

ORDINANCE NO. 1356-13

AN ORDINANCE RELATING TO TOWING FROM PRIVATE PROPERTY; AND
ADDING CHAPTER 8-5 TO THE TUALATIN MUNICIPAL CODE

WHEREAS, the towing of motor vehicles from private property implicates the safety and welfare of the general public;

WHEREAS, the City of Tualatin has a significant governmental interest in protecting the health, safety, and welfare of the general public and preserving the public order; and

WHEREAS, the City Council desires to minimize and control the harmful and adverse affects that occur during the towing of motor vehicles from private property;

NOW THEREFORE, THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. Chapter 8-5 is added to the Tualatin Municipal Code to read as follows:

8-5-005 Purpose. The purpose of this Chapter is to ensure that towing motor vehicles from private property facilities is performed safely, require private parking facilities to provide adequate notice of prohibited parking areas, and ensure that those whose motor vehicles have been towed can gain knowledge of the location of their motor vehicle. The provisions of this Chapter shall be construed in conformity with the laws and regulations of the State of Oregon regarding towing from private property. Nothing in this section creates, or is intended to create, a special relationship, as that term is defined under Oregon law, between any person and the City.

8-5-010 Administrative Authority. The City Manager, or the City Manager's designee, is authorized to prescribe administrative rules and policies to implement the requirements of this Chapter.

8-5-020 Definitions.

(1) "Private parking facility" means any property used for motor vehicle parking at which the private parking facility owner restricts or reserves parking.

(2) "Private parking facility owner" means the owner, operator, lessee, manager, or designated agent of a private parking facility.

(3) "Storage facility" means any property used for the storage of motor vehicles towed from a private parking facility.

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(4) "Tow" means to haul, carry, pull along, or otherwise transport or remove a motor vehicle by means of another motor vehicle.

(5) "Tow company" means any person, firm, corporation, or other entity that engages in, or owns or operates a business which engages in, the towing or removal of motor vehicles for compensation.

(6) "Vehicle owner" means the person registered with the Department of Motor Vehicles as the owner of the motor vehicle, or a person in lawful possession of the motor vehicle.

8-5-030 Tow Company License.

(1) A tow company must not, without the vehicle owner's consent, tow, cause to be towed, or store a motor vehicle towed from a private parking facility within the City of Tualatin unless the tow company has a valid license issued by the City of Tualatin.

(2) The City shall grant a license to a tow company upon the tow company providing the following:

- (a) The legal business name, address, telephone number and fax number;
- (b) A list of all tow trucks used for tows from private property;
- (c) Addresses of all storage facilities utilized by the tow company to store motor vehicles towed from within the City of Tualatin;
- (d) A 24-hour contact telephone number;
- (e) The names of all owners of the tow company;
- (f) Other information the City Manager determines is necessary to carry out the requirements of this Chapter; and
- (g) Payment of a license fee, the amount of which is established by resolution of the City Council.

(3) The term of the license shall be for a period of one year.

(4) The licensing requirements of this Chapter do not apply to tow companies that tow a motor vehicle with the prior consent or authorization of the vehicle owner.

8-5-040 Towing Vehicles from Private Parking Facilities.

(1) A tow company must not, without the vehicle owner's consent, tow, cause to be towed, or store a motor vehicle towed from a private parking facility unless:

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(a) The tow company has express written authorization from the private parking facility owner to tow motor vehicles from the private parking facility;

(b) The private parking facility contains at least one sign at each entryway that prominently displays the following information:

(i) A statement that parking is prohibited, reserved, or otherwise restricted;

(ii) A statement of the hours the prohibition, reservation, or restriction applies;

(iii) The name of the tow company or companies that patrols the private parking facility; and

(iv) A 24-hour telephone number of the tow company or companies to call to obtain release of a motor vehicle towed.

