

**ORDINANCE AMENDING CHAPTER 42, ARTICLE VI. IMPOPUNDING OF
CERTAIN VEHICLES AND
ARTICLE VII. REMOVAL AND DISPOSITION OF JUNKED AND ABANDONED
VEHICLES AND VEHICLES WHICH ARE HEALTH OR SAFETY HAZARDS**

BE IT ORDAINED, by the Mayor and City Council of the City of Winston-Salem as follows:

Section 1: Chapter 42, Article VI, Section 42-311, is hereby amended to read as follows

Sec. 42-311. - Authority.

Members of the police department are hereby authorized to remove a vehicle from a street or city property to a garage designated by the police department under the following circumstances, and the vehicle shall be held until claimed by the legal owner or disposed of as provided by this chapter or the North Carolina General Statutes:

- (1) When any vehicle is left unattended upon any bridge, tunnel or underpass, where such vehicle constitutes an obstruction to traffic.
- (2) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic and the person in charge of the vehicle is under arrest or is by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal.
- (3) When any vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic, ~~or when any vehicle is parked in the downtown area from 1:00 a.m. to 6:00 a.m.~~ or when any vehicle is illegally parked in the vicinity of and adjacent to a fire hydrant.
- (4) When any vehicle is left parked in an alley or driveway between buildings in violation of subparagraph (e) of section 1.5 as contained in the 1996 edition of the fire prevention code, and as a result is liable to interfere with the operation of the fire department or egress of occupants in case of fire. If the owner of such vehicle, or the person in control thereof, shall fail or refuse to remove the vehicle when ordered to do so by the chief of the fire department, the chief of the fire and life safety branch~~bureau of fire prevention~~ or by an inspector of the fire department, then, upon a written request of the chief of the fire department, the chief of the fire and life safety branch~~bureau of fire prevention~~ or an inspector of such department, the police department shall remove such vehicle and impound the vehicle as provided in this section.
- (5) When any vehicle is parked in violation of section 42-253.
- (6) When any vehicle is parked in violation of section 42-254.
- (7) When any vehicle is parked in violation of subsection 42-153(a)(2).

Section 2: Chapter 42, Article VI, Section 42-312, is hereby amended to read as follows:

Sec. 42-312. - Notice of impoundment; right to hearing.

(a) It shall be the duty of the chief of police or his designee to notify the owner of any vehicle impounded under the provisions of this article as follows:

- (1) Where a vehicle with a valid registration plate or registration is towed, the authorizing person shall immediately notify the last known registered owner of the vehicle of the following:
 - a. A description of the vehicle;
 - b. The place where the vehicle is stored;
 - c. The violation with which the owner is charged, if any;
 - d. The procedure the owner must follow to have the vehicle returned to him; and
 - e. The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours. If the vehicle is not registered in this state, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the owner is reached by telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing.

- (2) Whenever a vehicle with neither a valid registration plate nor registration is towed pursuant to provisions of this section, the authorizing person shall make reasonable efforts, including checking the vehicle identification number, to determine the last known registered owner of the vehicle and to notify him of the information listed in subsection (a)(1) of this section. Unless the owner has otherwise been given notice, it is presumed that the authorizing person has not made reasonable efforts, as required under this subsection, unless notice that the vehicle would be towed was posted on the windshield or some other conspicuous place at least seven days before the towing actually occurred.
- (3) Nothing contained in this section shall require any pre-towing notice for the towing of any vehicle in violation of the provisions contained in subsections 42-311(1), (2), (3) and (4), or the towing of a vehicle which impedes the flow of traffic or otherwise jeopardizes the public welfare so that immediate towing is necessary.

