

BEFORE THE BOARD OF COUNTY COMMISSIONERS FOR
MULTNOMAH COUNTY, OREGON

ORDINANCE NO. 63

An Ordinance relating to the licensing and regulation of towing services and other matters pertaining thereto.

Multnomah County ordains as follows:

Section 1. Section Title and Pleading.

This ordinance shall be known as the Multnomah County Towing Ordinance, may be so pleaded, and shall be referred to herein as "this ordinance".

Section 2. Definitions.

A. For the purposes of this ordinance, unless the context requires otherwise, the following terms are defined as follows:

1. Board: Board of County Commissioners of Multnomah County, Oregon.
2. Director: The Director of the Department of Public Safety of Multnomah County, or his authorized representative.
3. Doing Business in Multnomah County: Any acceptance of tows for hire as defined in this section in the course of business by persons whose principal place of business is in Multnomah County, and specifically excluding tows for hire by those located outside of the County who may tow into or out of the County infrequently and who do not derive a substantial portion of

their towing business from or by towing in Multnomah County.

4. Employee: An employee, agent or driver of towing vehicle, employed by the licensee in the business of towing for hire.
5. License: A nontransferable, nonassignable annual permit, personal to the person to whom it is issued, issued by the Director authorizing the person whose name appears as licensee thereon to tow vehicles in Multnomah County for hire.
6. Licensee: Person possessing a valid license pursuant to this ordinance.
7. Motor Vehicle Related Convictions:
 - a. Conviction upon a charge of manslaughter or criminally negligent homicide resulting from operation of a motor vehicle;
 - b. Conviction or forfeiture of bail upon two charges of reckless driving within the preceding 12 months;
 - c. Conviction upon a charge of failing to stop and disclose identity at the scene of an accident, where the driver was involved in that accident;
 - d. Conviction upon a charge of driving while under the influence of intoxicating liquor, dangerous or narcotic drugs;
 - e. Conviction for any crime punishable as a felony in the commission of which a motor vehicle was used; or

- f. Conviction for any crime upon the charge of theft, burglary, arson or robbery of a motor vehicle.
- 8. Multnomah County: The unincorporated areas of Multnomah County.
- 9. Person: An individual, partnership, company, association, corporation, or any other legal entity.
- 10. Tow for Hire: The towing for a price or charge of a wrecked, abandoned, disabled or nonfunctional motor vehicle upon the public streets or highways of Multnomah County.
- 11. Towing Vehicle: A truck, automobile or other vehicle designed for the purpose of towing motor vehicles or so adapted for that purpose.

Section 3. Policy.

The Board has determined that it is necessary to regulate and eliminate certain towing practices and to insure the use of safe equipment and vehicles in order to protect the health, safety and welfare of the people of Multnomah County and this ordinance shall be liberally construed to effectuate this purpose.

Section 4. License Required.

It shall be unlawful for any person to do business in Multnomah County, as herein defined, without a license as hereinafter provided.

Section 5. Administration.

- A. The Director shall be responsible for the administration and enforcement of this ordinance.
- B. In order to carry out the duties imposed by this ordinance,

the Director shall have the authority to do the following acts, which enumeration shall not be deemed to be exclusive, namely: administer oaths, audit records, certify to all official acts, subpoena and require attendance of witnesses at meetings or hearings to determine compliance with this ordinance, require the production of relevant documents, swear witnesses, and take testimony of any person by deposition.

Section 6. Notices.

All notices shall be in writing and, if mailed, then postpaid by certified or registered mail, return receipt requested to the addressee's last known address and shall be deemed to have been given at date of mailing.

Section 7. Rules and Regulations.

The Board may promulgate rules and regulations necessary for the administration and enforcement of this ordinance.

Section 8. Interpretation.

For the purpose of this ordinance, words in the singular number include the plural, the word "shall" is mandatory and not directory, and the term "this ordinance" shall be deemed to include all amendments hereafter made.

Section 9. Application for License.

