

# YAMHILL COUNTY CODE

## TITLE 4: PUBLIC PEACE, MORALS, AND WELFARE

### **Chapter 4.35: Yamhill County Sheriff's Office Vehicle Towing Code**

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#### LEGISLATIVE HISTORY

**4.35.01 Purpose.** The purpose of this policy is to provide deputies with guidelines for determining when and how a vehicle should be towed, inventoried, impounded, and/or released.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

#### **4.35.02 Policy.**

- a) Vehicles are subject to towing, inventories, impoundment and subsequent release for many and varied reasons including but not limited to; preserving evidential value in a criminal case, parking and ordinance violations, and safeguarding property.
- b) County Ordinance and State law provides authority to impound vehicles.
- c) All impounded vehicles shall be inventoried as detailed within this policy, without exception. All such inventories shall be conducted, at a minimum, by completing the inventory and condition portion of the "Towed Vehicle Notice" form.

- d) A vehicle inventory is not a search. The searching of vehicles is detailed in policy 6.03 “Motor Vehicle Searches”.
- e) A vehicle inventory is an administrative measure designed to protect vehicles and their contents while in Sheriff’s Office custody; to protect the agency against false claims of lost, stolen or damaged property; and to protect Sheriff’s Office personnel and the public against injury or damaged property due to hazardous/dangerous materials or substances that may be in the vehicle.
- f) It is the policy of this law enforcement agency to conduct vehicle tows, inventories, impounds, and releases only in accordance with the following procedures.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.03 Definitions.**

- a) **County Tow:** a tow of a vehicle owned by the County.
- b) **Security/Evidence Tow:** a tow of a vehicle in the custody of the Sheriff’s Office, which must be held in security storage. This most often occurs when a vehicle is towed and impounded for evidentiary purposes.
- c) **Ordinance/Penalty Tow:** a tow of any vehicle impounded for a violation of law, ordinance or under a court order.
- d) **Abandoned/Hazard Vehicle Tow:** the tow of any vehicle which is deemed “Abandoned” under applicable state law, county or other ordinance, or which is impounded as a hazard or obstruction to traffic under ORS 819.120.
- e) **Owner Request Tow, Non-Preference:** the towing and storage of privately owned vehicles, when the operator, owner or person entitled to possession of the vehicle specifically requests towing services without preference for a particular towing company and at their own expense.
- f) **Owner Request Tow, Preference:** the towing and storage of privately owned vehicles, when the operator, owner, or person entitled to possession of the vehicle specifically requests a preference as to which company should provide the services and at their own expense.
- g) **Safekeeping/No Request Tow, Non-Preference:** Towing and storage of privately owned vehicles, in which the owner or operator cannot or will not indicate-who they prefer to tow the vehicle (such as vehicle accidents involving injury or death, and the vehicle does not meet “Security Tow” requirements or when operator has been arrested).
- h) **Impounded Vehicle:** Any vehicle taken into Office custody, even temporarily, (including: evidence, abandoned, hazard, ordinance, subsequent to arrest, safekeeping, etcetera) and stored by the Office or for the Office may be considered “impounded”.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.04 Towing in General.**

- a) Towing Agreements. Towing agreements/contracts shall be by negotiation with the Sheriff’s Office/County.
- b) Procedures.
  - (i) Non-preference and preference tows shall be requested directly by the Deputy contacting the tow dispatch contractor 1-877-267-8699 (1-877-COP-TOWW). If the Deputy is unable to make direct contact with COP-TOWW the request can be made via our radio dispatch.
  - (ii) The tow dispatch contractor is responsible for applying the “agreements/contracts” for all the participating tow companies. This includes tow rotations, tow lists, and area assignments.
- c) Paperwork.
  - (i) Due to the time sensitive notifications required by statute it is imperative that reports and paperwork for towed vehicles is completed and turned in promptly.
  - (ii) Copies:
    - 1. White - Case report
    - 2. Green & Yellow- Records
    - 3. Pink- Tow Company
    - 4. Gold - Vehicle or operator
  - (iii) Ordinance/Penalty tows: Deputies should complete the back portion of the Tow Notice and Inventory form, including the current amount of the County processing fee.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

