

**CITY OF LOGAN, UTAH
ORDINANCE NO. 16-07**

**AN ORDINANCE AMENDING SECTIONS 10.52.040 OF THE
LOGAN MUNICIPAL CODE REGARDING VEHICLE IMPOUNDING**

WHEREAS, the state legislature has granted general welfare power to the City Council, independent, apart from, and in addition to, its specific grants of legislative authority, which enables the City of Logan to pass ordinances as are necessary and proper to provide for the safety, promote the prosperity, improve the peace and good order, comfort, and convenience of the City and its inhabitants, and for the protection of property in the City; and

WHEREAS, the City Council has determined that the following ordinance is in the City's best interest;

NOW THEREFORE, BE IT ORDAINED BY THE MUNICIPAL COUNCIL OF THE CITY OF LOGAN, UTAH, AS FOLLOWS:

SECTION 1:

10.52.040: REGULATION OF VEHICLE IMPOUNDING:

A. Vehicle Impoundment Without Notice: A vehicle may be impounded with or without citation and without giving prior notice to its owner only under the following circumstances:

1. The vehicle is impeding or likely to impede the normal flow of vehicular or pedestrian traffic;
2. The vehicle poses an immediate danger to the public safety;
3. The vehicle is illegally parked within fifteen feet (15') of a fire hydrant;
4. The vehicle, without a valid designated plate or placard issued under state law, is parked in a stall or space clearly marked and designated for use by disabled persons;
5. A police officer reasonably believes that the vehicle is stolen;
6. A police officer reasonably believes that the vehicle or its contents constitute evidence of an offense and such impoundment is reasonably necessary to obtain or preserve such evidence; provided, however, that nothing in this section shall be construed to authorize the seizure of a vehicle without a warrant where a warrant would otherwise be required;
7. The vehicle was in the possession of a person taken into custody by a law enforcement officer and no other reasonable disposition of the vehicle is available, or the vehicle was in the possession of a person arrested for a felony traffic violation;
8. A police officer reasonably believes that the vehicle's operator, in violation of state law, is driving while uninsured or without a valid driver's license and no other reasonable disposition of the vehicle is available; or
9. The vehicle is parked in the public rights of way or on other publicly owned or controlled property in violation of any law, ordinance, or regulation, and there are six (6) or more parking citations issued against the vehicle that have not been responded to, either by payment of the

penalty or appearance at a hearing, for at least thirty (30) days from the date of the filing of the sixth parking citation.

B. Vehicle Impoundment After Notice: A vehicle not subject to impoundment under subsection A of this section may be impounded with notice in compliance with this section. Notice of such proposed impoundment must be securely attached to and conspicuously displayed on the vehicle for a period of ~~seventy two (72) hours prior to such impoundment~~ **forty-eight hours (48) prior to such impoundment.** Where the vehicle's owner is ascertainable, **if possible, verbal** notice must be **attempted via telephone or at the registered owners address: (mailed to the owner at the address on the vehicle's registration).** A vehicle may only be towed with notice for the following reasons:

1. When such vehicle is parked and/or used in violation of any law, ordinance, or regulation;
2. When such vehicle is an abandoned or junked vehicle (**State Code 41-6a-1408 defines abandoned as left unattended for 48 hours on a highway or road**); or
3. When such vehicle is so mechanically defective as to be unsafe for operation, provided, however, that this section shall not be construed to prevent the operation of any such defective vehicle to a place for correction of defective equipment in the manner directed by a police officer.

C. Notice Of Impoundment:

1. After a vehicle has been towed pursuant to this section, notice shall be provided to the registered owner(s) and any other person(s) who reasonably appears to have an interest in the vehicle. Notice will be mailed to such person(s) within twenty four (24) hours after the towing of the vehicle, Sundays and holidays excluded, and will state:
 - a. That the vehicle has been towed, and a description of the vehicle, including the make, model, color, year, license, and vehicle identification number;
 - b. The location of the vehicle and that it may be reclaimed only upon evidence that the claimant is the owner or person entitled to possession;
 - c. The address and telephone number of the person or facility that may be contacted for information of the charges that must be paid before the vehicle will be released and the procedures for obtaining the release of the vehicle;
 - d. That the vehicle and its contents are subject to a lien for the towing and storage charges, and a vehicle not claimed within thirty (30) days after the mailing date of the notice is subject to sale pursuant to state and local law;
 - e. That the owner may request a hearing concerning the legality of the impoundment, and the method for requesting such a hearing; and
 - f. An itemized statement of the amount due and to whom payable for removal and storage of the vehicle at the time of notice.
2. Notice need not be mailed when a vehicle does not display license plates or other identifying markings by which the registration or ownership of the vehicle can be determined, or when the

identity of the owner of the vehicle is not available from the appropriate motor vehicle licensing and registration authority.

