

City of Wheeler

Chapter 5

TRAFFIC

CITY OF WHEELER
ORDINANCE NO. 90-3

AN ORDINANCE CONTROLLING VEHICULAR AND PEDESTRIAN TRAFFIC ON ALL PUBLIC RIGHT-OF-WAYS IN THE CITY OF WHEELER, REPEALING A PRIOR ORDINANCE AND PROVIDING PENALTIES.

The City of Wheeler ordains as follows:

Section 1. Short Title. This ordinance may be cited as the "Wheeler City Uniform Traffic Ordinance."

Section 2. Applicability of State Traffic Laws. Oregon Revised Statutes, Chapter 153, and the Oregon Vehicle Code, ORS Chapters 801 to 822, are adopted by reference. Violation of an adopted provision of those Chapters is an offense against this City.

Section 3. Repeal. City of Wheeler's Ordinance entitled "An Ordinance to Regulate Traffic and the Parking of Automobiles" adopted December 8, 1930 is repealed.

DEFINITIONS

Section 4. Definitions. In addition to the definitions contained in the Oregon Vehicle Code, the following mean:

Bus stop. A space on the edge of a roadway designated by sign for use by buses loading or unloading passengers.

Loading zone. A space on the edge of a roadway designated by sign for the purpose of loading or unloading passengers or materials during specified hours of specified days.

Person. A natural person, firm, partnership, association, or corporation.

Street. The terms "highway," "road," and "street" shall be considered synonymous, unless the context precludes such construction. "Street" includes alleys.

Taxicab stand. A space on the edge of a roadway designated by sign for use by taxicabs.

Traffic lane. That area of the roadway used for the movement of a single line of traffic.

ADMINISTRATIONSection 5. Powers of the Council.

(1) Subject to state laws, the City Council shall exercise all municipal traffic authority for the City except those powers specifically and expressly delegated by this or another ordinance.

(2) The powers of the Council include, but are not limited to:

- (a) Designation of through streets.
- (b) Designation of one-way streets.
- (c) Designation of truck routes.
- (d) Designation of parking meter zones.
- (e) Designation of certain streets as bridle paths and prohibition of horses and animals on other streets.
- (f) Authorization of greater maximum weights or lengths for vehicles using City streets than specified by state law.
- (g) Initiation of proceedings to change speed zones.
- (h) Revision of speed limits in parks.
- (i) Temporary blocking or closing of streets.
- (j) Establishment of bicycle lanes and paths and traffic controls for such facilities.
- (k) Restriction of the use of certain streets by any class or kind of vehicle to protect the streets from damage.
- (l) Issuance of oversize or overweight vehicle permits.
- (m) Establishment, removal, or alteration of the following classes of traffic controls:
 - (i) Crosswalks, safety zones, and traffic lanes.
 - (ii) Intersection channelization and areas where drivers of vehicles shall not make right, left, or U-turns, and the time when the prohibition applies.
 - (iii) Parking areas and time limitation, including the form of permissible parking (e.g., parallel or diagonal).
 - (iv) Loading zones and stops for vehicles.
 - (v) Traffic control signals.
- (n) Designation of areas for authorized use of skateboards, roller skates and other transportation means referenced in section 12 herein.
- (o) Other parking or use restrictions.

Section 6. Implementation of Regulations. The City Recorder or his or her designee shall implement the ordinances, resolutions and motions of the Council by installing, maintaining, removing, and altering traffic control devices. The installation shall be based on the standards contained in the "Oregon Manual of Uniform Traffic Control Devices for Streets and Highways."

Section 7. Public Danger. Under conditions constituting a danger to the public, the City Recorder or his or her designee may

install temporary traffic control devices until further action by the Council.

Section 8. Standards. The regulations of the City Recorder or his or her designee shall be based on:

(1) Traffic engineering principles and traffic investigations.

(2) Standards, limitations, and rules promulgated by the Oregon Transportation Commission.

(3) Other recognized traffic control standards.

Section 9. Authority of City and Fire Officers.

(1) It is the duty of City authorities to enforce the provisions of this ordinance.

(2) In the event of a fire or other public emergency, law enforcement officers and officers of the fire department may direct traffic as conditions require, notwithstanding the provisions of this ordinance.

GENERAL REGULATIONS

Section 10. Crossing Private Property. No operator of a motor vehicle shall proceed from one street to an intersecting street by crossing private property or premises open to the public. This provision does not apply to the operator of a motor vehicle who stops on the property to procure or provide goods or services.

Section 11. Unlawful Riding.

(1) No operator of a motor vehicle shall permit a passenger to, and no passenger shall, ride on a motor vehicle on a street except on a portion of the vehicle designed or intended for the use of passengers. This provision does not apply to an employee engaged in the necessary discharge of a duty or to a person riding within a truck body in space intended for merchandise.

(2) No person shall board or alight from a motor vehicle while the vehicle is in motion on a street.

Section 12. Roller Skates, Skateboards, Sleds, etc. No person shall use the streets for travelling or use roller skates, skateboards, coasters, toy vehicles, skis, tobaggans, sleds or similar devices except while crossing at a crosswalk or in an authorized area.

Section 13. Damaging Sidewalks and Curbs.

(1) The operator of a motor vehicle shall not drive on a sidewalk or roadside planting strip except to cross at a permanent or temporary driveway.

(2) No unauthorized person shall place dirt, wood, or other material in the gutter or space next to the curb of a street with the intention of using it as a driveway.

(3) No person shall remove a portion of a curb or move a motor vehicle or a device moved by a motor vehicle onto a curb or sidewalk without first obtaining authorization from the City and posting bond if required. A person who causes damage to the curb or sidewalk shall be responsible for the cost of repair.

Section 14. Removing Glass and Debris. A party to a vehicle accident or a person causing broken glass or other debris to be on a street shall remove the glass or other debris from the street.

Section 15. Storage of Motor Vehicles on Streets. No person shall store or permit to be stored on a street or other public property, without permission of the Council, a motor vehicle or personal property for a period in excess of 24 hours. Failure to move a motor vehicle or other personal property for a period of 24 hours constitutes prima facie evidence of storage of a motor vehicle.

Section 16. Obstructing Streets. No person shall park or leave on a street, including an alley and right-of-way, parking strip, sidewalk or curb, a vehicle part, trailer, box, ware, merchandise of any description, or any other thing that impedes traffic or obstructs the view, except as is allowed by this or other ordinances of the City.

Section 17. Speed Limits in Public Parks. No person shall drive a vehicle on a street in a public park of this City at a speed exceeding 15 miles per hour unless signs erected indicate otherwise.

Section 18. Unnecessary Noise. No person shall operate a motor vehicle in the City in such manner as to create or cause excessive noise. The operation of compression brakes, commonly known as "Jacob" brakes, in a manner that creates unnecessary noise is prohibited.

PARKING REGULATIONS

Section 19. Method of Parking.

(1) No person shall stand or park a motor vehicle in a

street other than parallel with the edge of the roadway, headed in the direction of lawful traffic movement, and with the curbside wheels of the vehicle within 12 inches of the edge of the curb, except where the street is marked or signed for angle parking.

(2) Where parking spaces are designated on street, no person shall stand or park a vehicle other than in the indicated direction and, within a single marked space, unless the size or shape of the vehicle makes compliance impossible.