(b) The owner or any other person entitled to claim possession of a vehicle impounded pursuant to this article may request a hearing before a Forsyth County magistrate to determine if probable cause existed for the towing. All hearings shall be conducted in accordance with G.S. 20-219.11, as may be amended from time to time. ~~the provisions contained in section 42-346 in article VII of this chapter. The provisions of section 42-346 are incorporated in this section by reference except that references to article VII shall be read to mean article VI of this chapter.~~

Section 3: Chapter 42, Article VI, Section 42-314, is hereby amended to read as follows

~~Sec. 42-314.—Amount of towing and storage charges; charges to constitute lien.~~

~~(a) The charges for towing and storing any vehicle lawfully impounded under this article shall be as follows:~~

~~(1) Towing charge. Towing charges shall be:~~

~~a. On Saturday and Sunday, and after 6:00 p.m. on Monday through Friday each week, where a vehicle is towed.....\$85.00.~~

~~b. On Monday through Friday of each week, from 7:30 a.m. to 6:00 p.m. where a vehicle is towed....75.00~~

~~c. Where a wrecker is engaged but the vehicle is not towed.....10.00~~

~~d. Large vehicles consisting of 10,000 gross vehicle weight (GVW) or more....200.00~~

~~(2) Additional charges. The following charges shall be in addition to any towing charge listed in subsection (a)(1) of this section:~~

~~a. After the first 30 minutes from arrival and for each hour thereafter until hook up, a waiting fee shall be charged.~~

~~Vehicles\35.00~~

~~Large Vehicles\50.00~~

~~b. Where a dolly is used.....25.00~~

~~(3) Storage charge. Charges for storage of impounded vehicles shall be as follows:~~

~~a. Vehicles.....\$15.00~~

~~per day~~

~~b. Tractors.....25.00~~

~~per day~~

~~c. Trailers.....25.00~~

~~per day~~

~~d. Straight trucks in which the cab and trailer/bed are one unit excluding pick-up trucks and large vehicles 10,000 GVW or more....50.00~~

~~per day~~

Sec. 42-314. -Towing charges; administrative fee.

- (a) The charges for towing and storing of any vehicle lawfully impounded under this article by a private tower shall be established pursuant to an arrangement between the city and the private tower(s).
- ~~(b)(4) *Administrative fee.* In addition to the Separate from any towing and storage charges owed to a private tower, as specified in subsections (a)(1),(2) and (3) of this section there shall be an administrative fee charge of \$60.00 payable to the city to assist in defraying the expenses incurred by the city in administering the towing and storage owner notification as required by the provisions of this article.~~
- ~~(5) *Special circumstances.* Under special circumstances, including but not limited to, vehicle recovery from water, or towing distances in excess of 30 miles, the rate for towing will be approved by the police chief or designee.~~
- ~~(b)(c) All towing and storage charges imposed storing, violation and other charges incurred by the city or imposed on the owner or operator in connection with the impounded vehicle shall constitute a lien upon such vehicle, and no such impounded vehicle shall be released until such charges have been paid and proper evidence of ownership exhibited.~~
- ~~(e)(d) All vehicles, including motorcycles towed pursuant to this article, shall be stored on premises owned or operated by a private tower unless other arrangements due to the size of the vehicle, lack of space or other circumstances have been made with the approval of the police chief or designee. city owned or operated property unless other arrangements due to the size of the vehicle, lack of space or similar circumstances, have been made by the police chief or designee.~~

Section 4: The title to Chapter 42, Article VII is hereby amended to read as follows:

ARTICLE VII. REMOVAL AND DISPOSITION OF JUNKED AND ABANDONED VEHICLES AND VEHICLES WHICH ARE HEALTH OR SAFETY HAZARDS

Section 5: Chapter 42, Article VII, Section 42-341, is hereby amended to read as follows

Sec. 42-341. - Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Abandoned motor vehicle means a vehicle that:

- (1) Has been left upon a public street or highway in violation of a law or ordinance that regulates or prohibits parking, or that requires the display of a valid license plate or registration sticker; or
- (2) Is left on property owned or operated by the city longer than 24 hours; or
- ~~(3) Is left on private property without the consent of the owner, occupant or lessee thereof for longer than two hours; or~~

- (3) Is left on any public street or highway for longer than seven days or on U.S. Highway 52, Interstate Highway 40, Business Interstate Highway 40, Peters Creek Parkway, Silas Creek Parkway; or U.S. Highway 421 within the corporate limits of the city, for longer than 48 hours; or
- (4) Is determined by law enforcement to be a hazard to the motoring public.