A. Applications for licenses issued hereunder shall be made upon forms provided by the Director and shall state:

1. The name, home address and proposed business address of the applicant.

2. The number of towing vehicles, license numbers, model types, location, description and hourly availability of the towing vehicles owned or operated by the applicant.
 3. The address and telephone number of any storage locations owned, operated or used by the applicant.
 4. The existing rate schedule charged by the applicant for towing and storage services.
 5. The name, home address and age of all of applicant's employees engaged in the business of towing for hire, full disclosure of any motor vehicle related convictions of applicant or said employees which are known or should have been known to the applicant, and the chauffer license numbers of applicant's employee-drivers.
 6. Such other information as the Director shall find reasonably necessary to effectuate the purpose of this ordinance.
- B. The application to the Director must be accompanied by an application fee computed at \$25.00 for each towing vehicle owned or operated by the applicant.
1. Payment of the application fee shall cover the license fee for the balance of the first annual license.
- C. No license shall be issued to an applicant hereunder until he shall have deposited with the Director the following memorandums or certificates of insurance:
1. Public liability insurance with an insurer or insurers

licensed to do business in Oregon, in the amount of \$100,000 personal injury coverage for one person, \$300,000 personal injury coverage for one accident or incident, and \$100,000 property damage.

2. Cargo insurance with an insurer or insurers licensed to do business in Oregon, in an amount not less than \$7,500.

D. Each memorandum or certificate of insurance required herein must contain an endorsement providing for ten days' notice to the Director in the event of any material change or cancellation.

Section 10. Equipment.

A. Each towing vehicle shall be equipped and maintained with:

1. Tires of not less than 7.00 x 15 in size, with tread of not less than 3/32nds of an inch and six-ply rating on rims secured with not less than six lug bolts or equivalent holding power.

2. Wire rope with a safe working limit of 3,500 pounds as established by the American Society of Mechanical Engineers.

3. Four-way flashing system, including one flashing amber light or other color prescribed by state law, of not less than five inches in diameter, mounted on the towing vehicle. In addition, at least one light must be provided mounted behind the cab of the towing vehicle, which, as determined by the Director, has

the capacity to light the scene of an accident under darkened or foggy conditions.

4. At least one fire extinguisher with an Underwriters' Laboratory rating of at least 5B:C units; one broom, one shovel; and one container for debris.
5. A dolly available for the purpose of towing motor vehicles where it is necessary to tow without damage to the towed vehicle.
6. Equipment capable of providing minor repairs, including, but not limited to, polarity protected starting equipment, tire changing equipment and gasoline.
7. Such other equipment required by state laws.
8. Portable auxiliary brake light, turn light and tail light systems for use on towed vehicles whose lighting systems are inoperable.

Section 11: Investigation & Inspection by Director.

- A. Within 30 days after receipt of an application, the Director shall cause an investigation to be made of the applicant, his towing vehicles, his equipment and his employees, including police record checks of the applicant and his employees.
- B. All towing vehicles and equipment owned or operated by the applicant shall be inspected by the Director prior to the issuance of a license. Towing vehicles and towing equipment must meet the Oregon Motor Vehicles Code requirements, the requirements of this ordinance and such other reasonable safety requirements as the Director finds

necessary for the public safety.

- C. Inspection of all tow vehicles and towing equipment owned or operated by the licensee may be made from time to time as may reasonably be determined by the Director for the purpose of determining continued compliance with this ordinance.

Section 12. Standards for Issuance.

- A. The Director shall issue a license hereunder when it finds as a result of the investigation and inspection that:
 - 1. An accurate and complete application has been filed and fees paid;
 - 2. Insurance policies as required by this ordinance have been procured;
 - 3. Vehicle and equipment inspection as required by this ordinance has been satisfactorily completed as required in Section 11;
 - 4. All drivers of the applicant's towing vehicles have valid chauffers licenses; and
 - 5. The requirements of this ordinance and all other governing laws and ordinances have been met.
- B. A motor vehicle related conviction of the applicant or his employees may be grounds for denial or revocation of a license, if the Director determines that such action is in accordance with the objectives of this ordinance and necessary for the health, safety and welfare of the people of Multnomah County.