(3) The operator who first begins maneuvering a motor vehicle into a vacant parking space on a street has priority to park in that space, and no other vehicle operator shall attempt to interfere.

(4) When the operator of a vehicle discovers that the vehicle is parked close to a building to which the fire department has been summoned, the operator shall immediately remove the vehicle from the area, unless otherwise directed by law enforcement or fire officers.

Section 20. Prohibited Parking or Standing. No person shall park or stand:

(1) A vehicle in violation of state motor vehicle laws or in violation of a lawfully erected parking limitation sign or marking.

(2) A vehicle in an alley other than for the expeditious loading or unloading of persons or materials, and in no case for a period in excess of 20 consecutive minutes in any two-hour period.

Section 21. Prohibited Parking. No operator shall park and no owner shall allow a vehicle to be parked on a street for the principal purpose of:

(1) Displaying the vehicle for sale.

(2) Repairing or servicing the vehicle, except repairs necessitated by an emergency.

(3) Displaying advertising from the vehicle.

(4) Selling merchandise from the vehicle, except when authorized.

Section 22. Use of Loading Zone. No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious loading or unloading of persons or materials, in a place designated as a loading zone when the hours applicable to that loading zone are in effect. When the hours applicable to the loading zone are in effect, the loading and

unloading shall not exceed the time limits posted. If no time limits are posted, then the use of the zone shall not exceed 5 minutes for loading or unloading of passengers and personal baggage and 15 minutes for loading or unloading materials.

Section 23. Passenger Loading Zone. No person shall stop, stand, or park a vehicle for any purpose or length of time other than for the expeditious loading or unloading of passengers in a place designated as a passenger loading zone when the hours applicable to that zone are in effect.

Section 24. Standing or Parking of Buses and Taxi-cabs. The operator of a bus or taxicab shall not stop, stand, or park the vehicle on a street in a business district other than at a bus stop or taxicab stand, respectively, except that this provision shall not prevent the operator of a taxicab from temporarily stopping the taxicab outside of a traffic lane while loading or unloading passengers.

Section 25. Restricted Use of Bus and Taxicab Stands. No person shall stop, stand, or park a vehicle other than a taxicab in a taxicab stand, or a bus in a bus stop, except that the operator of a passenger vehicle may temporarily stop while actually engaged in loading or unloading passengers when stopping does not interfere with a bus or taxicab waiting to enter or about to enter the restricted space.

Section 26. Lights on Parked Vehicle. No lights need be displayed upon a vehicle that is parked in accordance with this ordinance on a street where there is sufficient light to reveal a person or object at a distance of at least 500 feet from the vehicle.

Section 27. Extension of Parking Time. Where maximum parking time limits are designated by sign, movement of a vehicle within a block shall not extend the time limits for parking.

Section 28. Unattended Vehicles. When a law enforcement officer finds a motor vehicle parked or standing unattended with the ignition key in the vehicle, the officer is authorized to remove the key from the vehicle and deliver the key to the person in charge of the City Hall.

Section 29. Exemption. The provisions of this ordinance that regulate the parking, stopping, or standing of vehicles do not apply to:

(1) A vehicle owned by the City, county, state, or a public utility while necessarily in use for construction or repair work on a street.

(2) A vehicle owned by the United States while in use for the collection, transportation, or delivery of mail.

(3) A vehicle of a disabled person who complies with the provision of ORS 811.610 to 811.630.

BICYCLES

Section 34. Operating Rules. In addition to observing all other applicable provisions of this ordinance and state law pertaining to bicycles, a person shall not leave a bicycle unattended, except in a bicycle rack. If no rack is provided, the person shall leave the bicycle so as not to obstruct any roadway, sidewalk, driveway or building entrance.

Section 35. Impounding of Bicycles.

(1) No person shall leave a bicycle on private property without the consent of the owner or person in charge. Consent is implied on private business property unless bicycle parking is expressly prohibited.

(2) A bicycle left on public property for a period in excess of 24 hours may be impounded by City Hall.

(3) In addition to any citation issued, a bicycle parked in violation of this ordinance, that obstructs or impedes the free flow of pedestrian or vehicular traffic or otherwise endangers the public, may be immediately impounded by a law enforcement officer or the City Recorder.

(4) If the owner of a bicycle impounded under this ordinance can be readily determined, the City authority shall make reasonable efforts to notify the owner. No impounding fee shall be charged to the owner of a stolen bicycle which has been impounded.

(5) A bicycle impounded under this ordinance that remains unclaimed shall be disposed of in accordance with the City's procedures for disposal of abandoned or lost personal property.

(6) Except as provided in subsection (4), a fee, as set by council resolution, shall be charged to the owner or a bicycle impounded under this section.

PEDESTRIANS

Section 39. Pedestrians Must Use Crosswalks. No person shall cross a street other than within a crosswalk in blocks with marked crosswalks, except when there is no marked crosswalk within 200 feet from the point of crossing.

Section 40. Right Angles. No pedestrian shall cross a street other than by a route at right angles to the curb or by the shortest route to the opposite curb, unless crossing within a crosswalk.

PARADES AND PROCESSIONS

Section 44. Prohibited Activity. No person shall organize or participate in a parade that may disrupt or interfere with traffic without obtaining a permit. A permit shall always be required of a procession of people using the public right-of-way and consisting of 100 or more persons or 10 or more vehicles.

Section 45. Parade Permit.

(1) Application for parade permits shall be made to the City Recorder at least seven days prior to the intended date of the parade, unless the time is waived by him or her.

(2) Applications shall include the following information:

(a) The name and address of the person responsible for the proposed parade.

(b) The date of the proposed parade.

(c) The desired route, including assembling points.

(d) The number of persons, vehicles, and animals that will be participating in the parade.

(e) The proposed starting and ending time.

(3) The application shall be signed by the person designated as chairperson.

(4) The City Recorder shall issue a parade permit conditioned on the applicant's written agreement to comply with the terms of the permit unless the City Recorder finds that:

(a) The time, route, and size of the parade will unreasonably disrupt the movement of other traffic.

(b) The parade is of a size or nature that requires the diversion of so great a number of City authorities to properly police the line of movement and contiguous areas that allowing the parade would 1) deny the reasonable police protection to the City or 2) be impossible for the City to properly staff given its employed personnel and budget.

(c) The parade will interfere with another parade for which a permit has already been issued.

(d) Information contained in the application is found to be false or a material detail is omitted.

(e) The applicant refuses to agree to abide by or comply with all conditions of the permit.

(5) If one or more of the conditions listed in subsection (4), other than sub-part (e), exists, the City Recorder may impose reasonable conditions in the permit, including but not limited to:

- (a) Requiring an alternate date.
- (b) Requiring an alternate route.
- (c) Restricting the size of the parade.

(6) The City Recorder shall notify the applicant of the decision within three days after receipt of the application.

(7) If the City Recorder proposes alternatives or refuses to issue a permit, the applicant shall have the right to appeal the decision to the Council.

Section 46. Appeal to Council.

(1) An applicant may appeal the decision of the City Recorder by filing a written request of appeal with the City within 48 hours after the City Recorder has proposed alternatives or refused to issue a permit.