Health hazard vehicle means an abandoned or junked vehicle found to be:

- ~~(1) A breeding ground or harbor for mosquitoes, insects, snakes, or pests or being used for storage in a manner which may attract such pests; or~~
- ~~(2) A point of heavy growth of weeds or other noxious vegetation over eight inches in height; or~~
- ~~(3) A point of collection for pools or ponds of water; or~~
- ~~(4) A source of danger for children from exposed surfaces of metal, glass or other rigid materials.~~

Junked motor vehicle means an abandoned motor vehicle that also:

- (1) Is partially dismantled or wrecked;
- (2) Cannot be self-propelled or moved in the manner in which it was originally intended to move;
- (3) Is more than five years old and worth less than \$500.00; or
- (4) Does not display a current license plate.

Motor vehicle and *vehicle* mean all machines designed or intended to travel over land or water by self-propulsion or while attached to any self-propelled vehicle.

Private tow means an individual or company engaged in the business of towing and storing motor vehicles that tows vehicles, pursuant to an arrangement with the city, at the city's request or authorization.

Safety hazard vehicle means a motor vehicle left upon a street or highway or private property longer than 72 hours that has been declared a safety hazard by a code enforcement official without regard to whether the vehicle is abandoned or junked as defined in this section and:

- (1) Is a breeding ground or harbor for rats; or
- (2) Is a point of concentration or source of leaking of uncontained gasoline, oil or other flammable or explosive materials; or
- (3) Is positioned in a way that there is a danger it will fall or turn over; or
- (4) Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside.

Section 6: Chapter 42, Article VII, Section 42-343, is hereby amended to read as follows:

Sec. 42-343. - Disposition of vehicles removed by direction of the city.

- (a) *Removal of vehicles generally.* Whenever any abandoned motor vehicle, ~~or~~ junked motor vehicle or safety hazard vehicle is left on the public streets or public grounds, ~~or is left upon privately owned property in violation of this article,~~ said vehicle may be removed by ~~or under the direction of the a code enforcement officer~~ or law enforcement officer by a private tower to a storage garage or area., ~~provided that no such vehicle shall be removed from privately owned premises without the written request or permission of the owner, lessee or occupant thereof unless the~~ A vehicle on private property that has been declared to be a ~~health~~ safety hazard vehicle by the code enforcement officer pursuant to section 42-341, ~~consistent with the findings of the city council set forth in section 42-341~~ may be removed by a private tower at the direction of the city without the consent of the owner of the vehicle or private property. ~~A safety hazard vehicle left on a public street, highway or private property may be removed without the consent of the owner.~~ Prior to removing such a safety hazard vehicle from private property, the city shall attach a notice to the vehicle stating the nature of the safety hazard and indicating that the vehicle is subject to removal within 72 hours if the safety hazard is not eliminated. The city shall also provide the same notice to the owner, lessee, or occupant of the premises, either by personal service or certified mail prior to removal of the safety hazard vehicle. ~~When a vehicle is removed from privately owned property upon request, the person at whose request such vehicle is being removed shall be required to pay the city \$85.00 for each vehicle removed by the city, and such person shall be required to indemnify and save harmless the city against any and all liability and expenses incurred by the city arising out of the removal of the vehicle excepting liability and expenses arising out of the transportation and storage of such vehicle. Notice of such removal shall be given to the owner of the vehicle as promptly as possible as provided in subsection 42-342(d). The owner of such vehicle may obtain possession thereof by paying to the city private tower all reasonable costs incident to the removal and storage of the vehicle and locating the owner of the vehicle., or by posting a bond in a form approved by the city attorney for such costs, pending final determination.~~
- (b) *Sale or disposition generally.* Subject to the right of a prior hearing as set forth in sections 42-312 and 42-346, ~~the a private tower code enforcement officer~~ is hereby authorized to sell or dispose of abandoned motor vehicles, junked motor vehicles ~~or health~~ or safety hazard vehicles. The sale or disposition of such vehicles shall be by private sale similar to that provided for in G.S. ~~e~~Ch. 44A, except that no additional hearing in addition to the hearing provided for in section 42-344 or section 42-346 is required. If no one purchases the vehicle at the sale and if the value of the vehicle is less than the amount of the lien, ~~the city private tower holding a lien against such vehicle may dispose of it in accordance with applicable law. destroy such vehicle.~~
- (c) *Procedure for sale.* Pursuant to G.S. 44A-4(c), the sale shall be by private sale in any such manner that is commercially reasonable. Such sale may not be made until notice has been given to the state commissioner of motor vehicles on a form approved by the commissioner at least 20 days before the date of such sale as provided in G.S. 20-114(c). Not less than 30 days prior to the date of the proposed private sale, the private tower city shall cause a notice of sale to be mailed to the person having legal title to the property, if reasonably ascertainable, to the person with whom the private tower city dealt, if different, and to each secured party or other person claiming an interest in the property who is actually known to the private tower city or can be reasonably ascertained. The notice of sale provided by the private tower city shall include:

- (1) The name and address of the private tower holding a lien per G.S. 44A-1.city.
 - (2) The name of the person having legal title to the property, if such person can be reasonably ascertained, and the name of the person with whom the city dealt.
 - (3) A description of the property.
 - (4) The amount due for which the lien is claimed.
 - (5) The place of sale.
 - (6) If a private sale, the date upon or after which the sale is proposed to be made, or, if a public sale, the date and hour when the sale is to be held.
- (d) *Purchase by city or private tower prohibited.* ~~Neither the~~ The city nor the private tower holding a lien shall not purchase, directly or indirectly, the property at private sale, and such a sale to the lienor shall be voidable.
- (e) *Disposition of proceeds of sale.* In accordance with G.S. 44A-5, the proceeds of the sale shall be applied as follows:
- (1) Payment of reasonable expenses incurred in connection with the sale. Expenses of sale include but are not limited to reasonable storage and boarding expenses after giving notice of sale.
 - (2) Payment of the obligation secured by the lien.
- Any surplus shall be paid to the person entitled thereto; but, when such person cannot be ascertained in the exercise of reasonable diligence, the surplus shall be paid to the clerk of superior court of Forsyth County, to be held by the clerk for the person entitled thereto. ~~into the general fund of the city.~~
- (f) *Acquisition of title by purchaser.* Pursuant to G.S. 44A-6, a purchaser for value at a properly conducted sale, and a purchaser for value without constructive notice of a defect in the sale who is not the lienor or an agent of the lienor, acquires title to the property free of any interests over which the lienor was entitled to priority.

Section 7: Chapter 42, Article VII, Section 42-344, is hereby amended as follows:

Sec. 42-344. - Removal of junked motor vehicles for aesthetic purposes.

- (a) *Definitions.* For purposes of this section, the term junked motor vehicle, as authorized by G.S. 160A-303.2, means a vehicle that does not display a current license plate and that:
- (1) Is partially dismantled or wrecked; or
 - (2) Cannot be ~~self-propelled~~ self-propelled or moved in the manner in which it originally was intended to move; or
 - (3) Is more than five years old and appears to be worth less than \$500.00.
- (b) *Abandonment prohibited.* It shall be unlawful to abandon a junked motor vehicle, as defined in this section, on public streets, public grounds or private property.
- (c) *Required finding; order to remove.* Upon investigation, a code enforcement officer may order the removal of a junked motor vehicle, as defined in this section, after finding in writing

that the aesthetic benefits of removing the vehicle outweigh the burdens imposed upon the owner of the vehicle. Such finding shall be based on a balancing of the monetary loss of the apparent owner against the corresponding gain to the public by promoting or enhancing community, neighborhood or area appearance. The following, among other relevant factors, may be considered:

