

Ordinance No. 00214

[Council Minutes 99/09/20](#)

ORDINANCE NO. 214

AN ORDINANCE of the City Council of the City of Lakewood, Washington, amending Sections 10.28.020, 10.28.030, 10.28.040, 10.28.050 and 10.28.070 of the Lakewood Municipal Code relating to impounding vehicles driven by drivers with suspended licenses

WHEREAS, in 1998, the Washington State Legislature passed S.H.B. 1221, adopted as Chapter 203, Laws of 1998, which provided an option to municipalities of impounding vehicles being operated by a person that was driving while his or her license was suspended, and thus committing an offense of "Driving While License Suspended" (DWLS); and,

WHEREAS, the term "Driving While License Suspended" and DWLS include and refer to Driving While License Suspended First Degree, Second Degree and Third Degree, pursuant to Section 46.20.342 of the Revised Code of Washington (RCW); and,

WHEREAS, the State Legislature promulgated findings in Section 1, Chapter 203, Laws of 1998, which are hereby adopted by this reference, and which include in part the following:

1. Suspended drivers are more likely to be involved in causing traffic accidents, including fatal accidents, than properly licensed drivers, and pose a serious threat to the lives and property of Washington residents.
2. Statistics show that suspended drivers are three times more likely to kill or seriously injure others in the commission of traffic felony offenses than are validly licensed drivers.
3. In addition to not having a driver's license, most such drivers also lack required liability insurance, increasing the financial burden upon other citizens through uninsured losses and higher insurance costs for validly licensed drivers.
4. Because of the threat posed by suspended drivers, all registered owners of motor vehicles in Washington have a duty to not allow their vehicles to be driven by a suspended driver.
5. Despite the existence of criminal penalties for driving with a suspended license, an estimated seventy-five percent of these drivers continue to drive anyway.
6. It is common for suspended drivers to resume driving immediately after being stopped, cited, and released by a police officer and to continue to drive while a criminal prosecution for suspended driving is pending.
7. More than half of all suspended drivers charged with the crime of driving while suspended or revoked fail to appear for court hearings.
8. Vehicle impoundment will provide an immediate consequence which will increase deterrence and reduce unlawful driving by preventing a suspended driver access to that vehicle.
9. Vehicle impoundment will also provide an appropriate measure of accountability for registered owners who permit suspended drivers to drive their vehicles.
10. Impoundment of vehicles driven by suspended drivers has been shown to reduce future driving while suspended or revoked offenses for up to two years afterwards, and the recidivism rate for drivers whose cars were not impounded was one hundred percent higher than for drivers whose cars were impounded.
11. In order to adequately protect public safety and to enforce the state's driver licensing laws, it is necessary to authorize the impoundment of any vehicle when it is found to be operated by a driver with a suspended license; and,

WHEREAS, the City has found that the current methodology of dealing with the Driving While License Suspended cases has not been totally effective and that the adoption of ordinances authorized by the State Legislature in Chapter 203, Laws of 1998, along with other municipalities would allow for uniformity throughout neighboring municipalities in addressing the problems of

persons driving while their license has been suspended; and,

WHEREAS, the City Council also found that a progressive minimum impound period is necessary to encourage compliance, with longer minimum impound periods for cases involving the offenses of DWLS in the First Degree or DWLS in the Second Degree, relative to cases involving the offense of DWLS in the Third Degree, is appropriate considering the nature of the offenses; and,

WHEREAS, an Ordinance was adopted that implemented the provisions and finding allowed by state law, through City of Lakewood Ordinance No. 194, adopted on February 1, 1999; and,

WHEREAS, because of concerns that were raised relative to the new state law and about how it would be implemented, several bills were introduced during the Washington State Legislative Session for 1999 seeking to clarify some provisions and addressing issues affecting the implementation and utility of the state law, including ESB 5649, adopted as Chapter 398 of the Laws of 1999; and,

WHEREAS, City staff have met with representatives of the towing industry to identify processes so as to assure coordination and cooperation in implementing the towing of vehicles driven by people with suspended licenses; and,

WHEREAS, modifications of the provisions of Ordinance 194 were developed in accordance with the recent legislative changes and with the meetings with tow operators; and,

WHEREAS, to give the public ample warning an effective date of November 1, 1999 is established by this Ordinance.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF LAKEWOOD, WASHINGTON, DO ORDAIN as follows:

Section 1. That Section 10.28.020 of the Lakewood Municipal Code is hereby amended to read as follows:

10.28.020 Towing and storage.

The Finance Director is authorized to prepare specifications for towing and storage of vehicles, including instructions to towing companies, containing such provisions as the Director shall deem advisable and not in conflict with this chapter. The specifications shall be subject to the review and approval of the City Manager.

