of State Police if the vehicle is upon the right of way of a State highway, interstate highway or State property, and shall be held at the expense of the owner or person

entitled to possession of the vehicle. The Sheriff or Department of State Police may utilize his or its own personnel, equipment and facilities for the removal and preservation of the vehicles, or may hire other personnel, equipment and facilities for that purpose.

[Adopted 80-297 §3 8/20/80 eff 11/18/80]

510.120 Custody of abandoned vehicles not reclaimed

(A) Any person who, at the request of the Sheriff or Department of State Police, takes a vehicle into custody under the provisions of LCC 510.100 shall have a lien on the vehicle 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. The lien that attaches to the vehicle shall be a possessory chattel lien in accordance with ORS 87.152 and shall be foreclosed in the manner provided in ORS 87.152 to ORS 87.212.

(B) If the appraised value of the vehicle is \$500 or less, the vehicle shall be disposed of in the manner provided in ORS 819.215.

(C) If the vehicle is taken into custody under the provisions of LCC 510.100 and held by the Sheriff or Department of State Police, rather than at their request, the vehicle shall be disposed of in the manner provided in ORS 819.210.

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

510.200 Disposition of abandoned vehicles

All abandoned vehicles taken into custody by or at the request of the Sheriff or the Department of State Police in Linn County shall be taken and disposed of in accordance with the procedure outlined in this chapter.

[Adopted 80-297 §5 8/20/80 eff 11/18/80]

510.210 Posting notice on abandoned vehicle

(A) Before any abandoned vehicle is taken into custody by or at the request of the Sheriff or the Department of State Police in Linn County, an abandoned vehicle notice must be issued to the legal owner and owner or persons entitled to possession of the vehicle 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 appropriate authority if the vehicle is not removed before the time set by the appropriate authority;

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

(3) The place where the vehicle will be held in custody or the telephone number and address of the appropriate authority that will provide the information;

(4) That the vehicle, if taken into custody and towed by the appropriate 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, possessor or person having an interest in the vehicle 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, possessor or person having an interest in the vehicle 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 legal owner or the owner or other persons entitled to possession of the vehicle request 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.

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

510.220 Written notice to legal owner

(A) After an abandoned vehicle has been taken into custody, notice must be provided to the legal owner and owner or persons entitled to

possession of the vehicle. The notice shall contain the following information:

(1) That the vehicle has been taken into custody and towed, the identity of the appropriate authority that took the vehicle into custody and towed the vehicle and the statute, ordinance or rule under which the vehicle has been taken into custody and towed;

(2) The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information;

(3) 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;

(4) 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 appropriate authority;

(5) That the owner, possessor or person having an interest in the vehicle and its contents 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;

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

(7) That the vehicle and its contents may be immediately reclaimed by presentation of the appropriate authority of 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.

Notice is deemed given when a registered or certified letter addressed to the registered owner of the vehicle and a similar letter addressed to the legal owner, if any, return receipt requested and postage prepaid thereon, is mailed within 48 hours after the vehicle is taken into possession under LCC 510.100 by or at the direction of the Sheriff, or after the Sheriff receives notice that a vehicle has been towed by or at the direction of the De-

partment of State Police. If the vehicle is registered with the Department of Transportation, notice may be addressed to the registered owner and the legal owner, if any, at the latest respective address of each shown by the records with the Department of Transportation.

(B) If the vehicle is not so registered, reasonable efforts shall be made to ascertain the names and addresses of the legal owner and owner or persons entitled to possession of the vehicle so that notice may be mailed, if reasonably possible, within the time period outlined in this section.

(C) If there is no vehicle identification number on vehicle and there are no registration plates and no other markings through which the Department of Transportation can identify the owner of the vehicle, then notice otherwise required to be provided in this chapter is not required, and the vehicle may be towed and disposed of as though notice and an opportunity for a hearing had been given.

(D) If the legal owner and/or person entitled to possession of the vehicle desires to request a hearing, they must do so within five (5) days after receipt of the notice. The request may be made in person or in writing and failure to appear in person or mail a letter within five (5) days after receipt of the notice 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]

510.300 Hearing before hearings officer

Upon request of the legal owner or the owner or person entitled to possession of the vehicle, a hearing shall be held before a hearings officer appointed by the Board of County Commissioners. 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 Sheriff or Department of State Police in taking the vehicle into custody; and

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

510.400 Decision by hearings officer

(A) If the Hearings Officer finds that:

(1) The action of the Sheriff or Department of State Police 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 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 Linn County or the Department of State Police in order to satisfy the lien.

(2) The action of the Sheriff or Department of State Police 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) The Hearings Officer shall provide a written statement of the results of the hearing to the person requesting the hearing.

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

510.500 Exception for hazardous vehicles

The pre-tow notice provisions of LCC 510.210 do not apply in situations where the vehicle is disabled, abandoned, parked or left standing unattended on a road or highway right-of-way in such location as to constitute a hazard. In such cases the Sheriff or Department of State Police may immediately take the vehicle into custody in accordance with ORS 819.120.

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.

510.700 Failure to appear at hearing

If the owner does not appear at the scheduled hearing, the hearings officer may enter an order supporting the removal and assessment of towing and storage charges against the owner.

Statutory References and Authorities:

ORS 87.152 to 87.212; 203; 483.382(2); 483.386 to 483.394; 483.395

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

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