- (1) Protection of property values;
- (2) Promotion of tourism and other economic development opportunities;
- (3) Indirect protection of public health, which may be indicated when one or more of the conditions listed in subsections (a) through (d) below exists or indirect protection of public safety, which may be indicated when one or more of the conditions listed in subsections (e) through (h) below exists:
 - a. A breeding ground or harbor for mosquitoes, insects, snakes, or pests or vehicles used for storage in a manner which may attract such pests;
 - b. A point of heavy growth of weeds or other noxious vegetation over eight inches in height;
 - c. A point of collection for pools or ponds of water;
 - d. A source of danger for children from exposed surfaces of metal, glass or other rigid materials;
 - e. Is a breeding ground or harbor for rats;
 - f. Is a point of concentration or source of leaking of uncontained gasoline, oil or other flammable or explosive materials;
 - g. Is positioned in a way that there is a danger it will fall or turn over; or
 - h. Is a source of danger for children because they might become entrapped in areas of confinement that cannot be opened from the inside.
- (4) Preservation of the character and integrity of the community; and
- (5) Promotion of the comfort, happiness and emotional stability of area residents.

If the owner of the vehicle shall request in writing that the vehicle be removed, then the code enforcement officer need not make the finding described in this section, nor shall notice of removal be given. Additionally, the code enforcement officer need not make the finding described in this section if he has a written request from the owner, lessee or occupant of the premises to remove a junked motor vehicle. In such cases, prior notice must be given according to subsection (d) of this section.

(d) *Removal by direction of the city.*

- (1) A junked motor vehicle which is to be removed pursuant to this section shall be towed only after notice to the registered owner or person entitled to claim possession of the vehicle. If the names and mailing addresses of the registered owner or person entitled to possession of the vehicle can be ascertained in the exercise of reasonable diligence, the notice shall be given by certified mail. When service is attempted by certified mail, a copy of the letter may be sent regular mail. Service shall be deemed sufficient if the certified mail is returned unclaimed or refused but the regular mail is not returned within

ten days after mailing. The notice shall indicate that the vehicle will be removed ~~by~~ at the city's authorization or at the city's direction no sooner than seven days after receipt of notice. A copy of the notice will be retained by the city. If such names and addresses cannot be ascertained, notice shall be given by affixing on the windshield or some other conspicuous place on the vehicle a notice indicating that the vehicle will be removed ~~by~~ at the city's authorization or at the city's discretion on or after a specified date no sooner than seven days after the notice is affixed.

~~(2) If the vehicle is not removed within the allotted time period and the the owner wishes to request a hearing , said hearing must be requested- in writing within the time period set forth in the notice-.~~

~~(32) If the vehicle is not removed within the allotted timeframe and a request for a hearing is not made in a timely fashion, and a request for a hearing is not made in a timely fashion, the community development department shall remove the vehicle. Ssuch vehicle shall be disposed of according to the procedures set forth in section 42-343. In the event of a timely appeal, the vehicle shall not be removed until the appeal is heard and decided. If the registered owner or person entitled to possession fails to request a hearing within the allotted time or fails to appear at the scheduled hearing, he waives his right to a hearing.~~

- (e) *Liability for damages.* Any person who removes a vehicle pursuant to this section shall not be held liable for damages for the removal of the vehicle to the owner, lienholder or other person legally entitled to possession of the vehicle removed; however, any person who intentionally or negligently damages a vehicle in the removal of such vehicle, or intentionally inflicts injury upon any person in the removal of such vehicle, may be held liable for damages.
- (f) *Applicability of other sections.* The provisions of sections 42-347 through 42-349 relating to the removal, towing and storage of vehicles shall apply to this section.
- (g) *Exception.* The provisions of this section shall not apply to any motor vehicle that is used on a regular basis for business or personal use.

Section 8: Chapter 42, Article VII, Section 42-346, is hereby amended as follows:

Sec. 42-346. - Right to probable cause hearing before sale or final disposition of vehicle;~~conduct of hearing; appeals.~~

(a) After towing, but before the sale and disposition of an unclaimed abandoned, junked, safety hazard motor vehicle or junked motor vehicle for aesthetic purposes, the city shall provide notice to the last known registered owner of the vehicle in accordance with G.S. 20-219.11, as may be amended from time to time. Said notice shall include:

- (1) A description of the vehicle;
- (2) The place where the vehicle is stored;
- (3) The violation with which the owner is charged, if any;
- (4) The procedure the owner must follow to have the vehicle returned to him; and
- (5) The procedure the owner must follow to request a probable cause hearing on the towing.