(c) If a private parking facility serves multiple businesses and restricts or reserves parking spaces for each business, each parking space must be clearly marked to indicate which spaces are restricted or reserved for each business;

(d) The tow company photographs the motor vehicle to be towed and all signs posted prior to hookup; and

(e) The tow company complies with all requirements of this Chapter and all administrative rules and policies.

(2) It is unlawful for a tow company to do any of the following:

(a) Park within 1,000 feet of a private parking facility for the purpose of monitoring motor vehicles to tow;

(b) Post an observer at or near a private parking facility for the purpose of monitoring or ordering the towing of motor vehicles; and

(c) Patrol a private parking facility for the purpose of monitoring motor vehicles to tow.

8-5-050 Tow Requirements. A tow company must comply with the following requirements:

(1) Perform tows in a safe and reasonable manner and not damage any person

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or property while towing or storing motor vehicles;

(2) Fully cooperate with any police agency to facilitate processing of stolen motor vehicles;

(3) Provide to the person seeking release of a towed motor vehicle a clearly legible receipt complete with all required information and with all fees and charges itemized;

(4) Be considered to be in possession of a motor vehicle when the hookup is complete and the tow truck has begun towing the motor vehicle by engaging the tow truck's transmission and moving forward;

(5) Offer to call for or provide transportation to the vehicle owner from within the immediate vicinity of the tow scene to the location of the towed motor vehicle storage;

(6) Have staff available at all times to provide information about the location of the towed motor vehicle and information for obtaining release of the towed motor vehicle;

(7) Accept as proof of motor vehicle ownership the vehicle's title or registration in addition to valid photo-identification of the person seeking the release;

(8) Accept at least cash or valid credit card for payment for any fees or charges assessed;

(9) Notify the City of Tualatin Police Department of the location of any towed motor vehicle within one hour of the motor vehicle being placed in storage; and

(10) Exercise reasonable care of any animal found to be in a towed motor vehicle.

8-5-060 Storage of Towed Vehicles. A tow company must not store a motor vehicle towed from a private parking facility within the City of Tualatin at a storage facility located more than ten miles from the city limits of the City of Tualatin.

8-5-070 Release at Scene.

(1) If a vehicle owner returns to the motor vehicle while the tow company is still attaching equipment to the motor vehicle, or the motor vehicle is fully attached, but the tow driver has not yet engaged the tow truck's transmission to begin removing the motor vehicle, the tow company must release the motor vehicle to the vehicle owner or operator at no charge.

(2) If the vehicle owner stops the tow company when the hookup is complete and the tow truck is in motion with the motor vehicle, the tow company must immediately

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halt the tow and inform the vehicle owner that:

- (a) The motor vehicle will be released if the vehicle owner pays to the tow company the Release at Scene Fee;
- (b) The amount of the Release at Scene Fee; and
- (c) The vehicle owner has up to 15 minutes, without additional charge, to provide payment of the Release at Scene Fee.

(3) If a tow company complies with subsection (2) of this section and the vehicle owner fails to provide payment within 15 minutes, the tow company may proceed to tow the motor vehicle to the storage facility.

8-5-080 Towing and Storage Rates. A tow company must not charge more than the following amounts for motor vehicles towed from private property:

(1) "After Hours Release Fee" of \$25.00 for release of the motor vehicle between the hours of 6:00 p.m. and 8:00 a.m., Monday through Friday; and all hours on Saturday, Sunday, and City recognized holidays.

(2) "Hookup Fee" of no more than the following fees, which includes: hookup, dollies, driveline or axle pull, 30 minutes of on-scene time, tower's dispatch, and photo fees and:

- (a) \$175.00 for motor vehicles weighing less than 10,000 pounds gross vehicle weight;
- (b) \$200.00 for motor vehicles weighing from 10,000 pounds gross vehicle weight to less than 20,000 pounds gross vehicle weight; and
- (c) \$250.00 for motor vehicles more than 20,000 pounds gross vehicle weight.

