

IN THE BOARD OF COMMISSIONERS OF THE STATE OF OREGON
 FOR THE COUNTY OF YAMHILL
 SITTING FOR THE TRANSACTION OF COUNTY BUSINESS

In the Matter of Approving a Non-Preference Tow Ordinance)
 for the Yamhill County Sheriff's Office to Provide Fair and)
 Efficient Allocation of Towing Calls to Qualified Local Tow) **ORDINANCE 783**
 Companies, and Declaring an Emergency)

THE BOARD OF COMMISSIONERS OF YAMHILL COUNTY, OREGON (the Board) sat for the transaction of county business on Wednesday, April 12, 2006, Commissioners Leslie Lewis, Kathy George, and Mary P. Stern being present.

IT APPEARING TO THE BOARD that the Yamhill County Sheriff's Office requires a Non-Preference Towing ordinance to provide fair, timely, and efficient allocation of tow calls to qualified local tow companies to assist the Sheriff's Office in situations that require towing, such as wrecked or abandoned vehicles, vehicles posing a public safety hazard, following the arrest or citation of a driver, to secure the vehicle for a subsequent evidence, search, et cetera.

NOW, THEREFORE, IT IS HEREBY ORDAINED BY THE BOARD:

The county adopts the Non-Preference Towing ordinance, attached and hereby incorporated into this ordinance. This ordinance, being necessary for the health, safety, and welfare of the citizens of Yamhill County, and an emergency having been declared to exist, is effective upon passage.

DONE this 12th day of April, 2006, at McMinnville, Oregon.

ATTEST YAMHILL COUNTY BOARD OF COMMISSIONERS

JAN COLEMAN
 County Clerk

Leslie Lewis

LESLIE LEWIS

By: *Annell Britt*
 Deputy Anne Britt

Kathy George

KATHY GEORGE

APPROVED AS TO FORM:

RS

Mary P Stern

MARY P. STERN

Rick Sanai
 Assistant County Counsel

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Ordinance 783 - Yamhill County Sheriff's Office Non-preference Towing

It is the policy and purpose of the Yamhill County Sheriff's Office that:

(1) To further the public interest in the prompt and orderly removal of disabled or abandoned vehicles from the roads of the county, and to meet the towing needs of the Office, the Office has established a non-preference tow program as defined in Oregon Administrative Rules (OAR) 257-050-0020 to 257-050-0200. The program, in part, consists of a non-preference tow rotational list comprised of qualified tow businesses. The non-preference tow rotational list does not favor any one tow business. The non-preference tow rotational list is not a guarantee of business to the towing industry by the Office. Tow businesses participating in the non-preference tow rotational list understand that they may be called upon to conduct vehicle tows at the operational need of the Yamhill County Sheriff's Office, as may be determined by the requesting Deputy Sheriff.

(2) Because the non-preference tow rotational list is designed to meet the towing needs of the Office, tow businesses do not need to be on the list to conduct business with the general public in Yamhill County.

(3) The Yamhill County Sheriff's Office does not charge any fees to the owner or driver of a vehicle towed under its non-preference tow program. Therefore, the Office does not require any tow business participating in the non-preference tow rotational list to charge any fees to the owner or driver of a vehicle towed under the Office's non-preference tow program. Accordingly, the Office shall not establish, recommend, or in any way dictate the cost of a non-preference tow conducted by a tow business under the Office's non-preference tow program. It is also the policy of the Office that tow businesses that participate in the Office's non-preference tow rotational program shall not represent to any person or business that a particular fee has been or will be charged by the Oregon State Police and/or the Yamhill County Sheriff's Office.

(4) Tow businesses called upon by the Yamhill County Sheriff's Office to conduct non-preference tows must reflect the highest standards of professionalism. Tow businesses that, through their conduct or actions, abuse the non-preference tow system or the integrity, trust or security of the Yamhill County Sheriff's Office shall be removed from the non-preference tow rotational list through the OSP suspension and/ or revocation processes.

Definitions

(1) "Abandoned Auto" -- A vehicle that has been parked or left standing upon any public way for a period in excess of 24 hours without authorization by statute or local ordinance.

(2) "Business" -- Any person, enterprise, corporation or partnership that engages in the impounding, transporting, recovery or storage of vehicles or abandoned vehicles.