If the vehicle has a North Carolina registration plate or registration, notice shall be given to the owner within 24 hours; if the vehicle is not registered in this State, notice shall be given to the owner within 72 hours. This notice shall, if feasible, be given by telephone. Whether or not the

owner is reached by telephone, notice shall be mailed to his last known address unless he or his agent waives this notice in writing

- (b) If a hearing is requested, notice of such hearing shall be provided by the magistrate's office and the hearing shall be conducted in accordance with G.S. 20-219.11, as may be amended from time to time.
- ~~(b) — If the registered owner or person entitled to possession desires a hearing, he must inform the community development department of his desire by certified letter within seven days after receipt of the notice. If the registered owner or person entitled to possession fails to request a hearing within the allotted time or fails to appear at the scheduled hearing, he waives his right to a hearing.~~
- ~~(c) — If the registered owner or person entitled to possession requests a hearing, then a statement shall be sent to that person stating the time and place for the hearing. In addition, the statement shall inform the person requesting the hearing of the specific grounds for the classification of the vehicle as an abandoned, junked, health or safety hazard vehicle under this article, of the rules and regulations for the hearing, of the opportunity to present evidence in order to show cause why the sale or disposition of the vehicle should not occur in accordance with this article, and of the right to have counsel present at the hearing.~~
- ~~(d) — The city manager or his designee shall serve as the hearing officer, shall conduct the hearing in accordance with the procedures stated in this section, and shall prepare a written report within three days of the hearing stating his conclusion concerning whether the vehicle was in violation of this article and the reasons and evidence upon which the conclusions has been based.~~
- ~~(e) — The written report of the hearing officer shall determine that the community development department shall either proceed to dispose of the vehicle in accordance with this article or to immediately return the vehicle to the registered owner. If the hearing officer determines that the vehicle was not in violation of this article and must be immediately returned to the registered owner, then the registered owner would not be charged with the cost of removal expenses.~~
- ~~(f) — The original report of the hearing officer shall be filed in the office of the community development department and shall be available for public inspection. A copy of the written report shall be mailed to the registered owner. Any aggrieved party may appeal to the district court of Forsyth County by filing a written notice of appeal with the clerk of superior court within ten days from the date of receipt of the written report of the hearing officer.~~

Section 9: Chapter 42, Article VII, Section 42-349, is hereby amended as follows:

Sec. 42-349. – ~~Amount of towing and storage charges; charges to constitute lien.~~ Towing charges; administrative fee.

- (a) The charges for towing and storing of any vehicle lawfully impounded under this article by a private tower shall be established pursuant to an arrangement between city and the private

~~tower(s). The charges for towing and storing any vehicle lawfully impounded under this article shall as follows:~~

~~(1) Towing charge. Towing charges shall be:~~

- ~~a. On Saturday and Sunday, and after 6:00 p.m. on Monday through Friday each week, where a vehicle is towed....\$85.00.~~
- ~~b. On Monday through Friday of each week, from 7:30 a.m. to 6:00 p.m. where a vehicle is towed...75.00~~
- ~~c. Where a wrecker is engaged but the vehicle is not towed.....10.00~~
- ~~d. Large vehicles consisting of 10,000 gross vehicle weight (G.V.W.) or more....200.00~~

~~(2) Additional charges. The following charges shall be in addition to any towing charge listed in subsection (a)(1) of this section:~~

- ~~a. After the first 30 minutes from arrival and for each hour thereafter until hook up, a waiting fee shall be charged:
Vehicles\35.00
Large Vehicles\50.00~~
- ~~b. Where a dolly is used....25.00~~

~~(3) Storage charge. Charges for storage of impounded vehicles shall be as follows:~~

- ~~a. Vehicles \$40.00
per day.~~
- ~~b. Tractors \$100.00
per day.~~
- ~~c. Trailers \$100.00
per day.~~
- ~~d. Straight trucks in which the cab and trailer/bed are one with excluding pick up trucks and large vehicles 10,000 GVW or more... \$100.00
per day.~~