(3) "Mileage Fee" of no more than \$4.50 per towed mile, up to a maximum of ten miles.

(4) "Release at Scene Fee" of no more than the Hookup Fee.

(5) "Storage Fee" per 24-hour period from completion of the tow of no more than:

- (a) \$25.00 per day; or
- (b) \$35.00 per day for motor vehicles over 20 feet long.

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8-5-090 Violation is Civil Infraction.

(1) A tow company that violates or refuses to comply with this Chapter commits a civil infraction and shall be subject to a fine of up to \$500. Each violation, and each day that a violation continues, constitutes a separate civil infraction.

(2) In addition to any other remedy provided by law, a tow company that commits more than two violations of this Chapter within one year may have its license revoked for up to one year.

(3) The civil infraction procedures in TMC 7-01 apply to the prosecution of any violation of this Chapter.

Section 2. Severability. Each section of this ordinance, and any part thereof, is severable. If any part of this ordinance is held invalid by a court of competent jurisdiction the remainder of this ordinance shall remain in full force and effect.

INTRODUCED AND ADOPTED THIS 28th DAY OF October, 2013.

CITY OF TUALATIN, OREGON

BY



Mayor

APPROVED AS TO FORM

BY



City Attorney

ATTEST:

BY



City Recorder



City of Tualatin

www.tualatinoregon.gov

February 28, 2013

Titan Towing
15280 SW 75th Ave.
Tigard, OR 97223

RE: Proposed Tow Ordinance

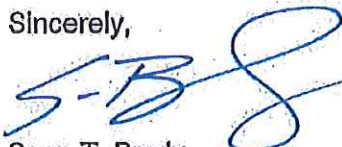
The City of Tualatin is considering enacting an ordinance to address nonconsensual towing practices within the City of Tualatin. Among the items under consideration is a restriction on the maximum distance a vehicle may be towed from the City of Tualatin. The City is considering a 10 mile or 15 mile distance restriction for any vehicle towed from private property without the vehicle owner's consent. The City is also considering limiting the amount of money a towing company can charge for nonconsensual tows, similar to the monetary restrictions enacted by the City of Portland and City of Fairview. Other terms of the draft ordinance are similar to requirements already provided in state law.

As a towing company doing business within the City of Tualatin, the City is interested in your comments about the ordinance. In particular, how the distance restrictions may impact your business.

For additional information, you can view the City of Tualatin City Council work session presentation, draft ordinance, and meeting minutes, as well as listen to audio of the work session at <http://www.tualatinoregon.gov/citycouncil/city-council-work-session-meeting-note-start-time-530pm>.

Please respond with your comments no later than March 14, 2013 to Linda Odermott, Paralegal, at lodermott@ci.tualatin.or.us.

Sincerely,


Sean T. Brady
City Attorney



City of Tualatin

www.tualatinoregon.gov

October 17, 2013

Western International Recovery Bureau
9200 NE Halsey St.
Portland, OR 97220

RE: Proposed Tow Ordinance No. 1356-13

The City of Tualatin is considering enacting an ordinance to address nonconsensual towing practices within the City of Tualatin. Among the items under consideration is a ten-mile restriction on the maximum distance a vehicle may be towed from the City of Tualatin. The City is also considering limiting the amount of money a towing company can charge for nonconsensual tows. Other terms of the draft ordinance are similar to requirements already provided in state law.

As a towing company doing business within the City of Tualatin, the City is providing you notice of the draft ordinance as it may impact your business.

The ordinance will be considered for adoption at the October 28, 2013 City Council Meeting. For additional information, you can view the City of Tualatin draft ordinance at <http://www.tualatinoregon.gov/citycouncil/city-council-meeting-135> and click on the Council Meeting Agenda.

Sincerely,

A handwritten signature in blue ink, appearing to read 'S-T-Brady', written over a horizontal line.

Sean T. Brady
City Attorney