#### **4.35.05 Evidence Tow.**

- a) A deputy may place a vehicle into evidence when additional investigation necessitates its retention. In such instances, the vehicle must be towed to a secure county impound storage lot. The paperwork on the vehicle will then be processed through the evidence system according to the office policy 4.10 "Evidence Control". The deputy shall visually accompany the vehicle to the lockup.
- b) Tows as evidence may include but are not limited to, incidents involving:
  - (i) Stolen vehicle recoveries.
  - (ii) Vehicular assault or homicide.
  - (iii) Hit and run crashes.
  - (iv) Other such crimes where there is probable cause to believe that the vehicle constitutes physical evidence to a crime.
- c) Since space in secure impound storage is limited, it is the responsibility of the investigating deputy to process the vehicle as expeditiously as possible so as to release or dispose of the vehicle as soon as possible.
- d) The property officer shall make inquiries to the investigating deputy of vehicles left in secure police storage for protracted periods of time, to ascertain the continuing status of the vehicle as evidence.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

#### **4.35.06 Recovered Stolen Vehicles.**

- a) Recovered by an Outside Agency.
  - (i) Upon receiving a "locate" notification of the recovered stolen vehicle, records shall cause the vehicle to be removed from any computer entry and the printout shall be forwarded to an on-duty Deputy.
  - (ii) The on-duty Deputy shall immediately advise the victim of the status of the vehicle. If the victim is unavailable, the Deputy shall continue attempting contact with the victim. At the end of their shift, the Deputy shall pass the information to an on-coming Supervisor or Deputy, who will make sure that the victim is contacted.
  - (iii) After taking steps to contact the victim, the on-duty Deputy will update the case file, investigate/follow-up as necessary and advise the original investigating Deputy of his/her actions.
- b) Recovered for an Outside Agency.
  - (i) The Deputy shall confirm the stolen entry and cause a "locate" notification to be sent to the primary agency. The Deputy shall process the vehicle as evidence as requested by the primary agency, see section "Processing Stolen Vehicles" below for additional details.
  - (ii) A report shall be generated for the AOA and any additional charges/crimes occurring in our jurisdiction.
  - (iii) An inventory shall be conducted as detailed in this policy and the vehicle shall be towed (unless impounded as evidence) as a non-preference safekeeping tow at the owner's expense.
- c) Recovered for our Agency by our Agency.
  - (i) The Deputy shall confirm the stolen entry and cause records to remove the vehicle from the computer system(s).
  - (ii) The vehicle shall be processed for evidence. An inventory shall be conducted as detailed in this policy and the vehicle shall be towed (unless impounded as evidence) as a non-preference safekeeping tow at the owner's expense.
  - (iii) The Deputy shall file the appropriate follow-up report(s) for the case file and advise the owner of the status.
- d) Processing Stolen Vehicles.
  - (i) This agency shall be responsible for the evidentiary processing of any vehicle it recovers unless directed otherwise by the primary agency or a supervisor. Generally recovered vehicles shall be processed for latent evidence at the scene unless the seriousness of the crime dictates impounding the vehicle as evidence and processing the vehicle at a secure location. Outside processing assistance may be requested for more serious crimes or unique circumstances.

- (ii) Outside agencies may request a “hold for processing” so their experts can process the vehicle. An inventory of all vehicles recovered shall be conducted prior to towing unless a “hold for search warrant” is in effect.
- e) Vehicle Identification Number (VIN) Alterations/Destruction/Discrepancies.
- (i) ORS 819.440 allows law enforcement to seize a vehicle “when a police officer discovers a vehicle or component, including a transmission, engine or other severable portion of a vehicle which possesses or did possess an identification number, from which the vehicle identification number assigned to the vehicle or component has been removed, defaced, covered, altered or destroyed the police officer may seize and hold it for identification and disposal as provided.”
  - (ii) The purpose of this is to allow the agency to inspect the questioned vehicle to ascertain its status (stolen or not) and legal ownership in addition to investigating any applicable crimes which may include but is not limited to ORS 164.135, 819.300, 819.310, 819.430.
  - (iii) It is preferred that such investigations and inspection be conducted at the scene whenever possible. Any seizure and towing under ORS 819.440 shall require a supervisors approval prior to the tow.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.07 Court Ordered Tows.** Court ordered tows or civil ordered tows shall be executed as detailed in the order and per statute. All such vehicles shall be inventoried as detailed in this policy. The Deputy shall cause the proper report(s) to be filed and receipts to be issued. Records or the Civil Division shall make any necessary computer entries and process the order as required.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.08 Safekeeping.**