(2) The Council shall schedule a hearing date, which shall not be later than three days following the filing of the written appeal with the City, and shall notify the applicant of the date and time that he or she may appear either in person or by a representative.

Section 47. Offenses Against Parade.

(1) No person shall unreasonably interfere with a parade or parade participant.

(2) No person shall operate a vehicle that is not part of a parade between the vehicles or persons comprising a parade.

Section 48. Permit Revocable. The City Recorder may revoke a parade permit if circumstances clearly show that the parade can no longer be conducted consistent with public safety.

Section 49. Funeral Procession.

- (1) No permit is required for a funeral procession.
- (2) A funeral procession shall proceed to the place of interment by the most direct route that is both legal and practical.
- (3) The procession shall be accompanied by adequate escort vehicles for traffic control.
- (4) All motor vehicles in the funeral procession shall be operated with their lights on.
- (5) No person shall unreasonably interfere with a funeral procession.
- (6) No person shall operate a vehicle that is not a part of the procession between the vehicles of a funeral procession.
- (7) Each driver in the procession shall follow the vehicle ahead as closely as is practical and safe.

Section 50. Offenses Against Funeral. No person shall operate a vehicle that is not part of a funeral procession between the vehicles comprising the procession.

PARKING CITATIONS AND OWNER RESPONSIBILITY

Section 54. Citation on Illegally Parked Vehicle. When a vehicle without an operator is found parked in violation of a restriction imposed by this ordinance, the City authority finding the vehicle shall take its license number and any other information displayed on the vehicle that may identify its owner, and shall conspicuously affix to the vehicle a parking citation instructing the operator to answer to the charge or pay the penalty imposed within five days during specific hours and at a specific place.

Section 55. Failure to Comply With Park Citation Attached to Parked Vehicle. If the operator does not respond to a parking citation affixed to a vehicle within five working days, the City Recorder may send a letter to the owner of the vehicle informing the owner of the violation and giving notice that if the citation is disregarded for a period of 10 days:

- (1) The fine will be doubled; and
- (2) The vehicle is subject to impoundment and may be sold if not redeemed.

Section 56. Cancellation of Parking Citation. No person shall cancel or solicit the cancellation of a parking citation in any manner, except when approved by the municipal authority.

Section 57. Owner Responsibility. The owner of a vehicle in violation of a parking restriction shall be responsible for the offense, unless the use of the vehicle was secured by the operator without the owner's consent.

Section 58. Registered Owner Presumption. In a proceeding against a vehicle owner charging a violation of a restriction on parking, proof that the vehicle was registered to the defendant at the time of the violation shall constitute a presumption that the defendant was the owner.

IMPOUNDMENT AND PENALTIES

Section 64. Impoundment of Vehicles.

(1) When a vehicle is placed in a manner or location that constitutes an obstruction to traffic or a hazard to public safety, a City authority shall order the owner or operator of the vehicle to remove it. If the vehicle is unattended, the City may cause the vehicle to be towed and stored at the owner's expense. The owner shall be liable for the costs of towing and storing, even if the vehicle was parked by another or if the vehicle was initially parked in a safe manner but subsequently became an obstruction or hazard.

(2) The disposition of a vehicle towed and stored under authority of this section shall be in accordance with the procedures of the City relating to impoundment and disposition of vehicles abandoned to the City streets.

(3) The impoundment of a vehicle will not preclude the issuance of a citation for violation of a provision of this ordinance.

(4) Stolen vehicles may be towed from public or private property and stored at the expense of the vehicle owner.

(5) Whenever a City authority observes a vehicle parked in violation of a provision of this ordinance or state law, if the vehicle has five or more unpaid violations outstanding against it, the City authority may, in addition to issuing a citation, cause the vehicle to be impounded. An impounded vehicle shall not be released until all outstanding fines and charges have been paid. Vehicles impounded under authority of this subsection shall be disposed of in the same manner as provided in subsection (2) of this section.

Section 65. Penalties.

(1) Violation of sections 10 to 18 is punishable by fine not to exceed \$100.00.

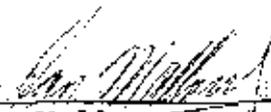
(2) Violation of sections 19 to 50 is punishable by fine not to exceed \$50.00.

(3) Violation of a provision identical to a state statute is punishable by fine not to exceed the penalty prescribed by the state statute.

Section 66. Severability. The sections and subsections of this ordinance are severable. The invalidity of any one section or subsection shall not affect the remaining sections and subsections.

Section 67. Existing Control Devices and Markings. Parking and traffic control devices and markings installed prior to the adoption of this ordinance are lawfully authorized.

Passed by the City Council this 18 day of September, 1990, and APPROVED by the Mayor this 18 day of September, 1990.



Dan Mallery, Mayor

ATTEST:



Ann Morgan, City Recorder

CITY OF WHEELER
ORDINANCE NO. 90-4

AN ORDINANCE FOR THE IMPOUNDING AND DISPOSITION OF ABANDONED AND DISCARDED VEHICLES; AND REPEALING THE UNNUMBERED ORDINANCE PASSED AUGUST 18, 1930, ENTITLED "AN ORDINANCE TO PROHIBIT THE DUMPING OF GARBAGE AND THE USE OF PUBLIC STREETS AS A WRECKING SHOP FOR AUTOMOBILES".

The City of Wheeler ordains as follows:

DEFINITIONS

Section 1. Definitions. As used in this ordinance, unless the context requires otherwise:

Costs. The expense of removing, storing or selling a junked vehicle.

Chief of Police. Includes any authorized law enforcement officer of the City, or a designated City authority.

Discarded. Any vehicle which does not have lawfully affixed thereto an unexpired license plate and is in one or more of the following conditions:

- (1) Inoperative.
- (2) Wrecked.
- (3) Dismantled.
- (4) Partially dismantled.
- (5) Abandoned.
- (6) Junked.

Discarded vehicles may be deemed to include major parts thereof including but not limited to bodies, engines, transmissions, and rear ends.

Vehicle owner. Any individual, firm, corporation or unincorporated association with a claim, either individually or jointly, or ownership or any interest, legal or equitable, in a vehicle.

Person in charge of property. Any agent, occupant, lessee, contract purchaser, owner or person having possession, control or title of property where a vehicle is located.

Vehicle. Every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

Section 2. Abandoned Vehicles.

(1) A person commits the offense of abandoning a vehicle if the person abandons a vehicle upon a street or right-of-way, or upon any public or private property.

(2) The owner of the vehicle as shown by the records of the Oregon Motor Vehicles Division shall be considered responsible for the abandonment of a vehicle in a manner prohibited by this section and shall be liable for the cost of removal and disposition of the abandoned vehicle.

(3) A vehicle abandoned in violation of this section is subject to the provisions for removal of abandoned vehicles under ORS 819.110 to ORS 819.130 and to being sold as provided under ORS 819.210 or 819.220 which statutes are incorporated by reference and made a part hereof. Said statutes are attached hereto as Attachment A.

(4) The offense described in this section, abandoning a vehicle, is a Class B infraction, subject to a fine up to \$250.00.

Section 3. Prohibited Action. It shall be unlawful to store or permit the storing of a discarded vehicle upon any private property within the City unless the vehicle is completely enclosed within a building or unless it is in connection with a business enterprise dealing in junked vehicles lawfully conducted within the City.

Section 4. Police duty.