~~(4)(b) Administrative fee. In addition to the Separate from any towing and storage charges owed to a private tower, as specified in subsections (a)(1),(2) and (3) of this section there shall be an charge administrative fee of \$60.00 payable to the city to assist in defraying the expenses incurred by the city in administering the towing and storage owner notification as required by the provisions of this article.~~

~~(5) Special circumstances. Under special circumstances, including but not limited to, vehicle recovery from water, or towing distances in excess of 30 miles, the rate for towing will be approved by the director of housing and neighborhood services or designee. For vehicles impounded pursuant to section 42-176, the director of finance or designee shall~~

~~approve the rate for towing, under special circumstances, including but not limited to, vehicle recovery from water, or towing distances in excess of 30 miles.~~

- (c) ~~All towing, and storage storing, violation and other charges incurred by the city or imposed charges imposed~~ upon the owner or operator in connection with the impounded vehicle shall constitute a lien upon such vehicle, and no such impounded vehicle shall be released until such charges have been paid and proper evidence of ownership exhibited.
- (d) ~~All vehicles, including motorcycles, towed pursuant to this article, shall be stored on premises owned or operated by a private tower unless other arrangements due to the size of the vehicle, lack of space or other circumstances have been made with the approval of the city. city owned or operated property unless other arrangements due to the size of the vehicle, lack of space or similar circumstances have been made by the director of housing and neighborhood services or designee. All vehicles, including motorcycles, towed pursuant to this section 42-176, shall be stored on city owned or operated property unless other arrangements due to the size of the vehicle, lack of space or similar circumstances have been made by the director of finance or designee.~~

Section 10: Chapter 42, Article VII, Section 42-350, is hereby amended as follows:

Sec. 42-350. - Civil penalty; repeat violators.

- (a) Any vehicle owner or real property owner who has been notified at least four times within a six-month period of time of a violation of this article relating to junked, junked motor vehicle for aesthetic purposes, ~~health~~ or safety hazard vehicle shall be assessed a civil penalty of \$250.00 with the fifth and any subsequent notice of violation within a six-month time period. Both the authority to assess a civil penalty and the authority to remove and impound a vehicle(s) may be exercised so as to subject simultaneously the vehicle or real property owner to a civil penalty and impoundment penalties. Thus, the assessment of a civil penalty is in addition to the administrative fee assessed in accordance with section 42-349. The violation need not occur with the same vehicle each time.
- (b) Any vehicle owner whose vehicle(s) has been towed at least four times within a six-month period for violation of section 42-341 relating to abandoned motor vehicles shall be assessed a civil penalty of \$250.00 with the fifth and any subsequent tow within a six-month time period. Both the authority to assess a civil penalty and the authority to remove and impound a vehicle may be exercised so as to simultaneously subject the vehicle owner to a civil penalty and impoundment penalties. Thus, the assessment of a civil penalty is in addition to the administrative fee assessed in accordance with section 42-349. The violation and subsequent towing need not occur with the same vehicle each time.
- (c) Any vehicle owner whose vehicle(s) has been towed more than two times within a six-month period from an area designated as a red zone for violating section 42-341 relating to abandoned motor vehicles shall be assessed a civil penalty of \$250.00 with the third and any subsequent tow within a six-month period. Both the authority to assess a civil penalty and the authority to remove and impound a vehicle may be exercised so as to simultaneously subject the vehicle owner to a civil penalty and impoundment penalties. Thus, the assessment of a civil penalty is in addition to the administrative fee assessed in accordance with section 42-349. The

violation and subsequent towing need not occur with the same vehicle each time. For purposes of this article, the term red zone is used to denote an area within the city limits that has been the subject of an inordinate number of inspections for verifiable code violations which violations pose a health or safety hazard for the citizens of said area.

- (d) If the civil penalty, as set forth herein, is not paid within ten days after notification of the amount due, the city may recover the penalty, together with all costs, by filing a civil action in the general court of justice in the nature of a suit to collect a debt.

Section 11: This ordinance shall become effective upon adoption.