- a) When the owner or operator of a vehicle is injured, arrested (not DUII, see ordinance tows), or is incapable of making a decision about his vehicle, a deputy may impound the vehicle for safekeeping at the tow company lot.
- b) In any case the vehicle will be inventoried as on towed vehicle notice form.
- c) Owners/Operators physically and mentally capable may choose one of the following safekeeping alternatives:
  - (i) Leave the vehicle legally parked and locked at the scene.
  - (ii) Request a preference or non-preference tow.
  - (iii) Turn the vehicle over to some other person present providing:
    - 1. The owner or operator gives permission.
    - 2. The person taking possession has a valid operator’s license.
    - 3. The person taking possession is not under the influence of intoxicants

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.09 Abandoned Vehicles.** Personnel who receive complaints of vehicles being abandoned should obtain all pertinent information including license number, description, location, and lapse of time involved.

a) Abandoned Procedures.

- (i) A check of stolen vehicle files will be conducted. Both license number and VIN numbers will be used when practical.
- (ii) Verify that the vehicle is on a “public way”, and not private property.
- (iii) Complete and attach the 24-hour warning advisement sticker to the vehicle. Deputies will complete the top portion of a copy of the Towed Vehicle Notice only. No case number(s) are taken at this time.
- (iv) The copy of the Towed Vehicle Notice will be placed in the abandoned tow box for follow up. Each shift will check this box daily for abandoned vehicles that have surpassed the 24-hour grace period; a Deputy will follow up on the vehicle(s) as time allows.
- (v) If the vehicle remains in violation of ORS 819.100 after the 24-hour notice period, the vehicle shall be removed. The deputy assigned to remove the vehicle shall complete a 5 part Towed Vehicle Notice form and call for a non-preference tow to have the vehicle removed. The Deputy will generate a case number at the time of the tow.

- (vi) The Deputy will conduct an inventory of the vehicle. Abandoned and disabled vehicles which interiors are not accessible due to being secured, shall have the exterior inventoried and the interior visually inventoried as completely as possible.
  - (vii) The vehicle will be towed to the tow company lot.
- b) **Private Property Tow Requests.** It is not uncommon for a private property owner to contact the Sheriff's Office requesting that an abandoned vehicle be towed from private property. ORS 819.100 makes abandoning a vehicle a class B traffic infraction and depending on the circumstances, other charges may be appropriate if a suspect can be developed. The ORS makes the registered owner liable for any costs for the removal and storage of such abandoned vehicles. Abandoned vehicles on private property may be towed at owner expense and are subject to the procedures detailed in ORS 98.830. Deputies shall advise the property owner of these requirements and it is then the property owner's responsibility to have the vehicle removed if desired. If the suspect vehicle is part of an Office criminal investigation it can be removed under Office authority as appropriate.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.10 Hazard Vehicle Tow.** ORS 819.120 provides authority to immediately remove vehicles that constitute a hazard. The Deputy will use the definitions described under ORS 819.120 combined with common sense and discretion to determine if a vehicle is a hazard.

- a) **Hazard Procedures.** The Deputy will make reasonable effort to contact the owner. Should the deputy not be able to contact the owner he shall:
- (i) Verify the I.D. number with the registration I.D. number.
  - (ii) Request a non-preference tow and cause the vehicle to be towed.
  - (iii) Complete a Towed Vehicle Notice and leave the Gold copy of the Notice in or on the vehicle.
  - (iv) Complete an inventory of the contents of the vehicle using the inventory portion of the towing form.
  - (v) The deputy will make, or have made the appropriate computer entry and attach a copy of the printout to the report.
  - (vi) The vehicle will be towed to the tow company lot.

- b) **Disabled Procedures.** If a vehicle is disabled at the scene of an accident or other incident and constitutes a hazard or obstruction to traffic, and the owner or operator cannot or will not specifically request a preference or non-preference tow, it is considered a hazard vehicle tow.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.11 Penalty/Ordinance Tows.**

- a) **Procedures.** ORS 809.720 provides authority to tow vehicles when the operator is in violation of one of the following: ORS 807.010 No Operator License\Outside License Restrictions, ORS 811.175 Driving While Suspended Infraction, ORS 811.182 Driving While Suspended\Revoked Felony or Misdemeanor, ORS 806.010 Driving Uninsured, and ORS 813.010 Driving Under the Influence of Intoxicants. Yamhill County Ordinance 97-752 provides for administrative fees to cover the administrative costs for impoundment of vehicle under the Oregon vehicle code.
- (i) In the absence of proof of insurance, the Deputy shall make a reasonable attempt to prove the lack of insurance prior to towing the vehicle.
- b) Upon towing a vehicle, the Deputy shall:
- (i) Verify the VIN number with the vehicle registration information.
  - (ii) Complete a Towed Vehicle Notice, providing the Gold copy to the operator.
  - (iii) Complete an inventory of the contents of the vehicle as on the tow notice form.
  - (iv) The Deputy will have the vehicle entered into LEDS as being towed as a County Ordinance Tow and attach a copy of the printout to the report. The computer entry will show that there is a HOLD on the vehicle until a release is obtained from the Sheriff's Office.
  - (v) Request a non-preference tow and cause the vehicle to be towed to the Tow Company's lot.