D. Redemption Of Impounded Vehicles: Vehicles impounded by the city shall be redeemed only under the following circumstances:

1. Only the registered owner, or a person authorized by the registered owner, may redeem an impounded vehicle. A person redeeming an impounded vehicle must produce a valid driver's license.

E. Request For Hearing On Impoundment:

1. The mayor of Logan shall appoint a qualified individual to serve as the hearing officer.
2. After a vehicle has been impounded pursuant to this section, the registered owner(s) and any other person(s) who reasonably appears to have an interest in the vehicle is entitled to request a hearing to contest the validity of the impoundment of the vehicle. The request for a hearing must be in writing and filed with Logan City police department. The request for hearing must state the grounds upon which the person requesting the hearing believes the impoundment is invalid or unjustified, and such other information as the hearing officer may require.
3. The hearing officer shall set and conduct an administrative hearing on the matter within fourteen (14) days of receipt of a proper request filed pursuant to this section, except where a vehicle has not yet been released from impoundment, in which case the hearing officer will set and conduct the hearing within seventy two (72) hours of receipt of the request, not including Saturdays, Sundays, or federally sanctioned holidays.
4. The owner(s) and any other person(s) who has an interest in the vehicle is only entitled to one hearing for each tow of that vehicle. Any person who fails to appear at the hearing without good cause will not be entitled to have such hearing rescheduled.

F. Hearing Procedure:

1. The hearing shall afford a reasonable opportunity for a person(s) to demonstrate by the statements of witnesses and other evidence that the impoundment of the vehicle was invalid or unjustified. The hearing officer shall establish the necessary rules and regulations regarding the conduct of such hearings.
2. The hearing officer shall determine whether the impoundment was proper and whether the removal, towing, storage, and administrative fees were proper. The hearing officer shall not have the authority to determine the validity of a parking citation unless the time for filing a request for a hearing on the parking citation has not passed, in which case the hearing officer has discretion to consolidate the impoundment hearing and the parking citation hearing.

G. Result Of Hearing:

1. If the hearing officer finds that the impoundment of the vehicle was invalid or unjustified, the hearing officer will order the vehicle to be immediately released, and the owner(s) or any other person(s) who has an interest in the vehicle shall not be held liable for any tow and/or storage charges. If the costs of impoundment and the administrative fee have already been paid, the hearing officer shall enter judgment against the city in the amount of the costs of impoundment.

2. If the hearing officer finds that the impoundment of the vehicle was valid and justified, the hearing officer will order that the vehicle continue to be held until the appropriate fees are paid.
3. No determination of facts made at a hearing under this section shall have any collateral estoppel effect on subsequent criminal prosecution and shall not preclude litigation of those same facts in a subsequent criminal prosecution.
4. The decision of the hearing officer shall be the final decision by the city. Any person aggrieved by a decision may file a petition for judicial review in a court of competent jurisdiction. (Ord. 13-02, 2013; Ord. 12-38, 2012; Ord. 07-16 § 1, 2007; Ord. 2000-75 § 1, 2000; Ord code § 42-14-4)
 1. Vehicle parked or used in violation of law.
 2. Vehicle abandoned or junked (UCA 41-1a-1101(1)(c))
 3. Vehicle mechanically defective, unsafe operation
 4. Notice: Officers

SECTION 2: Effective Date. This ordinance shall become effective upon publication.

PASSED BY THE LOGAN MUNICIPAL COUNCIL, STATE OF UTAH, THIS _____ DAY OF _____, 2016.

AYES:

NAYS:

ABSENT:

/s/ Herm Olsen, Chair

ATTEST:

/s/ Teresa Harris, City Recorder

PRESENTATION TO MAYOR

The foregoing ordinance was presented by the Logan Municipal Council to the Mayor for approval or disapproval this _____ day of _____, 2016.

/s/ Herm Olsen, Chair

MAYOR'S APPROVAL OR DISAPPROVAL

The foregoing ordinance is hereby approved this _____ day of _____, 2016.

/s/ H. Craig Petersen, Mayor