(1) It shall be the duty of the chief of police; whenever a discarded vehicle is found upon private property to:

(a) Make an investigation to discover the owner of the vehicle and the person in charge of the property upon which such vehicle is located and give written notice to them by personal service or by registered mail that the vehicle is in violation of this ordinance; and

(b) If the owner of the vehicle is not found, to place a notice upon the windshield or some other part of the vehicle where it can be easily seen.

(2) The notice shall state that a certain discarded vehicle is in violation of this ordinance and that within 24 hours of the day of the sending or posting of the notice:

(a) The vehicle must be removed from the City or to the storage yard of a business enterprise dealing in junked vehicles lawfully conducted within the City; or

(b) The vehicle must be completely enclosed within a building.

(3) The notice shall also state that the alternative to compliance with subsection (2) of this section is to petition the City Recorder and request appearance in writing before the City Council within seven days of sending or posting of the notice and show cause why such vehicle should not be immediately abated as provided in this ordinance.

(4) The notice shall also state that failure to comply with this ordinance authorizes the City to remove the vehicle and charge the cost.

(5) In the enforcement and execution of the provisions of this ordinance, the chief of police shall charge and collect towing charges and storage charges of \$8.00 per day or the actual cost of the charge to the City, whichever is greater and deliver same to the City Recorder together with an inventory of such vehicle including accessories and contents.

Section 5. Entry Upon Private Property.

(1) The chief of police is authorized at all reasonable times to enter upon private property and examine any vehicle for the purpose of determining whether or not it is in a discarded condition. However, before entering upon private property, the Chief shall obtain the consent of an occupant thereof or a warrant of the appropriate court authorizing his entry for the purpose of inspection, except when an emergency exists.

(2) No search warrant shall be issued under the terms of this ordinance until an affidavit has been filed with the appropriate court, showing probable cause for such inspection by stating the purpose and extent of the proposed inspection, citing this ordinance as the basis for such inspection, whether it is an inspection instituted by complaint or other specific or general information concerning the vehicle in question or the property on which it is situated.

(3) It is unlawful for any person to interfere with or attempt to prevent the chief of police from entering upon private premises and inspecting any vehicle when an emergency exists or the chief exhibits a warrant authorizing entry.

Section 6. Hearing by City Council. Pursuant to a request, the City Council shall fix a time for a hearing to show cause why a vehicle should not be immediately abated. It shall receive the evidence and testimony of the chief of police and other interested persons concerning the existence, location and condition of the vehicle. After the hearing, the Council may authorize and order the vehicle removed by the City in accordance with the provisions

of this ordinance. The Council shall make its order in the form of a resolution which declares the vehicle to be a public nuisance. The resolution may order the removal of more than one vehicle and may consolidate the hearings and orders relating to more than one vehicle. The persons receiving the notice specified in Section 4 shall be sent copies of the resolution of the Council. In addition, the Council may impose conditions and take such other action as it deems appropriate under the circumstances in order to carry out the purpose of this ordinance. It may delay the item for removal of said vehicle where, in its opinion, the circumstances justify it. It shall refuse to order the removal of the vehicles where the vehicle, in the opinion of the Council, is not subject to the provisions of this ordinance. The Council shall not be bound by the technical rules of evidence in the conduct of the hearing.

Section 7. Abatement by City and Appraisal.

(1) Five days after the giving of notice required in Section 4 or five days after adoption of a resolution declaring a vehicle to be a public nuisance as set forth in Section 6, the City shall be deemed to have acquired jurisdiction to abate the nuisance and may remove the vehicle by use of City employees or duly authorized independent contractors. It shall be unlawful for any person to interfere with, hinder or refuse to allow such persons to enter upon private property for the purpose of removing a vehicle under the provisions of this ordinance.

(2) After removing the vehicle, the City shall cause it to be appraised.

Section 8. Low Value Vehicle.

(1) If the vehicle is appraised at \$750.00 or less, the chief of police may file with the Motor Vehicles Division an affidavit describing the vehicle, including the license plates, if any, stating the location and appraised value of the vehicle, and stating that the vehicle will be junked or dismantled. The chief of police may, without notice and public auction, dispose of the vehicle and execute a certificate of sale.

(2) The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. 90-~~74~~ entitled "An Ordinance for the Impounding and Disposition of Discarded Vehicles," I did on the _____ day of _____, 19____, sell to _____ for the sum of \$_____ cash, the following-described personal property, to wit:

[Brief description of the property]

and in consideration of the payment of said sum of \$_____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this _____ day of _____, 19____.

Note: The City of Wheeler assumes no responsibility as to the condition of title of the above-described property. In case this sale shall for any reason be invalid, the liability of the City is limited to the return of the purchase price.

(3) At the option of the chief of police, the City may sell the vehicle at public sale in accordance with the provisions of Sections 9 and 10 herein.

Section 9. Public Sale Notice.

(1) If the vehicle is appraised over \$750.00, the chief of police shall cause to be published in a newspaper of general circulation within the City a notice of sale. The notice of sale shall state:

(a) The sale is of discarded property in possession of the City;

(b) A description of the vehicle, including the type, make, license number, I.D. number and any other information which will aid in accurately identifying the vehicle;

(c) The terms of the sale; and

(d) The date, time and place of the sale.

(2) The notice of sale shall be published two times. The first publication shall be made not less than 14 days prior to the date of the proposed sale, and the second shall be made not less than seven days prior to the date of the proposed sale.

Section 10. Public Sale.

(1) If a vehicle is appraised over \$750.00, the chief of police shall hold a sale at the time and place appointed within the view of the vehicle to be sold.

(2) The vehicle shall be sold to the highest and best bidder, providing that if no bids are entered, or those bids which are entered are less than the costs incurred by the City,

the chief of police may enter a bid on behalf of the City in an amount equal to such costs.

(3) At the time of payment of the purchase price, the chief of police shall execute a certificate of sale, in duplicate, the original of which shall be delivered to the purchaser and the copy thereof filed with the City Recorder of the City.

(4) The certificate of sale shall be substantially as follows:

CERTIFICATE OF SALE

This is to certify that under the provisions of Ordinance No. 90-~~34~~ entitled "An Ordinance for the Impounding and Disposition of Discarded Vehicles" and pursuant to due notice of the time and place of sale, I did on the _____ day of _____, 19____, sell at public auction to _____ for the sum of \$ _____ cash, he/she being the highest and best bidder, and that being the highest and best sum bid therefor, the following-described personal property, to wit:

[Brief description of the property.]

And in consideration of the payment of said sum of \$ _____, receipt whereof is hereby acknowledged, I have this day delivered to said purchaser the foregoing property.

Dated this _____ day of _____, 19 ____.

Note: The City of Wheeler assumes no responsibility as to the condition of title of the above-described property. In case this sale shall for any reason be invalid, the liability of the City is limited to the return of the purchase price.

(5) In the event that the purchase price exceeds the costs incurred by the City, the City shall provide notice to the owner of the amount to be refunded to the owner. If the owner does not claim the money within 60 days of written notice to the owner, said money shall be deemed to be in the ownership of the City.

Section 11. Redemption before Sale.