(Ord. 194 Â§ 1 (part), 1999.)

Section 2. That Section 10.28.030 of the Lakewood Municipal Code is hereby amended to read as follows:

10.28.030 Administrative fee.

A. If a vehicle is impounded pursuant to the provisions of this Chapter, an administrative fee of One Hundred Dollars (\$100.00) shall be paid prior to the redemption of the vehicle as provided by this Chapter.

B. The administrative fee shall be collected by the Lakewood Finance Department, and shall be redeemed to the Finance Department in the manner directed by the Finance Director. The administrative fee shall be for the purpose of off-setting, to the extent practical, the cost of the City of implementing, in enforcing and administering the provisions of this Chapter and shall be deposited in the appropriate account.

(Ord. 194 Â§ 1 (part), 1999.)

Section 3. That Section 10.28.040 of the Lakewood Municipal Code is hereby amended to read as follows:

10.28.040 Owner of impounded vehicle to be notified.

A. Not more than twenty-four (24) hours after impoundment of any vehicle, the tow contractor shall mail a notice by first class mail to the last known legal and registered owners of the vehicles, as may be disclosed by the vehicle identification number, and as provided by the Washington State Department of Licensing. The notice shall include the name of the impounding tow firm, its address, and telephone number. The notice shall include the location and time of the impound, and by whose authority

the vehicle was impounded. The notice shall include the written notice of the right of redemption and opportunity for a hearing to contest the validity of the impound or the amount of towing and storage charges. The notice shall state the length of the impound. The notice shall state that a person who desires to redeem a vehicle impounded must within five days of the impound at the request of the tow truck operator pay a security deposit to the tow truck operator of not more than half of the applicable impound storage rate for each day of the proposed suspended license impound to ensure payment of the costs of the removal, towing, and storage of the vehicle pursuant to RCW 46.55.120(1)(b). The notification shall state that if the security deposit is not posted within five days of the impound the vehicle will immediately be processed and sold at auction as an abandoned vehicle pursuant to RCW 46.55.130(1). The notice shall state the requirements set out in LMC 10.28.050 regarding the payment of the costs of removal, towing, and storage as well as providing proof of satisfaction of any penalties, fines, or forfeitures before redemption. The notice must also state that the registered owner is ineligible to purchase the vehicle at the abandoned vehicle auction, if held.

B. If the date on which a notice required by subsection (A) of this section is to be mailed falls upon a Saturday, Sunday, or postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

C. Similar notice shall be given to each person who seeks to redeem an impounded vehicle, except that if a vehicle is redeemed prior to the mailing of notice, then notice need not be mailed.

D. The Lakewood Police Department shall give written notification to the last registered and legal owner that the investigatory hold has been removed, except that if a vehicle is redeemed following notice by telephone and prior to the mailing of notice, then notice need not be mailed. In addition, the Police Department shall notify the towing contractor, by telephone or in writing, of the authorization to release such vehicle.

(Ord. 194 Â§ 1 (part), 1999.)

Section 4. That Section 10.28.050 of the Lakewood Municipal Code is hereby amended to read as follows:

10.28.050 Redemption of impounded vehicles.

A. Only the registered owner, a person authorized by the registered owner, or one who has purchased the vehicle from the registered owner, who produced proof of ownership or authorization and signs a receipt therefor, may redeem an impounded vehicle. A person redeeming a vehicle impounded pursuant to this Chapter must, prior to redemption, establish that he or she has a valid driver's license and is in compliance with RCW 46.30.020. A vehicle impounded pursuant to this Chapter can be released only pursuant to a written order from the police department or a court.

B. Any person so redeeming a vehicle impounded by the City shall pay the towing contractor for costs of impoundment (towing and storage) and shall pay the City an administrative fee prior to redeeming such vehicle. Such towing contractor shall accept payment as provided in RCW 46.55.120(1)(b), as now or hereafter amended. If the vehicle was impounded pursuant to this Chapter and was being operated by the registered owner when it was impounded, it may not be released to any person until any penalties, fines, or forfeitures owned by the registered owner have been satisfied. The administrative fee shall be paid to the Lakewood Finance Department.