(3) "Business Records" -- Those records maintained by the operator that relate to the non-preference tows. These include but are not limited to, tow bills, letters of appointment, and inspection sheets.

(4) "Office" -- The Yamhill County Sheriff's Office.

- (5) "District Commander" -- Means the commanding officer of the district as established by the Yamhill County Sheriff's Office.
- (6) "Employee" -- Any person in the service of a business under contract of hire, express or implied, oral or written, where the business has the power or right to control and direct the employee in the material details of how the work for the business is to be performed.
- (7) "Hazardous Vehicle" -- the meaning as given in the Oregon State Highway Division Administrative Rule OAR 734.
- (8) "Hearings Officer" -- A person appointed by the Hearings Program of the Driver and Motor Vehicle Services Branch of the Oregon Office of Transportation authorized to conduct hearings. The Hearings Program issues final determination of issues concerning Administrative Rules.
- (9) "Highway" -- Means every public way, road, street, thoroughfare and place including bridges, viaducts and other structures within the boundaries of the county open, used or intended for use of the general public for vehicles or vehicular traffic as a matter of right. (ORS 801.305).
- (10) "Inspector" -- Means a commissioned officer or other appointed representative of the Oregon State Police and/or the Yamhill County Sheriff's Office who has been designated as a tow truck inspector.
- (11) "Letter of Appointment" -- Means a letter issued by the Oregon State Police that authorizes a licensed tow truck operator to tow on a rotational basis for the Yamhill County Sheriff's Office.
- (12) "Motor Vehicles Division" -- Means the Driver and Motor Vehicle Services Branch of the Oregon Office of Transportation.
- (13) "Non-preference List" -- The list of authorized tow operators maintained by the Yamhill County Sheriff's Office that is used to dispatch the tow operators on an equitable basis when no choice or preference to a towing company is stated by the vehicle owner, operator, or other person responsible for the vehicle.
- (14) "On Road Time" -- The time it takes the operator to have the tow truck started and on the road from the time the dispatcher was called by the Office.
- (15) "Patrol Services Division" -- Means the administrative body of the OSP that is located at General Headquarters in Salem, Oregon.
- (16) "Place of Business" -- Means a building which the registered tow truck operator occupies either continuously or at regular times, where tow business books and records are kept and tow business is transacted in each assigned tow zone. Businesses operating on the same business lot shall maintain individual and separate records, storage facilities, and letters of appointment for operating authority.
- (17) "Registered Tow Truck Operator" or "Operator" -- Means any person who engages in the impounding, transportation or storage of vehicles or in the disposal of abandoned vehicles.

(18) "Response Time" -- The reasonable driving time it takes for the tow truck to respond to the scene once it is on the road. Abandoned vehicles not deemed to be a hazard; tow request will be made during business hours. (For the purpose of non-hazard abandoned vehicles business hours are defined as 8 am to 5 pm, 7 days a week inclusive of weekends and holidays.) Requested tow companies may tow these vehicles at their convenience during business hours on the date of the tow request. Once the vehicle is removed from the roadway and in possession of the towing company they shall notify the requesting Yamhill County Sheriff's Office employee, as soon as possible on the date of the tow request, of their possession of the abandoned vehicle. Notification of possession of the abandoned vehicle should be made immediately by the requested towing company. In no case will this notification to the Yamhill County Sheriff's Office be made more than two hours after the abandoned vehicle comes into the possession of the responding towing company.

(19) "Revocation" and "revoked" -- Means the withdrawal of a Letter of Appointment and the removal from the Oregon State Police Non-preference towing program for a period of not less than 10 years and shall become effective from the date of the Notice of Revocation from the Oregon State Police.

(20) "Suspension" and "suspend" -- Means the temporary removal from the Oregon State Police Non-preference towing program and shall become effective from the date of the Notice of Suspension from the Oregon State Police.

(21) "Tow Vehicle" -- Means a motor vehicle that is:

(a) Altered or designed for, equipped for and used in the business of towing vehicles; and

(b) Used to tow vehicles by means of a crane hoist, tow bar, tow line or dolly, or otherwise used to render assistance to other vehicles. (ORS 801.530)

(22) "Vehicle Storage Area" -- Means the approved yard or enclosed building where stored vehicles are kept. The storage area and fencing will comply with requirements as established by this rule and all local zoning rules and regulations. This storage area will be under the exclusive access and control of the individual towing service and be separate for each place of business.