(1) A vehicle, impounded under the provisions of this ordinance, may be redeemed by its owner or by the person in charge of the property from which the vehicle was removed before a sale or disposition has taken place by applying to the City Recorder's office, whereupon he or she shall:

(a) Submit evidence of his or her ownership or interest in the vehicle, satisfactory to the chief of police, that such claim is rightful;

(b) Pay the costs due and owing at the time the application to redeem is made, including all towing and storage costs of the City and all other actual costs of the City;

(c) Give evidence that the nuisance character of the vehicle will not be allowed to be resumed.

(2) Upon compliance with subsection (1) of this section, the chief of police shall execute a receipt and cause the vehicle to be returned.

Section 12. Assessment of Costs.

(1) After disposing of the discarded vehicle and deducting the money, if any, received from any sale of the vehicle from the costs, the City Recorder shall give notice as specified in Section 4 to the person in charge of the property from which the vehicle was removed as follows:

(a) Of the unpaid costs of abatement.

(b) That the cost as indicated will be assessed to and become a lien against the real property unless paid within 30 days from the date of the notice.

(c) That if the person in charge of the property objects to the cost of the abatement indicated, he may file a written notice of objection with the City Recorder within 20 days from the date of the notice.

(2) Within 40 days after the date of the notice, objections to the proposed assessment shall be heard and determined by the Council.

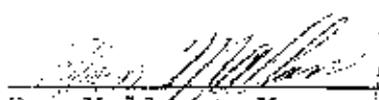
(3) If the costs of the abatement are not paid within 30 days from the date of the notice, an assessment of the costs shall be made by resolution of the City Council and shall be entered in the docket of the City liens, and upon such entry being made shall constitute a lien upon the real property from which the nuisance was removed or abated.

(4) The lien shall be enforced in the same manner as liens for street improvements are enforced and shall bear interest at the rate of nine (9%) per cent per annum. Such interest shall accrue from date of entry of the lien in the lien docket.

(5) An error in the name of the person in charge of the property shall not void the assessment nor will a failure to receive the notice of the proposed assessment render the assessment void. The assessment shall remain a valid lien against the property.

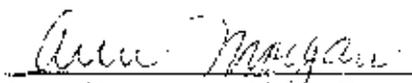
Section 13. Repeal. The unnumbered ordinance passed August 18, 1930, entitled "An Ordinance to Prohibit the Dumping of Garbage, and the Use of Public Streets as a Wrecking Shop for Automobiles", is hereby repealed.

Passed by the City Council this 18 day of September, 1930 and APPROVED by the Mayor this 18 day of September, 1930.



Dan Mallory, Mayor

ATTEST:



Ann Morgan, City Recorder

(a) The division is satisfied that the original title was surrendered in error and the record canceled in error; or

(b) The vehicle is registered or titled as an assembled vehicle, a reconstructed vehicle or a replica.

(2) If the division is satisfied that the vehicle is wrecked, dismantled or disassembled, the division may issue a proof of compliance form. (1983 c.338 §190; 1985 c.176 §2; 1985 c.401 §3; 1987 c.179 §5)

819.040 Illegal salvage procedures; penalty. (1) A person commits the offense of illegal salvage procedures if the person engages in crushing, compacting or shredding of vehicles and the person violates any requirements under the following:

(a) The person may accept vehicles as salvage material from other persons who hold a certificate as a wrecker issued under ORS 822.110.

(b) The person may not accept vehicles from another person who does not hold a certificate as a wrecker issued under ORS 822.110, unless the other person:

(A) Complies with the requirements of ORS 819.010, or is in possession of a certificate of sale issued under ORS 819.240; and

(B) Displays a compliance form issued under ORS 819.030, or such certificate of sale to the person engaged in salvage.

(c) The person engaged in salvage may accept a copy of the division form issued under ORS 819.030 as proof of compliance, under ORS 819.010 or may accept the certificate of sale, as applicable, and surrender such copy or certificate to the division.

(2) The offense described in this section, illegal salvage procedures, is a Class A misdemeanor. (1983 c.338 §197; 1985 c.16 §70)

ABANDONED VEHICLES

(Offense)

819.100 Abandoning a vehicle; penalty.

(1) A person commits the offense of abandoning a vehicle if the person abandons a vehicle upon a highway or upon any public or private property.

(2) The owner of the vehicle as shown by the records of the division shall be considered responsible for the abandonment of a vehicle in the manner prohibited by this section and shall be liable for the cost of removal and disposition of the abandoned vehicle.

(3) A vehicle abandoned in violation of this section is subject to the provisions for removal of abandoned vehicles under ORS 819.110 to 819.130 and to being sold as provided under ORS 819.210 or 819.220.

(4) The offense described in this section, abandoning a vehicle, is a Class B traffic infraction. (1983 c.338 §677)

(Custody and Removal)

819.110 Removal and sale of abandoned vehicle; general provisions. (1) After providing notice required under ORS 819.170 and, if requested, a hearing under ORS 819.190, an authority described under ORS 819.140 may take a vehicle into custody and remove the vehicle if:

(a) The authority has reason to believe the vehicle is disabled or abandoned; and

(b) The vehicle 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) The authority in this section to remove and take vehicles into custody is in addition to any authority to remove and take vehicles into custody under ORS 819.120 and 819.130.

(3) Subject to ORS 819.150, vehicles and the contents of vehicles removed and taken into custody under this section are subject to a lien as provided under ORS 819.160.

(4) An authority removing a vehicle under this section shall cause the vehicle to be appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.230.

(5) Vehicles removed and taken into custody under this section are subject to sale under ORS 819.210 or 819.220 if the vehicles are not reclaimed as provided under ORS 819.150 or returned to the owner or person entitled to possession under ORS 819.190. (1983 c.338 §417)

819.120 Immediate custody and removal of vehicle constituting hazard.

(1) An authority described under ORS 819.140 may immediately take custody of a vehicle that is disabled, abandoned, parked or left standing unattended on a road or highway right of way and that is in such a location as to constitute a hazard or obstruction to motor vehicle traffic using the road or highway. If the vehicle is on a state highway, interstate highway or state property, a determination to take custody of a vehicle under this subsection shall be in accordance with rules established by the Oregon Transportation Commission for purposes of this section.

(2) After taking a vehicle into custody under this section an authority taking custody of a vehicle is required to give the notice described under ORS 819.180 and, if requested, a hearing described under ORS 819.190.

(3) The authority in this section to remove and take vehicles into custody is in addition to any authority to remove and take vehicles into custody under ORS 819.110 and 819.130.

(4) Subject to ORS 819.150, vehicles and the contents of vehicles removed and taken into custody under this section are subject to a lien as provided under ORS 819.160.

(5) An authority removing a vehicle under this section shall cause the vehicle to be appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.230.

(6) Vehicles removed and taken into custody under this section are subject to sale or disposition under ORS 819.210 or 819.220 if the vehicles are not reclaimed under ORS 819.150 or returned to the owner or person entitled thereto under ORS 819.190.

(7) The Oregon Transportation Commission, by rule, shall establish when vehicles on state highways, interstate highways and state property are subject to being taken into custody under this section. (1983 c.338 §18; 1985 c.77 §1)

819.130 Removal of vehicle on private property. (1) An authority described under ORS 819.140, may take custody of and remove a vehicle that is on private property if

(a) The owner or person in lawful possession of the land requests the removal; and

(b) The vehicle is parked or left standing upon the property without the express consent of the owner or person in lawful possession or control of the property.

