

ORDINANCE NO. 804

AN ORDINANCE ADOPTING PARKING REGULATIONS AND PENALTIES FOR VIOLATION THEREOF, ADDING A NEW SECTION 11.04.175 AND AMENDING SECTIONS 11.04.270, 11.04.280 AND 11.04.290 OF THE SCAPPOOSE MUNICIPAL CODE.

THE CITY OF SCAPPOOSE HEREBY ORDAINS AS FOLLOWS:

Section 1. A new section, Section 11.04.175, of the Scappoose Municipal Code is hereby adopted, which section shall read as follows:

“11.04.175 Adoption of State Parking Regulations. A. The Municipal Court, pursuant to ORS 221.339, shall have concurrent jurisdiction of all state parking regulations.

B. Violation of the provisions of ORS 811.550 through 811.570 and ORS 819.100 are also offenses against the city and may be prosecuted as municipal ordinance violations.”

Section 2. Section 11.04.270 of the Scappoose Municipal Code is amended to read as follows:

“11.04.270 Citation on illegally parked vehicles. A. Citation. Whenever a vehicle without an operator is found parked in violation of a restriction imposed by this chapter, the officer finding the vehicle may conspicuously affix to the vehicle a traffic citation for the operator to answer to the charge against the owner or pay the penalty imposed within thirty days during the hours and at a place specified in the citation. The traffic citation shall contain the date, place and nature of the charge, the time and place for defendant’s appearance in court, the name of the issuing officer or other person authorized to issue the notice, and the license number of the vehicle.

B. Failure to Comply with Traffic Citation Attached to Parked Vehicle. If the operator does not respond to a traffic citation affixed to such vehicle by the date specified on the citation, the municipal judge, or his or her designee, may send to the owner of the vehicle to which the traffic citation was affixed a letter informing the owner of the violation and warning the owner that, in the event the judge’s letter is disregarded, the judge will enter an order of default and a fine will be imposed.

C. Owner Responsibility. For the purpose of citing violations of the parking regulations, a rebuttable presumption exists that the registered owner of the parked vehicle was in possession and control of the vehicle at the time the violation occurred. The owner of a vehicle placed in violation of a parking restriction shall be responsible for the offense, except where the use of the vehicle was secured by the operator without the owner’s consent.

D. Registered Owner Presumption. In a prosecution of a vehicle owner, charging a violation of a restriction on parking, proof that the vehicle at the time of the violation was registered to the defendant shall constitute a rebuttable presumption that the defendant was then the owner in fact.”

Section 3. Section 11.04.280 of the Scappoose Municipal Code is amended to read as follows:

“11.04.280 Impoundment or immobilization of vehicles. A. In addition to the provisions of state law, whenever a police officer observes a vehicle parked in violation of a provision of this chapter, if the vehicle has two or more unpaid parking citations issued by City of Scappoose outstanding against it, the officer may, in addition to issuing a citation, cause the vehicle to be impounded or immobilized. An impounded vehicle shall be processed and disposed of pursuant to the procedures for abandoned vehicles set forth in ORS 819.110 to ORS 819.260, inclusive.

B. Immobilization of vehicles. A motor vehicle may be immobilized by installing on or attaching to the vehicle a device designed to restrict the normal movement of the vehicle. A police officer causing such immobilization shall conspicuously affix to the vehicle the written notice that shall contain:

1. The name of the police officer ordering the temporary immobilization;
2. A description of the vehicle and its location;
3. A statement of the reason for the temporary immobilization of the vehicle including a reference to the section of this Code violated;
4. Where to go and how to obtain release of the vehicle;
5. The date and time when the city will have the vehicle towed and stored at the owner's expense, resulting in the sale of the vehicle to satisfy these expenses and unpaid bail and fines if the owner fails to redeem the vehicle;
6. The statement that attempting to remove the immobilization device or removing it or attempting to remove or removing the vehicle before it is released as authorized by this code is a separate offense.

C. The parking restrictions of the city shall not apply to a vehicle that has been temporarily immobilized as provided in this section.

D. No person other than an officer of the city may remove or attempt to remove the device, or move or attempt to move the vehicle, before it is released by the police department or the clerk of the municipal court in accordance with this section. If the device has been removed, or the vehicle has been moved, in violation of this subsection, in addition to the issuance of a citation for the violation, a police officer may order the impoundment of the vehicle.

E. A vehicle shall be released and the temporary immobilization device removed when the owner, operator or person in charge of the vehicle:

1. Posts bail and pays an immobilization fee in an amount set by resolution of City Council plus all fines and bail for parking citations issued against the vehicle, its operator or owner; or
2. Presents clear and convincing information to the municipal judge, or his or her designee, that the present owner of the vehicle did not own the immobilized vehicle at the time the parking citations were issued that established the violation of this section, or that the bail and fines for parking citations that establish the violation of this section were paid before the vehicle was temporarily immobilized.

- F. The municipal judge, or his or her designee, may, for good cause, extend the time limit the temporary immobilization device is left attached to a vehicle before it is towed and stored provided the owner, in writing, assumes all risk of damage to the vehicle while it remains immobilized. The extension of the time limit shall not exceed an additional 24 hours, excluding Sundays and holidays.
- G. A person whose vehicle has been immobilized pursuant to this section may request a hearing to contest the validity of the immobilization or the amount of the charges incident thereto. The procedure regarding a request for a hearing, notice and timing of the hearing and potential outcomes of the hearing shall be the same as specified in ORS 819.190.”

Section 4. Section 11.04.290 of the Scappoose Municipal Code is amended to read as follows:

“11.04.290. Classifications of offenses and penalties. A. Except as may be limited by Charter and except for parking violations, violations of the Oregon Vehicle Code made offenses against the city shall carry the same classifications and punishments provided therein.

B. Except for parking violations, violations of other offenses against the city as described in this chapter shall be traffic infractions, and shall be classified and punished, and otherwise be subject to, the provisions of ORS Chapter 153, except as may be specifically provided in this chapter.

C. Violations of the following sections of this chapter shall be classified as follows:

Section	Classification
11.04.090	Class B violation
11.04.100	Class B violation
11.04.110	Class B violation
11.04.120	Class C violation
11.04.130	Class C violation
11.04.140	Class C violation
11.04.160	Class C violation
11.04.180	Class C violation
11.04.190	Class C violation
11.04.220	Class D violation
11.04.230	Class D violation
11.04.240	Class D violation
11.04.250	Class D violation
11.04.260	Class D violation

D. Violations of the parking sections of this chapter (sections 11.04.160 through 11.04.200 and 11.04.270) shall be punishable by a fine in an amount set by resolution of City Council. The municipal court violations fee shall not be applicable to parking violations. Each day or any portion thereof a violation of the parking sections of this chapter is allowed to continue shall constitute a separate offense and may be prosecuted accordingly. If the fine ordered to be paid by the municipal court judge is not fully paid on or before the 30th calendar day after adjudication, the original fine amount shall double without need for further adjudication or order, unless the 30-day deadline is extended by further order of the municipal court judge.”

Passed and adopted by the City Council this 6th day of April, 2009 and signed by the Mayor and City Recorder in authentication of its passage.


CITY OF SCAPPOOSE, OREGON



Scott Burge, Mayor

First Reading: March 16, 2009
Second Reading: April 6, 2009

Attest:



Susan M. Reeves, CMC
City Recorder