Section 13. Effective Date for Those Providing Towing Services.

Persons who are providing towing services on the effective date of this ordinance must make application for the required license within 30 days of said effective date and, upon filing an application for said certificate, may continue to provide towing services until a final decision is made upon said application by the Director.

Section 14. Notification of Change of Circumstances.

If the status of any licensee under this ordinance changes in regard to the number of towing vehicles owned or operated, new drivers, discontinued drivers, the personal qualifications of employees set forth herein, the sale or discontinuance of the business being conducted, or anything substantially changing the information contained in the initial application, the licensee must immediately file with the Director a statement setting forth such changes. An inspection fee of \$25 shall be paid for inspection of towing vehicles acquired after the license inspection.

Section 15. Denial or Revocation of License.

- A. The Director may initiate denial or revocation of a license when he finds that a licensee fails to meet the requirements of this ordinance or is operating in violation thereof or in violation of existing federal, state or local laws or ordinances.
- B. Any person whose license has been denied or revoked may, after 30 days from the date of revocation, reapply upon the prepaying of a \$25.00 application fee. Such sum shall not be credited to the applicant's annual license fee.

- C. Any person who has had his license denied or revoked two times within one year, or who has had a total of four denials or revocations may be disqualified from applying for a license for a period not to exceed two years.
- D. The Director shall, upon his finding that a violation of this ordinance has occurred, provide written notice to the licensee of the violation, and shall demand that said violation, if continuing, be corrected within 30 days from the date of the notice. The notice shall describe with reasonable certainty the violation and the action necessary to correct the violation.
1. The licensee shall notify the Director when corrective action has been taken. The Director shall then make an inspection, if necessary.
 2. The licensee's failure to take corrective action in the time required shall be cause for license revocation unless the licensee has filed notice of appeal, which notice shall abate revocation, pending determination of the Board.
 3. The Director may order immediate corrective action of the licensee if he finds the violation poses an extreme hazard to the public safety.

Section 16. Renewal of License.

- A. Inspection of all towing vehicles shall be made as in Section 11 B of this ordinance at the time of each annual renewal of the license to tow.

- B. An annual license renewal fee of \$25.00 per towing vehicle owned or operated by the applicant shall be charged and shall be due on the anniversary of the issuance of the first license to tow.
- C. Renewal of an applicant's license is subject to compliance with this ordinance.

Section 17. Appeals and Hearings.

- A. Persons receiving notice from the Director pursuant to this ordinance may request a hearing by filing a written request for hearing with the Director within thirty days of receipt of the notice and in which shall be set forth reasons for the hearing and the issues to be heard.
 - 1. The Director shall, upon receipt of request for hearing, promptly notify the Board and the Board shall set a time and place for hearing, not more than sixty days from the date of receipt of request for hearing.
 - 2. The Board shall give notice to the person requesting hearing as to the time and place for such hearing not less than thirty days prior thereto.
 - 3. The person requesting the hearing and the Director may make argument, cross-examine witnesses, submit testimony, rebuttal evidence, and written documentation and submit briefs on matters pertinent to the issue to be determined.
 - 4. All hearings shall be recorded in a manner which will

allow for a written transcription to be made thereof and all materials submitted by the person requesting hearing and the Director shall be retained by the Board for a period of at least two years.

5. The Board shall issue its order determining the question within thirty days from the date of the hearing or any continuance thereof not to exceed thirty days, and shall mail a copy of the order to the person requesting the hearing.
6. Review of the action of the Board shall be taken solely and exclusively by Writ of Review in the manner set forth in ORS 34.010 through 34.100, provided, however, that any aggrieved person may demand such relief by Writ of Review.

Section 18. Disclosures and Requirements.