(2) An authority taking custody of a vehicle under this section is not required to give notice or hearing.

(3) The authority in this section to remove and take vehicles into custody is in addition to any authority to remove and take vehicles into custody under ORS 819.110 and 819.120.

(4) Subject to ORS 819.150, vehicles and the contents of vehicles removed and taken into custody under this section are subject to a lien as provided under ORS 819.160.

(5) An authority removing a vehicle under this section shall cause the vehicle to be appraised within a reasonable time by a person authorized to perform such appraisals under ORS 819.230.

(6) Vehicles removed and taken into custody under this section are subject to sale or disposition under ORS 819.210 or 819.220, if the vehicles are not reclaimed under ORS 819.150. (1983 c.338 §19; 1985 c.16 §21)

819.140 Agencies having authority to remove vehicles; powers of agency taking

copy
custody. (1) This section establishes which agency has the authority to remove and take vehicles into custody under ORS 819.110 to 819.130. The agency with authority for removal is responsible for notice and hearings under ORS 819.170 to 819.190 and for the sale or disposal of the vehicle under ORS 819.210 or 819.220. Authority for removal of a vehicle depends on the location of the vehicle as described under the following:

(a) If a vehicle is upon the right of way of a state highway, on an interstate highway that is part of the National System of Interstate and Defense Highways established under section 103(e), title 23, United States Code or on state property, the Department of State Police may provide for a vehicle to be taken into custody. When the Department of State Police exercises powers described in this section, the department shall notify either the sheriff or an appropriate authority of the county in which the vehicle is located. The agency notified by the Department of State Police shall exercise the powers described in this section in lieu of the Department of State Police and shall exercise authority over the vehicle. Action taken by the Department of State Police under this subsection is not subject to ORS 183.310 to 183.550. The authority actually providing for the removal of the vehicle is subject to the appropriate procedures upon removal and sale or disposal of the vehicle.

(b) If the vehicle is upon the right of way of a county road or any other highway or property within the boundaries of a county, the sheriff of the county or a county agency with appropriate authority may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section.

(c) If the vehicle is on a city street or alley, on an interstate highway or other highway within the boundaries of the city or on any other property within the boundaries of a city, the city police or a city agency with appropriate authority may take the vehicle into custody and exercise the powers relating to authority over the vehicle described in this section.

(2) Except as otherwise provided by this section, an agency taking custody of a vehicle under ORS 819.110, 819.120 or 819.130 may:

(a) Use its own personnel, equipment and facilities for the removal and preservation of such vehicles; or

(b) Hire or otherwise engage other personnel, equipment and facilities for that purpose. (1983 c.338 §20; 1985 c.16 §22)

819.150 Rights and liabilities of owner. The owner, a person entitled to possession

or any person with an interest shown on the certificate of title of a vehicle taken into custody under ORS 819.110, 819.120 or 819.130.

(1) Is liable for all costs and expenses incurred in the removal, preservation and custody of the vehicle and its contents except that:

(a) The owner or person entitled to the vehicle is not liable for nor shall be required to pay storage charges for a period in excess of 60 days.

(b) A security interest holder is not liable under this subsection unless the security interest holder reclaims the vehicle.

(2) May reclaim the vehicle at any time after it is taken into custody and before the vehicle is sold or disposed of under ORS 819.210 or 819.220 upon presentation to the authority holding the vehicle of satisfactory proof of ownership or right to possession and upon payment of costs and expenses for which the person is liable under this section.

(3) If the vehicle is taken into custody under ORS 819.110 or 819.120, has a right to request and have a hearing under ORS 819.190 or under procedures established under ORS 801.040, as appropriate.

(4) If the vehicle is sold or disposed of under ORS 819.210 or 819.220, has no further right, title or claim to or interest in the vehicle or the contents of the vehicle.

(5) If the vehicle is sold or disposed of under ORS 819.210, has a right to claim the balance of the proceeds from the sale or disposition as provided under ORS 819.260.

(6) Has no right to a hearing if the vehicle is taken into custody under ORS 819.130. (1983 c.338 §21; 1985 c.316 §2)

819.160 Lien for towing. (1) Except as otherwise provided by this section, a person shall have a lien on the vehicle and its contents if the person, at the request of an authority described under ORS 819.140, tows any of the following vehicles:

(a) An abandoned vehicle.

(b) A vehicle taken into custody under ORS 819.110, 819.120 or 819.130.

(c) A vehicle left parked or standing in violation of ORS 811.555 or 811.570.

(2) A lien established under this section shall be on the vehicle and its contents for the just and reasonable charges for the towing service performed and any storage provided. The lien shall be subject to the provisions for liens under ORS 98.812 (3). The person holding the lien may retain possession of the vehicle and contents until the charges on which the lien is based are paid.

A lien described under this section does not attach:

(a) To the contents of any vehicle taken from public property until 15 days after taking the vehicle into custody.

(b) To the contents of any vehicle that is taken into custody for violation of ORS 811.555 or 811.570.

(3) A person who tows any vehicle at the request of an authority under ORS 819.110 to 819.130 shall provide written notice, approved by the authority, containing information on the procedures necessary to obtain a hearing under ORS 819.190. The notice shall be provided to each person who seeks to redeem the vehicle. (1983 c.338 §22; 1985 c.16 §23)

819.170 Notice prior to removal; methods; contents. If an authority proposes to take custody of a vehicle under ORS 819.110, the authority shall provide notice before the proposed removal and custody and shall provide an explanation of procedures available for obtaining a hearing under ORS 819.190. Except as otherwise provided under ORS 801.040, notice required under this section shall comply with all of the following:

(1) Notice shall be given by both of the following methods:

(a) By affixing a citation to the vehicle with the required information.

(b) By mailing notice, at least five days before taking the vehicle into custody, with the required information to the owners and to any lessors or security interest holders at the address of each as shown by the records of the division. The five-day period under this paragraph does not include holidays, Saturdays or Sundays.

(2) Notice shall state all of the following:

(a) That the vehicle will be subject to being taken into custody and removed by the appropriate authority if the vehicle is not removed before the time set by the appropriate authority.

(b) The statute, ordinance or rule violated by the vehicle and under which the vehicle will be removed.

(c) The place where the vehicle will be held in custody or the telephone number and address of the appropriate authority that will provide the information.

(d) That the vehicle, if taken into custody and removed by the appropriate authority, will be subject to towing and storage charges and that a lien will attach to the vehicle and its contents.

(e) That the vehicle will be sold to satisfy the costs of towing and storage if the charges are not paid.

(f) That the owner, possessor or person having an interest in the vehicle is entitled to a hearing before the proposed custody and removal if a hearing is timely requested.

(g) That the owner, possessor or person having an interest in the vehicle and its contents may be immediately reclaimed by presentation to the appropriate authority of satisfactory proof of ownership or right to possession and other payment of the towing and storage charges or the deposit of cash security or a bond equal to the charges with the appropriate authority. 1993 ORS 819.187, 1993 ORS 819.188.