C. The Chief of Police is authorized to release a vehicle impounded pursuant to this Chapter, prior to the expiration of any period of impoundment, upon petition of the spouse of the driver based on economic or personal hardship to such spouse resulting from the unavailability of the vehicle, and after consideration of the threat to public safety that may result from release of the vehicle, including but not limited to, the driver's criminal history, driving record, license status and access to the vehicle. If such release is authorized, the person redeeming the vehicle still must satisfy the requirements of this Section.

D. Any person seeking to redeem a vehicle impounded as a result of a traffic arrest, pursuant this Chapter, has a right to a hearing, before the Police Chief or designee, as the administrative hearings officer, to contest the validity of an impoundment or the amount of towing and storage charges, if such request for hearing is in writing, in a form approved by the Chief of Police and signed by such person, and is received by the Chief of Police within ten (10) days (including Saturdays, Sundays, and holidays) of the latter of the date the notice was mailed to such person pursuant to Section 10.28.040 LMC, or the date the notice was given to such person by the registered tow truck operator, pursuant to RCW 46.55.120(2)(a). Such hearing shall be provided as follows:

1. If all the requirements to redeem the vehicle, including expiration of any period of impoundment under Section 10.28.010 LMC, have been satisfied, then the impounded vehicle shall be released immediately, and a hearing as provided for in Section 10.28.060 LMC shall be held within ninety (90) days of the written request for hearing.

2. If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under Section 10.28.010

LMC , have not been satisfied, then the impounded vehicle shall not be released until after the hearing which, pursuant to Section 10.28.060 LMC, shall be held within two (2) business days (excluding Saturdays, Sundays and holidays) of the written request for hearing.

3. Any person seeking a hearing who has failed to request such hearing within the time specified in Section 10.28.060 LMC, may petition the Chief of Police for an extension to file a request for hearing. Such extension shall only be granted upon the demonstration of good cause as to the reason(s) the request for hearing was not timely filed. For the purposes of this section, good cause shall be defined as circumstances beyond the control of the person seeking the hearing, that prevented such person from filing a timely request for hearing. In the event such extension is granted, the person receiving such extension shall be granted a hearing in accordance with this chapter.

4. If a person fails to file a timely request for hearing, and an extension to file such a request has not been granted, the right to a hearing is waived, the impoundment and the associated costs of impoundment are deemed to be proper, and the City shall not be liable for towing and storage charges arising from the impoundment.

5. In accordance with RCW 46.55.240(1)(d), a decision made by the Police Chief or designee, as administrative hearings officer, may be appealed to the Lakewood Municipal Court for final judgment. The hearing on the appeal, under this subsection, shall be de novo. A person appealing such a decision must file a request for an appeal in the Municipal Court within fifteen (15) days after the decision of the administrative hearings officer, and must pay a filing fee in the same amount required for the filing of a suit in the Pierce County District Court. If a person fails to file a request for an appeal, within the time specified by this section, or does not pay the filing fee, the right to an appeal is waived and the administrative hearings officer's decision is final.

(Ord. 194 Â§ 1 (part), 1999.)

Section 5. That Section 10.28.070 of the Lakewood Municipal Code is hereby amended to read as follows

10.28.070 Rules and regulations.

The City Manager, in consultation with the Finance Director and the Chief of Police, shall promulgate rules and regulations consistent with this Chapter to provide for the fair and efficient administration of this Chapter and to provide for the fair and efficient administration of any vehicle impoundment, redemption, or release or any impoundment hearing under this Chapter.

(Ord. 194 Â§ 1 (part), 1999.)

Section 6. That if any portion of this Ordinance or its application to any person or circumstances is held invalid, the remainder of the Ordinance or the application of the provision to other persons or circumstances shall not be affected.

Section 7. That this Ordinance shall be in full force and effect five (5) days after publication of the Ordinance Summary, and on November 1, 1999.

ADOPTED by the City Council this 20th day of September, 1999.

CITY OF LAKEWOOD

Bill Harrison, Mayor

Attest:

Alice M. Bush, CMC/AE, City Clerk

Approved as to Form:

Daniel B. Heid, City Attorney

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