

CITY OF BROOKINGS POLICE DEPARTMENT

Chris Wallace, Chief of Police



CITY OF BROOKINGS ORDINANCE NO. 06-O-571

AN ORDINANCE DECLARING SOME MOTORVEHICLES TO BE NUISANCES AND AUTHORIZING THE TOW OF SOME MOTORVEHICLES FOR VIOLATION OF BROOKINGS CITY ORDINANCES OR OREGON REVISED STATUTES.

THE CITY OF BROOKINGS ORDAINS AS FOLLOWS:

Section 1. DEFINITIONS. As used in this ordinance, unless the context requires otherwise, the following definitions apply:

A.) "Owner of motor vehicle" shall be the same definition as that of Oregon Revised Statute 801.375 or any successive definition.

Section 2. VEHICLE(S) SUBJECT TO FORFEITURE:

A.) A motor vehicle being operated by a person whose operator's license is suspended, canceled, or revoked for any felony conviction under Oregon Vehicle Code (Oregon Revised Statute Chapters 801 thru 823, inclusive) is declared a nuisance and subject to forfeiture.

B.) A motor vehicle being operated by a person whose operator's license is suspended, canceled, or revoked as a result of a conviction for Driving Under the Influence of Intoxicants in violation of the provisions of Oregon Revised statute Chapter 813 is declared a nuisance and subject to forfeiture.

C.) Forfeiture proceeding pursuant to this ordinance shall be done in accordance with the provisions of Oregon Law.

Section 3. VEHICLE(S) SUBJECT TO IMPOUND:

A.) Notwithstanding section 1 above, whenever a motor vehicle is being operated by a person whose operator's license or driving privilege is suspended, canceled, or revoked and a traffic citation is issued or a physical arrest made for any violation of Oregon Vehicle Code or Brookings City Ordinance, or the driver of the motor vehicle is without proof of liability insurance as required by the Oregon Vehicle Code, the motor vehicle is subject to immediate tow by a licensed towing company.

B.) Whenever the owner of a motor vehicle has failed to transfer the title or failed to register the vehicle, the motor vehicle shall be subject to immediate tow by a licensed towing company.

- C.) A vehicle being operated by a motorist who is taken into police custody for any reason, but which the vehicle is not otherwise subject to impound, shall be subjected to tow to protect the property and interest of the person arrested and the City of Brookings.
- D.) A vehicle towed shall be towed to a storage place licensed by the State of Oregon for purposes of vehicle impound or storage.
- E.) A vehicle towed for reasons of suspended, unlicensed, unprivileged or uninsured driver may be redeemed by the owner upon presentation of a valid operator's license and proof of insurance.
- F.) Vehicles towed and unclaimed or unredeemed may be disposed of after a time and in a manner by the tow company as prescribed by Oregon Law. All notices and actions associated with the disposal of any unclaimed or unredeemed vehicle is the responsibility of the tow company having taken the possession of the vehicle.

Section 4. TOWING AND STORAGE LIENS, COSTS:

- A.) The owner of a motor vehicle, when redeeming the impounded vehicle, shall be responsible for any and all towing storage fees owed to the towing company.
- B.) The owner of an impounded vehicle shall pay the City of Brookings an administrative fee of \$100.00 at the time the vehicle is authorized for release. The amount of the administrative fee can be adjusted by the City of Brookings Council by resolution.
- C.) A vehicle towed under Section 3, paragraph C, shall not be subject to the administrative fee established in Section 4, paragraph B, but will be responsible for all Towing fees to the Towing Company.
- D.) Any towing company taking a vehicle into custody under provisions of this ordinance shall have a lien on the vehicle for the just and reasonable towing and storage charges, may retain possession of the vehicle until charges are paid, and may have the vehicles 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 87.142 and shall be foreclosed in the manner provided in ORS 87.152 to 87.212. If the appraised value of the vehicle is \$750.00 or less, the vehicle shall be disposed of in the manner provided in ORS 819.220.

Section 5. HEARING:

- A.) Request for hearing
 - 1. The owner of the vehicle must request a hearing within five calendar days.
- B.) Hearing Procedure
 - 1. When a timely request for a hearing is made, a hearing shall be held before a Municipal Judge.
 - 2. The hearing shall be set and conducted within the next scheduled Municipal Court session. The hearing may be set for a later date if the owner so requests.
 - 3. At the hearing the person may contest the validity of the impound, providing proof of insurance for the vehicle and driver at the time of the tow and providing proof of the validity of the driver's privilege at the time of tow.

4. The City of Brookings shall have the burden of providing by a preponderance of evidence the validity of the impound. The city may present by oral or written testimony of the Police Officer and all documents which provide testimony of the cause for impound.

C.) Decision of the Municipal Judge

1. If the Municipal Judge finds that the impound of the vehicle was proper, the Judge shall:
 - a.) Enter an order supporting the removal, and
 - b.) Find that the owner is liable for any towing and storage charges resulting from the impound; and
 - c.) Find the owner is liable for the costs of the tow hearing, including costs of the Municipal Court and any witnesses.
2. If the Municipal Judge finds that the impound of the vehicle was improper, the Judge shall:
 - a.) Order the vehicle released to the owner;
 - b.) Find that the owner is not liable for any towing and storage charges resulting from the impound; and
 - c.) Order the City to satisfy the towing and storage lien.
3. Any time an owner of a vehicle properly insured at the time of the traffic stop present such proof to the Municipal judge, but in where proof of such insurance was not provided the Police Officer at the time of the stop, a decision of proper impound shall be entered.
4. The decision of the Municipal Judge is final.

D.) Failure to appear at Hearing

If the person requesting a hearing does not appear at the scheduled hearing, the Municipal Judge may enter an order supporting the impound and assessment of towing and storage costs, and shall add an assessment for the costs of the Municipal Court and any witnesses who appear at the time set for hearing.

First Reading:	January 9, 2006
Second Reading:	January 9, 2006
Passage:	January 9, 2006
Effective Date:	February 8, 2006

INTRODUCED AND ADOPTED by the city of Brookings Council and signed by me in authentication of its

Passage the 9 day of 2006.

ATTEST:

Paul Hughes, Finance Director/Recorder