819.190 Hearing to contest validity of removal and custody. A person provided notice under ORS 819.170 or 819.180 or any other person who reasonably appears to have an interest in the vehicle may request a hearing under this section to contest the validity of the removal and custody under ORS 819.120 or proposed removal and custody of a vehicle under ORS 819.110 by submitting a request for hearing with the appropriate authority not more than five days from the mailing date of the notice. The five-day period in this section does not include holidays, Saturdays or Sundays. Except as otherwise provided under ORS 801.040, a hearing under this section shall comply with all of the following:

- (1) If the authority proposing to remove a vehicle under ORS 819.110 receives a request for hearing before the vehicle is taken into custody and removed, the vehicle shall not be removed unless the vehicle constitutes a hazard.
- (2) A request for hearing shall be in writing and shall state grounds upon which the person requesting the hearing believes that the custody and removal of the vehicle is not justified.
- (3) Upon receipt of a request for a hearing under this section, the appropriate authority shall set a time for the hearing and shall provide notice of the hearing to the person requesting the hearing and to the owners of the vehicle and any lessors or security interest holders shown in the records of the division, if not the same as the person requesting the hearing. The 72-hour period in this subsection does not include holidays, Saturdays or Sundays.
- (4) If the appropriate authority finds, after hearing and by substantial evidence on the record, that the custody and removal of a vehicle was:

(a) That the owner, possessor or person having an interest in the vehicle and its contents are not paid by a date specified by the appropriate authority.

(b) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(c) That the owner, possessor or person having an interest in the vehicle may also challenge the reasonableness of any towing and storage charges at the hearing.

(d) The time within which a hearing must be requested and the method for requesting a hearing.

(e) Notice after removal method.

(f) If an authority takes custody of a vehicle under ORS 819.120, the authority shall provide, by mail within 48 hours of the removal, notice with an explanation of procedure available for obtaining a hearing under ORS 819.190 to the owners of the vehicle and any lessors or security interest holders as shown in the records of the division. The notice shall state that the vehicle has been taken into custody and shall give the location of the vehicle and describe procedure for the release of the vehicle and for obtaining a hearing under ORS 819.190. The 48-hour period under this subsection does not include holidays, Saturdays or Sundays.

(g) Any notice given under this section after a vehicle is taken into custody and removed shall state all of the following:

- (a) That the vehicle has been taken into custody and removed, the identity of the appropriate authority that took the vehicle into custody and removed the vehicle and the seizure, ordinance or rule under which the vehicle has been taken into custody and removed.
- (b) The location of the vehicle or the telephone number and address of the appropriate authority that will provide the information.
- (c) That the vehicle is subject to towing and storage charges, the amount of charges that have accrued to the date of the notice and the daily storage charges.
- (d) That the vehicle and its contents are subject to a lien for payment of the towing and storage charges and that the vehicle and its contents will be sold to cover the charges if the charges are not paid by a date specified by the appropriate authority.
- (e) That the owner, possessor or person having an interest in the vehicle and its contents is entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(f) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(g) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(h) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(i) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(j) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(k) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(l) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(m) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

(n) That the owner, possessor or person having an interest in the vehicle and its contents are entitled to a prompt hearing to contest the validity of taking the vehicle into custody and removing it and to contest the reasonableness of the charges for towing and storage if a hearing is timely requested.

and the towing and storage charges on the vehicle, the authority responsible for taking the vehicle into custody and removing the vehicle shall reimburse the person for the charges. New storage costs on the vehicle will not start to accrue, however, until more than 24 hours after the time the vehicle is officially released to the person under this paragraph.

(b) Valid, the appropriate authority shall order the vehicle to be held in custody until the costs of the hearing and all towing and storage costs are paid by the party claiming the vehicle. If the vehicle has not yet been removed, the appropriate authority shall order its removal.

(5) A person who fails to appear at a hearing under this section is not entitled to another hearing unless the person provides reasons satisfactory to the appropriate authority for the person's failure to appear.

(6) An appropriate authority is only required to provide one hearing under this section for each time the appropriate authority takes a vehicle into custody and removes the vehicle or proposes to do so.

(7) A hearing under this section may be used to determine the reasonableness of the charge for towing and storage of the vehicle. Towing and storage charges set by law, ordinance or rule or that comply with law, ordinance or rule are reasonable for purposes of this subsection.

(8) An authority shall provide a written statement of the results of a hearing held under this section to the person requesting the hearing.

(9) Hearings held under this section may be informal in nature, but the presentation of evidence in a hearing shall be consistent with the presentation of evidence required for contested cases under ORS 183.460.

(10) The hearings officer at a hearing under this section may be an officer, official or employee of the appropriate authority but shall not have participated in any determination or investigation related to taking into custody and removing the vehicle that is the subject of the hearing.

(11) The determination of a hearings officer at a hearing under this section is final and is not subject to appeal. (1983 c.338 §23; 1985 c.10 §22a; 1985 c.370 §3)

819.200 Exemption from notice and hearing requirements for vehicle held in criminal investigation. A vehicle that is being held as part of any criminal investigation is not subject to any requirements under ORS 819.170 to 819.190. (1983 c.338 §136)

(Sale)

819.210 Sale of vehicle not reclaimed.

(1) If a vehicle taken into custody under ORS 819.110, 819.120 or 819.130 is not reclaimed within 30 days after it is taken into custody, the authority with custody of the vehicle shall either:

(a) Sell the vehicle and its contents at public auction in the manner provided in ORS 87.192 and 87.196; or

(b) Dispose of the vehicle in a manner provided by local ordinance.

(2) The contents of any vehicle sold under this section are subject to the same conditions of sale as the vehicle in which they are found.

(3) The authority to dispose of a vehicle under this section is in addition to any authority under ORS 819.220.

(4) Funds received from the sale of a vehicle or its contents under this section shall be disposed of as provided in ORS 819.250.

(5) Upon sale of a vehicle under this section, an authority shall issue a certificate of sale as described in ORS 819.240. (1983 c.338 §27)

819.220 Disposal of vehicle without notice and public auction.

(1) If a vehicle taken into custody under ORS 819.110, 819.120 or 819.130 is appraised at a value of \$750 or less, the authority with custody of the vehicle may dispose of the vehicle without notice and public auction if any of the following occur:

(a) The owner of the vehicle and any lessor or security interest holder shown in the records of the division sign a release, under oath, disclaiming any future interest in the vehicle.

(b) The owner and any lessor or security interest holder shown in the records of the division have been sent notification of the location of the vehicle and, within 15 days after the date the notification is mailed, the persons notified have not signed releases or the vehicle has not been reclaimed. Failure to sign a release or to reclaim the vehicle shall constitute a waiver of interest in the vehicle.

(2) If an authority intends to dispose of a vehicle under this section, the authority shall do all of the following:

(a) File with the division an affidavit describing the vehicle; and stating the location and appraised value of the vehicle and that the vehicle will be junked or dismantled.

(b) Surrender the registration plates of the vehicle, if any, to the division.

(c) Include in the affidavit a statement that any notice required under this section has been provided.

(d) Forward any release of interest completed under this section to the division.

(3) Upon completion of the requirements under this section, the authority may sell the vehicle without notice and public auction to any of the persons described in this subsection. The authority shall issue to the person purchasing the vehicle a certificate of sale described under ORS 819.240. The authority may sell a vehicle under this subsection to any of the following:

(a) A wrecker with a certificate issued under ORS 822.110.