Suspension and Revocation of Letter of Appointment

(1) Upon receiving evidence that an appointee or applicant has failed to comply to; or no longer complies with any requirement or provision of these rules and regulations, or that the appointee or applicant has falsified any documentation or certification related to the Administrative Rules and Regulations (OAR's 257-050-0040 through 257-050-0160), the Sheriff's Office shall notify the OSP Patrol Services Division to take appropriate action.

Place of Business Requirement and Business Hours

Business hours for the purpose of inspection of business records, place of business, and towing equipment shall be 8AM-5PM, excluding weekends and holidays:

(1) When a tow business is not open and does not have personnel present at the place of business,

the tow business shall post a clearly visible telephone number at the place of business for the purpose of public contact for the release of vehicles or personal property.

(2) The tow business shall maintain personnel who can be contacted 24 hours a day to release impounded vehicles within a 30-minute period of time.

(3) The tow business must post and maintain its OSP letter of appointment at its place of business.

(4)(a) Dispatch service. The tow business shall provide dispatch services 24 hours a day, 365 days a year. Each tow vehicle used shall be equipped with a two-way radio (not a citizen's band radio) and/or cellular phone capable of direct communications with the tow business's dispatch service. Equipment provided shall be subject to approval of the Oregon State Police. Equipment shall be maintained in proper working condition at all times.

(b) Failure to respond to a call:

(A) Refusal or failure of the tow business to respond to calls from the Office for towing services may result in the suspension or revocation of the tow business's letter of appointment;

(B) The tow business shall advise the Yamhill County Sheriff's Office Dispatch Center when the tow business is temporarily unavailable to respond to non-preference tow calls. Unavailability may occur due to conditions which include, but are not limited to, a disabled tow truck or a tow truck under repair, or unforeseen driver shortage due to illness or vacation. The tow business shall advise the Yamhill County Sheriff's Office Dispatch Center once the business is available to resume its normal operation;

(C) Regardless of the unavailability of any tow business, the non-preference list rotation shall continue as if the business was available.

(5) Service call response time. Response times are mandatory. Class A and D-A tow trucks shall be on the road within fifteen minutes. Class B, C, D-B and D-C tow trucks shall be on the road within thirty minutes. At the time of the dispatch, all classes of tow trucks shall provide an estimated time of arrival at the scene. The station commander may waive this requirement due to inclement weather or unusual circumstances that might exist.

(6) For abandoned vehicles not deemed to be a hazard, tow requests will be made during business hours, defined as 8 A.M. to 5 P.M., seven (7) days a week, including holidays. Requested tow businesses may tow abandoned vehicles at the business's convenience during business hours on the date of the tow request. Once a vehicle is removed from the roadway and in possession of the tow business, the business shall notify the requesting Yamhill County Sheriff's Office Dispatch Center as soon as possible on the date of the tow request of its possession of the abandoned vehicle. Notification of possession of the abandoned vehicle should be made immediately by the requested tow business. In no case will notification to the Yamhill County Sheriff's Office be made more than two hours after the abandoned vehicle comes into the possession of the responding tow business.

(7) At the time a response is requested, the Office may provide the location, make, model, and/or

year of car license plate to the tow business. Also, the Office may inform the tow business about any condition or circumstances that may require special handling or assistance. The tow business shall transmit the information to the person driving the tow truck.

(8) Tow business's record requirement: At its place of business of each tow zone, tow businesses shall maintain the following records on each vehicle towed for a period of three years:

- (a) Vehicle description:
- (b) License number;
- (c) Issuing state;
- (d) Make;
- (e) Model;
- (f) Year;
- (g) Vehicle identification number.
- (h) Towing location;
- (i) Location vehicle was towed from;
- (j) Location to where the vehicle was towed.
- (k) Tow Business, Name, Address and Phone Number;
- (l) Name of tow truck driver;
- (m) Reasons for towing and/or service;
- (n) Time and date of service include storage dates as applicable;
- (o) Class of tow truck or truck number.
- (p) OSP Impound Forms;
- (q) All invoices for abandoned vehicles towed;
- (r) All invoices for all Sheriff's Office non-preference tows.

(9) All fees for service shall be itemized. A copy of voided invoices shall be filed by invoice number at the place of business and shall be retained in a file for a period of three years.

(10) All vehicles shall be handled and returned in substantially the same condition that they were in before being towed.