- (vi) The white copy of the Towed Vehicle Notice form will be attached to the appropriate report, infractions on a card report, crimes on an incident report. The Green and Yellow copies must promptly go to records division impounded vehicle box.
- c) Claiming a Vehicle. To claim a vehicle, which has been towed under Ordinance or Penalty provisions, the owner must bring to the Sheriff's Office:
  - (i) Proof of ownership, i.e. vehicle registration or title. If the owner is not available to come to the Sheriff's Office to recover the vehicle, the owner may send a letter or fax that authorizes a specific person named in the letter to pick up the vehicle. Questions regarding ownership or an authorization letter should be staffed with a supervisor. That person is required to have a valid driver's license.
  - (ii) Proof of insurance on the impounded vehicle.
  - (iii) Valid driver's license.
  - (iv) Cash, cashier's check, money order, or travelers check for the amount of the administrative fee.
  - (v) If the vehicle is being repossessed or otherwise claimed by a legal lien holder, the proper legal paperwork and associated proof is required.
- d) Release Receipt. After the owner has provided the Sheriff's Office with the above information, the deputy or office member authorizing the release of the vehicle will provide the owner with a receipt which when shown to the tow company authorizes the release of the vehicle. The owner of the vehicle is responsible for all towing and storage charges accrued by the towing company.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

#### **4.35.12 Inventory Procedures.**

- a) Legal Authority to Inventory.
  - (i) Any authorized member of this agency may and shall conduct a vehicle inventory without a warrant or probable cause when:
    1. The vehicle has been lawfully seized or impounded pursuant to the arrest of the driver; when towing the vehicle for violations of ordinance or other law, or for related enforcement or safety reasons as defined by state law, and/or,
    2. When an accident requires the tow of a vehicle and the owner or operator is not available, such as death and serious injury accident and,
    3. When deputies conduct the inventory within the scope of this policy as an administrative procedure and,
    4. Only when the impoundment does not involve a criminal investigative purpose.
  - (ii) Examination of the contents of a vehicle pursuant to a criminal investigation or with the intent of discovering evidence of a crime is a search, not an administrative inventory. Deputies shall be guided by this agency's policy on vehicle searches when engaged in these actions.
- b) Scope of Inventory.
  - (i) The contents of all vehicles that are lawfully seized and/or impounded by this agency shall be subject to inventory in accordance with the provisions of section 4.35.09(a) of this ordinance.
  - (ii) An inventory should be conducted in the location at which the vehicle is seized unless limited by reasons of safety or practicality. If so, it may be inventoried at a later time following impoundment.
  - (iii) The owner or operator of the vehicle shall be asked to remove, if possible, all valuables from the vehicle prior to impoundment. If such items cannot be removed, they shall be inventoried before the vehicle is removed, and when possible, the owner/operator shall be requested to verify the completeness of the inventory by signature.
  - (iv) A vehicle inventory may extend to all areas of the vehicle in which personal property or hazardous materials may reasonably be found, including but not limited to the passenger compartment, trunk and glove compartment.
  - (v) All closed containers found within the vehicle shall be opened for purposes of the inventory. Closed and locked containers shall not be forced open but shall be logged on the impound report as such. If a key or lock combination is available, locked containers may be opened and inventoried.