- A. The name, address, number of the particular vehicle and phone number of the licensee shall be prominently displayed on each towing vehicle owned or operated by the licensee.
- B. Tow and storage rates charged for services by a licensee shall be filed with the Director at least 10 days prior to the effective date thereof and shall be prominently posted at the licensee's place of business. Each towing vehicle operator shall have in his possession a rate card setting forth the licensee's rate schedule currently on file with the Director which shall include the licensee's business name, location, telephone number, location of storage

facilities for towed vehicles and business hours. A copy of such rate card shall be furnished to the person requiring the tow, if present.

- C. The towing operator shall, upon request, identify himself by giving his full name to any patron of the licensee.
- D. A certificate indicating vehicle operation under a Multnomah County license shall be prominently displayed in each towing vehicle.
- E. The driver of a towing vehicle engaged to remove a disabled vehicle from the scene of an accident shall remove glass and other debris from the roadway unless otherwise instructed by police authority.

Section 19. Storage of Towed Vehicles.

Vehicles shall be stored in conformity with the zoning ordinance of Multnomah County and nothing in this ordinance shall be construed as a modification thereof.

Section 20. Hours for Release of Impounded Vehicle.

Towing operators storing impounded vehicles in Multnomah County must provide for release of impounded vehicles, without additional charge, at any time within the twenty-four hours following the tow. Thereafter, the release may be effected during normal working hours, between 8:00 a.m. and 5:00 p.m., Monday through Friday.

Section 21. Prohibitions.

- A. No licensee or his employee shall:
 - 1. Make a false statement of a material fact, or omit disclosure of a material fact, in the application for

license.

2. Monitor the police radio for profit or gain.
3. Solicit information as to accident locations by payment of any form of gratuity.
4. Solicit those at the scene of an accident without first determining whether towing assistance has already been requested. A prior request shall prohibit solicitation, provided, however any licensee may render assistance without charge at the scene of an accident to clear the public street or highway.
5. Either expressly or impliedly by any statement or action make any false representation that he represents or is approved by any business firm or organization.
6. Require performance of repair work on a vehicle involved in an accident or breakdown, in connection with providing towing service for such vehicle.
7. Increase his towing or storage rates from those filed with the Director except as provided in Section 18 B.
8. Make any repairs or alterations to a vehicle without first being authorized by the registered or legal owner, an authorized insurance company, or other authorized agent of any of the foregoing. This shall not be construed to prohibit licensees and employees from making emergency alterations necessary to permit the towing of such vehicles.
9. Store vehicles in violation of the zoning ordinance

of Multnomah County.

10. Charge a fee when a vehicle owner, his agent or insurance representative, gives written or verbal authorization to a person other than the licensee to remove the owner's vehicle from the licensee's premises.
 11. Tow a vehicle which is occupied by a person or persons.
 12. Charge for services not performed or make duplicate charges for the same services.
 13. Charge more than one daily storage fee for the initial 24 hour storage period, or charge other than on a calendar day basis thereafter.
- B. The licensee shall allow the owner or his authorized agent reasonable access to the licensee's storage premises for vehicle inspection.

Section 22. Penalties.

Any person convicted of a violation of Section 21 of this ordinance shall be punished by a term of not more than six months in Multnomah County Jail, or by a fine of not more than \$1,000.00, or both.

Section 23. Conformance with Law.

This ordinance shall in no way be a substitute for nor eliminate the necessity of conforming with any and all state laws, rules and regulations, and other county ordinances which are now or may be in the future in effect which relate to the activities herein regulated.

Section 24. Separability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional

by a Court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision, and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 25. Adoption.

This ordinance, being necessary for the health, safety and welfare of the people of Multnomah County, shall take effect on the thirtieth day after its adoption, pursuant to Section 5.50 of Charter of Multnomah County.

ADOPTED THIS 14th day of December, 1972, being the date of its second reading before the Board of County Commissioners of Multnomah County, Oregon.

BOARD OF COUNTY COMMISSIONERS

By M. James Gleason
Chairman