(11) All employees who operate tow truck(s) shall have an operator's license with the proper class

or type for vehicle combinations. As prescribed by the state issuing the license, Oregon licensees shall comply with all applicable Oregon laws.

(12) Any person who shows proof of ownership or written authorization from the owner of the impounded vehicle may inspect and view the vehicle without charge during normal business hours. This does not apply to a vehicle seized and stored as evidence.

(13) All towing receipts on impounded vehicles, or confiscated vehicles, shall be made available by the tow business to the Sheriff's Office after the tow has been completed.

(14) The tow business shall notify the Yamhill County Sheriff's Office Dispatch Center immediately when any person seeks to redeem any vehicle towed as abandoned or where a police hold has been placed on the vehicle. Release of vehicle under temporary or formal hold shall require written release from the Office. When a person entitled to take possession of the vehicle subject to a hold presents the tow business with an official Yamhill County Sheriff's Office release form, the tow business shall release the vehicle to the person named.

(15) When inspection or reinspection of a tow truck is necessary, the area commander shall designate a location and time for the inspection to be conducted. When practical the inspection or reinspection shall be made within ten (10) days following the request by the tow business.

(16) The tow business shall provide either locked outside storage or locked, secure indoor storage, or both, which meets the following requirements:

(a) The tow business's storage facility shall be in conformance with all zoning requirements of all applicable governments. Storage shall be provided, and of sufficient size, for each class of vehicle towed for the Yamhill County Sheriff's Office, including semi trucks and motor homes, except as provided in ORS 819.110. Storage shall be located within the contractual geographical service area described as zones. The vehicle storage area may be located up to five (5) miles from the original place of business. Contact phone numbers and addresses are to be posted at both locations for the place of business and the storage area. When the towed vehicle storage area is not located at the place of business, employees shall be able to respond from one location to the other within 30 minutes or less.

(b) The storage area will be under the exclusive access and control of the individual tow business. The storage area cannot be shared with other businesses, including non-tow businesses not owned by the tow business owner(s).

(17) The tow business shall provide fencing around the outside storage area. The fencing must meet the following requirements:

(a) Fencing must comply with the requirements established in these Administrative Rules and all local zoning rules and regulations.

(b) Fencing shall be either made of a woven wire composition normally referred to as "cyclone fencing -- chain link fencing", or made of a solid material, such as wood or concrete block, inclusive

of a permanent natural barrier which would prevent access and unauthorized entry to the storage area. Fencing shall be topped by a minimum of three (3) strands of barbwire. Fencing not meeting the requirements of these regulations as determined by the Yamhill County Sheriff's Office will not be accepted. Tow businesses that are unable to comply with these fencing requirements due to local zoning requirements will be addressed on a case by case basis by the Office.

(c) Gates and entryways shall be of a solid frame, and the same minimum height as the other fencing material. All gates and entryways shall be designed to afford locking the gate or entryway securely to prevent unauthorized entry.

(18) The tow business shall allow the owner of a towed vehicle or anyone authorized in writing by the Yamhill County Sheriff's Office, and/or the Yamhill County Sheriff's Office Deputy or other Office Member, to go to the vehicle and remove items of personal emergency nature, eeg.: eyeglasses, medication, clothing, identification, wallets, purses (and their contents), credit cards, check books, any known money-currency, child safety car and booster seats, except as provided in ORS 819.110 and 819.160.

(19) The tow business shall be responsible for the contents, storage and disposal of all personal items, except items taken by authorized Sheriff's Office personnel, court order or warrant, or otherwise seized pursuant to law.

Towing

(1) The Office shall not establish, recommend or in any way dictate the cost of a non-preference tow by a tow business.

(2) A tow business that conducts a non-preference tow under these rules shall not represent to any person or business that a particular fee has been or will be charged by the Yamhill County Sheriff's Office.

(3) The tow business shall furnish the Sheriff's Office with an itemized list of charges that can be incurred during a non-preference tow including, but not limited to:

(a) Hookup charge;

(b) Mileage fee;

(c) Response fee.

(4) The tow business shall not charge for items not declared on the list relating to the towing of a vehicle. This does not include mechanical work, bodywork or other repair work conducted subsequent to the tow.

(5) Complaints of unfair charges against a tow business shall be referred to the Oregon Attorney General's Office.

(6) Tow businesses shall not transport passengers in any towed and/or carried vehicle(s).