- c) Case Law. Case law in this area provides additional guidance to the deputy conducting a vehicle inventory. In general:
- (i) Transparent containers visibly containing only contraband may be opened and a portion of the contents removed for testing.
  - (ii) Unlocked, open or accessible compartments in the vehicle that may contain valuables or dangerous items may be opened, such as the glove box and trunk.
  - (iii) Opaque containers that are labeled to announce they contain only contraband may be opened.
  - (iv) Objects that announce by their design that they contain valuables may be opened, such as purses, briefcases, fanny packs, and coin pouches. These are not considered “opaque containers”.
  - (v) Opaque containers that announce by their design, when interpreted through the deputy’s training and experience, to reasonably be believed to contain only contraband may be opened, such as paperfold bindles, balloons, and unique types of vials (not film canisters).
  - (vi) Opaque containers that announce contraband may be present, but which cannot reasonably be said to contain only contraband items may not be opened, such as coolers, film canisters, matchboxes, and suitcases (even if there is some evidence of contraband such as an odor of marijuana). These items should be seized in an unopened state and a warrant requested.
- d) Property Control. All contents of the vehicle will be inventoried with the exception of vehicles towed pending the issuance of a search warrant. A copy of the Towed Vehicle Notice and Inventory form shall be provided to the vehicle owner/operator or left conspicuously with the vehicle. All items taken into custody during an inventory shall be listed on a Property In Custody form and a copy given to the owner of the property or to the owner/operator of the vehicle. If no owner or owner/operator is available, the receipt shall be left in a conspicuous place in or about the vehicle.
- (i) When property of extraordinary value (jewelry or cash for example) is discovered, and the owner is unable to take possession of the item(s) that property shall be properly documented and entered into an evidence locker for safekeeping.
  - (ii) Control and safekeeping of hazardous materials shall be the responsibility of this agency’s designated authority.
  - (iii) Contraband and evidence discovered during the course of a vehicle inventory shall be deposited with the property/evidence control department in accordance with procedures for control of criminal evidence.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

#### **4.35.13 Hearings.**

- a) Tow Hearing Request. As required by ORS 819.190, any person receiving notice of a tow as detailed in ORS or any other person who reasonably appears to have an interest in the vehicle may request a hearing on the validity of the towing.
- (i) The request for a hearing must be submitted in writing to the Yamhill County Hearings Officer, not later than five (5) days after the mailing of the impoundment notice, excluding Saturdays, Sundays, and holidays. The hearing request must include what grounds upon the tow is being contested.
  - (ii) The hearing date must be set within 72 hours from the date the request was received, excluding Saturdays, Sundays, and holidays.
- b) Deputy Appearance. When a deputy has caused a vehicle to be towed and has been notified of a validity hearing, the deputy is required to appear at the hearing. The deputy may submit an affidavit to the hearing officer, in lieu of appearing in person, if approved by the hearing officer prior to the hearing. A deputy appearing at a hearing shall conform to the same uniform requirements as in a grand jury appearance.
- c) Tow Hearings Procedures. Tow hearing shall be conducted as detailed in ORS, specifically ORS 819.190 and any other applicable laws or regulations.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.14 Release of Towed Vehicles.**

- a) Vehicles requiring a release by this agency (evidence, ordinance/penalty tows) may be processed during normal records division business hours. Monday through Friday, 0800 to 1700 hours excluding holidays.
- b) Owners of vehicles towed for other than evidentiary value will be directed to the tow company where the vehicle is stored, with the exception of Ordinance/Penalty Tows (see specific release details for such tows). Vehicle owners will be required to show some proof of ownership and pay the towing and storage costs.
- c) Under no circumstances will a vehicle towed as evidence be made available to the owner until approved by a supervisor and released by the appropriate prosecuting attorney.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.15 Records Processing.**

a) Notifications.

- (i) Vehicles Towed as Evidence: The owner of any vehicle towed as evidence will be notified by the Property/Evidence Control personnel. As soon as the evidence is cleared for release, the evidence official will notify the owner of the vehicle. The notice shall state that the vehicle can now be released and shall be sent certified mail. The evidence official will notify the records section as soon as the vehicle is cleared for release to owner.
- (ii) All Others: The records personnel will send written notification of all towed vehicles in which a tow notice has been completed to both the registered owner and legal owner or lien holder as may be required by ORS. (Refer to ORS 809.720, 809.725, 819.180)

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

**4.35.16 Disposition of Unclaimed Vehicles.**

- a) Unless the vehicle is secured as evidence by YCSO it shall be the individual tow company's responsibility to process unclaimed vehicles in accordance with applicable state statute(s).
- b) The Property/Evidence Control personnel shall cause unclaimed, released, vehicles under agency control to be disposed of pursuant to Oregon Revised Statutes after all required notifications have been sent out and documented, or after having received a signed release under oath by the owner disclaiming further interest in the vehicle.

[ADOPTED VIA ORDINANCE NO. 785 eff 04/26/06]

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| <b>LEGISLATIVE HISTORY</b> |
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