(b) Any other person who complies with the provisions of and executes the forms required by ORS 819.010. The forms required by ORS 819.010 shall be included with the certificate of sale described under ORS 819.240.

(4) Upon disposition of a vehicle under this section the vehicle shall cease to be a vehicle for purposes of the vehicle code, except as provided in the following:

(a) The person purchasing the vehicle is subject to the provisions of ORS 819.010 and 819.040 relating to salvage procedures and requirements for destruction of vehicles.

(b) The provisions of ORS 819.030 apply to the procedures of the division relating to the vehicle, as appropriate.

(5) The authority to sell or dispose of a vehicle under this section is in addition to any authority under ORS 819.210. (1983 c.338 §429; 1985 c.16 §27; 1985 c.318 §6)

819.230 Appraiser certificate; qualification; issuance; renewal; revocation; suspension. (1) A person who is issued an appraiser certificate by the division under this section is qualified to appraise vehicles for sale under ORS 819.210 and 819.220.

(2) The division shall establish rules to provide for issuance of appraiser certificates under this section. Rules adopted by the division under this section shall provide for all of the following:

(a) A method of ascertaining the qualifications and competence of individuals to conduct vehicle appraisals in accordance with the rules of the division and generally accepted methods of appraisal.

(b) A system for issuance of appraiser certificates to persons who qualify under the rules of the division.

(c) Procedures and grounds for revocation or suspension of appraiser certificates issued under this section if the division determines the person holding the certificate

has violated the rules adopted by the division.

(d) A procedure for renewal of appraiser certificates issued under this section.

(3) Appraiser certificates issued under this section are subject to the following:

(a) A certificate shall expire two years from the date of issuance unless renewed according to the rules of the division.

(b) The division shall not issue an appraiser certificate to a person until the person has paid the fee for issuance of an appraiser certificate under ORS 822.700.

(c) The division shall not renew an appraiser certificate issued under this section until the holder has paid the fee for renewal of an appraiser certificate under ORS 822.700. (1983 c.338 §810)

819.240 Certificate of sale; issuing certificate of title and registration card for vehicle. (1) When any vehicle is sold under ORS 819.210 or 819.220, the authority selling the vehicle under that section, at the time of the payment of the purchase price, shall execute a certificate of sale in duplicate. The original certificate of sale shall be delivered to the purchaser and the copy shall be retained by the authority. The certificate of sale shall contain the name and address of the purchaser, the date of sale, the consideration paid, a description of the vehicle and a stipulation that no warranty is made as to the condition or title of the vehicle.

(2) The purchaser, upon presentation of the certificate of sale to the Motor Vehicles Division and payment of the fees required by law, is entitled to be issued a certificate of title and a registration card for the vehicle. (1983 c.338 §429)

819.250 Return of sale; proceeds. (1) When any vehicle is sold under ORS 819.210 or 819.220, the authority selling the vehicle shall transmit to the Motor Vehicles Division, and to the treasurer of that authority, a return of sale setting forth:

- (a) A description of the vehicle;
- (b) The purchase price;
- (c) The name and address of the purchaser;
- (d) The costs incurred in the sale; and
- (e) The costs and expenses incurred in the removal, preservation and custody of the vehicle.

(2) The authority selling the vehicle under ORS 819.210 or 819.220 shall transmit to the treasurer of that authority, with the return of sale, the balance of the proceeds of the sale. The authority may deduct from the proceeds the costs incurred in the sale and the costs and expenses incurred in the re-

removal, preservation and custody of the vehicle. Upon receipt of the return of sale and such proceeds, the treasurer of the authority shall deposit such proceeds in the general fund of the authority and file in the treasurer's office the return of sale. (1983 c.338 §430; 1985 c.16 §226; 1985 c.94 §1)

819.260 Claim by former owner to proceeds of sale. At any time within two years after the sale of a vehicle under ORS 819.210, the former owner or former interest holder of the vehicle may recover the proceeds from the general fund of the selling authority under ORS 819.250 by filing a claim with the authority. The claim shall be audited and paid as are other claims against the authority. (1983 c.338 §431; 1985 c.316 §7)

(Related Offenses)

819.270 Illegal operation of junk vehicle sold by public body; penalty. (1) A person commits the offense of illegal operation of a junk vehicle sold by a public body if the person operates a vehicle previously sold under ORS 819.220 and the vehicle is not registered as a reconstructed vehicle, an assembled vehicle or a replica.

(2) The offense described in this section, illegal operation of a junk vehicle sold by a public body, is a Class C misdemeanor. (1983 c.338 §432; 1987 c.118 §7)

STOLEN VEHICLES

819.300 Possession of stolen vehicle; penalty. (1) A person commits the offense of possession of a stolen vehicle if the person possesses any vehicle which the person knows or has reason to believe has been stolen.

(2) The offense described in this section, possession of a stolen vehicle, is a Class C felony. (1983 c.338 §207)

819.310 Trafficking in stolen vehicles; penalty. (1) A person commits the offense of trafficking in stolen vehicles if the person receives or transfers possession of a vehicle which the person knows or has reason to believe has been stolen with intent to obtain, transfer or sell title to the vehicle.

(2) The offense described in this section, trafficking in stolen vehicles, is a Class C felony. (1983 c.338 §208; 1985 c.16 §121)

VEHICLE IDENTIFICATION NUMBERS

819.400 Division assignment of numbers. The division shall provide vehicle identification numbers for vehicles required to be registered in this state and components of such vehicles as the division determines necessary if the vehicles or components do not have vehicle identification numbers. The

authority granted by this section is subject to the following:

(1) A vehicle identification number provided under this section shall be assigned by the division and permanently attached to the vehicle or component as prescribed by the division.

(2) A vehicle identification number provided under this section shall be furnished by the division.

(3) The vehicle identification number shall be affixed on an appropriate place on the vehicle or component by the division or, at the discretion of the division, by a police agency that has custody of the vehicle or component.

(4) The division shall not assign a vehicle identification number to a vehicle or component from which the identification number assigned to the vehicle or component has been removed, defaced, covered, altered or destroyed unless the vehicle or component has been:

(a) Held and inspected by a police agency under ORS 819.440; or

(b) Inspected by a specially qualified inspector or police officer for the purpose of locating the identification number and if the number is found it shall be checked with the list of stolen vehicles maintained by the National Crime Information Center. (1983 c.338 §293; 1985 c.253 §9)

819.410 Failure to obtain vehicle identification number for unnumbered vehicle; exception; penalty. (1) A person commits the offense of failure to obtain a vehicle identification number for an unnumbered vehicle if the person is the owner of a vehicle that has never carried a vehicle identification number and the person does not obtain a vehicle identification number for the vehicle in the manner provided under ORS 819.400.

(2) This section does not apply to vehicles that are exempt from registration under ORS 803.305 or from titling under ORS 803.030.

(3) The offense described in this section, failure to obtain a vehicle identification number for an unnumbered vehicle, is a Class C traffic infraction. (1983 c.338 §294; 1985 c.253 §10)

819.420 Failure to obtain vehicle identification number for vehicle with altered or removed number; penalty. (1) A person commits the offense of failure to obtain a vehicle identification number for a vehicle with an altered or removed number if the person has a vehicle or vehicle component returned under ORS 819.440 and the person does not obtain a vehicle identification num-