



## MEMORANDUM CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**FROM:** Sherilyn Lombos, City Manager

**DATE:** May 30, 2012

**SUBJECT:** Work Session for May 30, 2012

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- 1) **5:00 p.m. (20 min) - Predatory Towing Practices:** At the May 14th Council work session Council discussed this issue and directed that a draft ordinance be brought back for further discussion. Attached is a memo from the City Attorney and a draft ordinance for your discussion and further direction.



# MEMORANDUM

## CITY OF TUALATIN

**TO:** Honorable Mayor and Members of the City Council

**THROUGH:** Sherilyn Lombos, City Manager

**FROM:** Brenda Braden, City Attorney

**DATE:** 05/30/2012

**SUBJECT:** Discussion of Draft Ordinance Relating to Tows from Private Property

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### ISSUE BEFORE THE COUNCIL:

The Council will consider the attached draft ordinance related to towing vehicles from private property.

### DISCUSSION:

At the May 14, 2012 work session, staff presented a report on towing practices from private property parking facilities in Tualatin and elsewhere. The issue had been raised by a Tualatin resident who had had her car towed from a private lot in an area with several businesses nearby. The lot had signage for "Customer Only" parking but did not specify that the spaces were for only one business's customers. The Mayor and Councilors had varying views on what, if anything, should be done to address the problem. Council's direction to staff was to bring back an ordinance for further discussion.

The attached ordinance is separated into sections that address some of Council's ideas. This will allow the Council to select which portions of the draft ordinance it would like in a final ordinance, if it chooses to adopt a tow ordinance.

- The first section sets out the purpose of the ordinance.
- The next portion would require businesses to put up prominent signage so that drivers would know where they could park. (The standards are largely taken from Portland's administrative rules.)
- The next section requires tow companies to register annually with the Finance Director and provide certain information. The rationale for registration is that under state law, tow companies do not have to obtain business licenses from the City. The same state law prohibits the City from charging a fee for requiring a tow company to register. Given the limited number of tow companies that might register (10-12), the Finance Director does not believe there would be much cost to the City for registration. If registration is required, there would be a mechanism for the City or person whose car was towed to be able to identify and locate whoever was responsible for the tow. This information would then be

available if a vehicle was damaged during a tow, personal items were missing from a vehicle when it was reclaimed.

- The final section sets forth standards for tow companies to follow.

I have not included any particular penalty for failure to comply with the code. That could be added to a final version if the Council chooses.

Portland provides that if a tow company doesn't comply with the ordinance, it can impose a fine of up to \$500 and can refuse to allow the tower to register and operate in Portland. It also provides an administrative appeal process if someone wishes to challenge whether the tow was proper and seek a refund. If the Council wishes to provide an appeal process, appeals could be taken to the City Manager or designee. That would allow the City Manager to have the flexibility of deciding which department should be responsible for deciding such appeals.

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**Attachments:**    A - Draft Tow Ordinance

ORDINANCE NO. \_\_\_\_\_

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

THE CITY OF TUALATIN ORDAINS AS FOLLOWS:

Section 1. A new section, 8-5-005 is added to the Tualatin Municipal Code to read as follows:

In order to assure that towing vehicles from private property facilities is performed legally, safely and at a reasonable price, the City Council finds that it is necessary to establish certain requirements for such tows and the towing companies.

Section 2. A new section, 8-5-010 is added to the Tualatin Municipal Code to read as follows:

No private property owner/agent/operator may tow or cause a vehicle to be towed or stored from a private property parking lot or facility unless the private parking facility has posted signs that meet the following requirements:

- (1) At least one sign shall be posted and readily visible at each entryway into the parking lot, not more than 10 feet from the public right of way or street edge.  
Each sign shall:
  - (a) Be at least 18" x24" in size;;
  - (b) State that parking is prohibited, reserved or otherwise restricted;
  - (c) Specifically state who is authorized to park in the facility and the hours during which parking is restricted
  - (d) If there are multiple businesses that share the lot or area, parking spaces must be clearly marked or signs posted that indicate which spaces are reserved for each business
  - (e) Prominently display the name of the tow company and 24-hour telephone number for the release of a vehicle.
  - (f) Required text shall be in letters not smaller than 1½ inches san serif type.

Section 3. A new section, 8-5-020 is added to the Tualatin Municipal Code to read as follow:

- (1) No tower who tows or stores vehicles from private property shall tow or store vehicles from private parking facilities in the City of Tualatin until the tower registers with the Tualatin Finance Director.
- (2) The registration application shall contain at least the following information:
  - (a) The legal business name of the tow company, business address, addresses of all its storage facilities, telephone numbers and fax number of the tower;
  - (b) The 24-hour emergency contact telephone number;

- (c) The names of all owners of the tow company;
- (d) A list of all tow trucks to be used for tows from private property; and
- (e) Other information that the Finance Director requires.

Section 4. A new section, 8-5-030 is added to the Tualatin Municipal Code to read as follows:

- (1) Registered towers shall:
  - (a) Perform all tows in a safe manner, taking care not to damage the person or property of others while towing or storing the vehicle;
  - (b) Cooperate fully with any police agency to facilitate processing of any vehicle towed from private property that is identified as a possible stolen vehicle;
  - (c) Give the vehicle's owner or owner's agent a clearly legible receipt complete with all required information and with all fees and charges itemized;
  - (d) Be considered to be in possession of a vehicle when the hookup is complete and the tow truck has begun towing the vehicle by engaging the tow truck's transmission and moving forward;
  - (e) Offer to call for or provide transportation to the vehicle owner/operator from within the immediate vicinity of the tow scene to the location of the towed vehicle storage;
  - (f) Have staff available at all times to provide information about the location of the towed vehicle and the information for obtaining a release of the towed vehicle;
  - (g) Accept as proof of ownership vehicle title or registration in addition to valid photo-identification of the person seeking the release;
  - (h) Accept at least cash or valid credit card for payment for any fees or charges assessed;
  - (i) Notify the police via facsimile of the location of any towed vehicle within one hour of the vehicle being placed in storage.
  - (j) Exercise reasonable care of any animal found to be in a towed vehicle.

INTRODUCED AND ADOPTED this 11th day of June, 2012.

CITY OF TUALATIN, OREGON

BY \_\_\_\_\_  
Mayor

ATTEST:

BY \_\_\_\_\_  
City Recorder