

2011-Or-___

AN ORDINANCE
of the
CITY OF
MINNEAPOLIS

By Samuels

**Amending Title 18, Chapter 478 of the Minneapolis Code of Ordinances
relating to Traffic Code: Parking, Stopping and Standing.**

The City Council of the City of Minneapolis do ordain as follows:

Section 1. That Section 478.1041 of the above-entitled ordinance be amended to read as follows:

478.1041. Impoundment defined. "Impoundment" means removal of a vehicle to a storage facility or impound lot by a contractor for towing in response to an authorization from a police officer, ~~meter monitor~~ traffic control agent or other agent authorized by the City of Minneapolis.

Section 2. That Section 478.1042 of the above-entitled ordinance be amended to read as follows:

478.1042. When a vehicle may be impounded ~~without prior notice.~~ A ~~vehicle may be impounded with or without citation and without giving notice to its owner only under the following circumstances:~~

- ~~(a) When the vehicle is impeding or is likely to impede the normal flow of vehicular or pedestrian traffic; or~~
- ~~(b) When the vehicle is illegally parked in a truck, bus, hooded meter, taxi or other similar zone where parking is limited to designated classes of vehicles and where such vehicle is interfering with the proper and intended use of such zones, or is parked where prohibited by law or by temporary or permanent signs during certain hours, on designated days, or at all times; or~~
- ~~(c) When the vehicle poses an immediate danger to the public safety; or~~
- ~~(d) When the vehicle is parked in violation of snow emergency regulations; or~~
- ~~(e) When the vehicle is a commercial vehicle unlawfully parked in an area used for residential purposes or zoned as a residence district; or~~
- ~~(f) When the vehicle weighs or is registered for a weight in excess of the limits allowed on that surface; or~~

- ~~(g) When a police officer, meter monitor or other agent authorized by the City of Minneapolis has probable cause to believe that the vehicle is stolen or lacks proper registration; or~~
- ~~(h) When a police officer or other authorized agent has probable cause to believe that the vehicle constitutes evidence of a crime or contains evidence of a crime, if impoundment is reasonably necessary in such instance to obtain or preserve such evidence; or~~
- ~~(i) When the person driving, operating or in physical control of the vehicle is taken into custody and the vehicle is impounded for safekeeping; or~~
- ~~(j) When a police officer, meter monitor or other agent authorized by the City of Minneapolis has probable cause to believe that the owner, driver, operator, or person in physical control of the vehicle has failed to respond to five (5) or more citations for parking or traffic offenses; or~~
- ~~(k) When the vehicle is parked in a handicap transfer zone when said vehicle does not properly display a handicapped parking permit.~~

~~Nothing in this section shall be construed to authorize seizure of a vehicle without a warrant where a warrant would otherwise be required.~~

Vehicle impoundment shall proceed pursuant to Minnesota Statutes Chapters 168B and 169 and all other applicable laws.

Section 3. That Section 478.1043 of the above-entitled ordinance be and is hereby repealed.

~~**478.1043. When a vehicle may be impounded after notice.** A vehicle not impounded under section 478.1042 may be impounded after notice of such proposed impoundment in a form similar to that set forth in section 401.50 or section 401.60 of the Minneapolis Code of Ordinances has been securely attached to and conspicuously displayed on the vehicle for a period of seventy-two (72) hours prior to such impoundment, excluding Saturdays, Sundays and city holidays, for the following reasons:~~

- ~~(a) When such vehicle is parked and/or used in violation of any law, ordinance or regulation; or~~
- ~~(b) When such vehicle is abandoned or lacking vital component parts essential to the mechanical functioning of the vehicle, including but not limited to the motor, drive train and wheels; or~~
- ~~(c) When such vehicle is so mechanically defective as to be unsafe for operation; provided, however, that this section shall not be construed to prevent the removal of any such defective vehicle to a place for correction of equipment defects in the manner directed by any police officer.~~

Section 4. That Section 478.1044 of the above-entitled ordinance be amended to read as follows:

478.1044. Notice to owners. (a) Not more than seventy-two (72) hours after impoundment of any vehicle, the supervisor of impound and towing, or the designee thereof, shall mail a notice to the registered owner of the vehicle, as may be disclosed by the vehicle license number, if such be obtainable, and to any other person, including lienholders, who claims the right to possession of the vehicle, if such a claim is known. The notice shall be mailed to the registered owner at the address provided by the motor vehicle division of the Minnesota Department of Public Safety or the corresponding agency of any other state or province. If the person mailing the notice has reason to believe that an owner, or one who claims to be an owner, is residing or in custody at some different address, a copy of the notice shall also be mailed or personally delivered to such owner or claimant in a manner designed, as nearly as may be practicable, to give actual notice to him or her. The notice shall contain the full particulars of the impoundment, redemption, and opportunity for a hearing to test the propriety of the impoundment as hereinafter provided. If a vehicle is redeemed prior to the mailing of notice, then notice need not be mailed. Saturdays, Sundays and city holidays are to be excluded from the calculation of the seventy-two-hour period.

(b) Similar notice shall be given to each person who seeks to redeem an impounded vehicle by posting in a conspicuous place at the impound lot a sign describing redemption procedures and the right to a hearing to test the propriety of the impoundment.

Section 5. That Section 478.1045 of the above-entitled ordinance be and is hereby repealed.

~~**478.1045. Impoundment hearings.** (a) As to any vehicle subject to impoundment, a person who has a legal entitlement to possession of the vehicle has a right to a post-impoundment hearing to determine probable cause to impound the vehicle if such person files a written demand with the hearing officer on forms so provided for such a hearing within ten (10) days after impoundment of the vehicle. A person who has a legal entitlement to possession of a vehicle which has been placarded pursuant to section 478.1043 has a right to a pre-impoundment hearing to determine probable cause to impound the vehicle if such person obtains such hearing before the vehicle is impounded. However, any person who receives a pre-impoundment hearing is barred from receiving a post-impoundment hearing.~~

~~(b) The hearing shall be conducted by a hearing officer who shall be a hearing officer employed by the violations bureau of Hennepin County Municipal Court, but who shall not be the person who directed the impounding and storage of the vehicle. The hearing shall be conducted within forty-eight (48) hours of receipt of a written demand therefor from the person seeking the hearing, unless such person waives the right to a speedy hearing. Saturdays, Sundays and city holidays are to be excluded from the calculation of the forty-eight-hour period.~~

~~(c) The issue in the hearing shall be whether there was probable cause to impound the vehicle in question. "Probable cause to impound" shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to grant legal authority for the removal of~~

the vehicle, or that the removal was justified under section 478.1042 or section 478.1043.

~~(d) The hearing shall be conducted in an informal manner and shall not be bound by technical rules of evidence and procedure. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vehicle. The city shall carry the burden of establishing that there was probable cause to impound the vehicle. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing. The hearing officer's decision is separate and distinct from any criminal proceeding in connection with the impoundment, and does not affect any criminal or traffic charges connected with the impoundment. Failure of the registered or legal owner, or his agent, to request a hearing shall be deemed a waiver of the right to such hearing.~~

~~(e) After receiving all relevant evidence, the hearing officer shall make one or more of the following findings based upon the preponderance of the evidence presented:~~

~~(1) There was probable cause to impound the vehicle;~~

~~(2) There was no probable cause to impound the vehicle;~~

~~(3) There was probable cause to impound the vehicle but the vehicle was caused to incur unreasonable storage charges.~~

~~(f) If the finding is adverse to the person demanding the hearing, the hearing officer shall inform that person of the right to file a claim. Storage charges pending the hearing are assessed against the vehicle if the finding is adverse to the person demanding the hearing.~~

Section 6. That Section 478.1046 of the above-entitled ordinance be amended to read as follows:

478.1046. Redemption of impounded vehicles. (a) Only the registered owner, a person authorized by the registered owner, a lienholder of record, or one who has purchased a vehicle from the registered owner, who produces proof of ownership or authorization, may redeem an impounded vehicle. Impounded vehicles may be redeemed under the following circumstances:

(1) Upon payment at the impound lot of the towing and storage costs prior to redeeming such vehicle. The impound lot shall accept cash, major bank credit cards, certified bank drafts, money orders, and personal checks in payment for such costs; provided, however, that if such a personal check is offered in payment for such costs, the person so offering the same may be required to show evidence of identity by two (2) pieces of identification which may include a driver's license, Minnesota state identification card, other credit cards, or similar forms of identification; provided further, however, if there is reasonable cause to believe the tendered check is uncollectible, acceptance of such check may be refused; or

(2) Upon a finding by the ~~hearing officer or the~~ supervisor of impound and towing or a claims investigator of the City of Minneapolis that there was no probable cause to impound the vehicle. Upon such a finding, the towing charges shall be paid by the city in accordance with interdepartmental billing procedures. However, if the vehicle is not redeemed on the same day of such a finding, the person redeeming the vehicle shall be liable for all subsequent storage charges; or

(3) Upon the order of any court of competent jurisdiction.

(b) Towing charges shall be assessed against vehicles impounded as stolen vehicles and vehicles impounded for law enforcement investigatory purposes. Storage charges shall also be assessed against said vehicles unless the ~~hearing officer or the~~ supervisor of impound and towing or a claims investigator of the City of Minneapolis determines the storage charges or part thereof to be unreasonable.

(c) Vehicles which are not redeemed are subject to sale as provided in section 478.1150.

Section 7. That Section 478.1055 of the above-entitled ordinance be amended to read as follows:

478.1055. Referral to city council; acceptance of bids. Such bids, when received, shall be referred to the city council and by it considered. The notice shall recite that the council reserves the right to reject any and all bids. Upon the acceptance of bids in the various districts, each successful bidder shall be the impound tower within the towing district described in the notice for bids. After the acceptance of said bids and the designation of the impound tower in each of the towing districts, any vehicle ordered to be impounded by any police officer, ~~meter monitor~~ traffic control agent or other agent authorized by the City of Minneapolis shall be immediately towed to the city impound lot or other designated location by the impound tower.

Section 8. That Section 478.1080 of the above-entitled ordinance be amended to read as follows:

478.1080. Charge when owner appears before towing. Where a police officer, ~~meter monitor~~ traffic control agent or other agent authorized by the City of Minneapolis has ordered the impoundment of a vehicle from public property and the owner or operator thereof appears before the vehicle has been hooked to the tow truck and the wheels thereof hoisted from the ground, the tow truck operator shall release the said vehicle without payment of any fee or towing charge. Where the owner or operator of a vehicle being towed from public property appears after the vehicle has been hooked to the tow truck and the wheels thereof hoisted from the ground, or appears after a power winch has been used to move the vehicle, or appears after the vehicle has been moved forward but before the vehicle has been removed from the block upon which it was parked, the tow truck operator shall release the vehicle only upon the payment of a service fee not to exceed fifteen dollars (\$15.00) from November 15th through April 1st, and not to exceed five dollars (\$5.00) during other times of the year. The tow truck operator shall give a receipt for each service fee received. This section

shall not apply to vehicles impounded pursuant to section 478.1043 as an abandoned vehicle pursuant to Minn. Statute Chapter 168B or as a scofflaw vehicle pursuant to Minnesota Statute Section 169.041(5)(b)(13). The tow truck operator shall comply with the provisions of section 349.185.

Section 9. That Section 478.1090 of the above-entitled ordinance be amended to read as follows:

478.1090. Licenses and permits required. ~~The An impound tower under contract with the city shall have a valid public impound tower's license (Class E), pursuant to Chapter 349 of this Code, prior to performing any work under his contract with the city abide by all contractual requirements and all applicable laws, ordinances and regulations.~~ The An impound tower shall see to and require that every tow truck operator employed by the impound tower shall have in his possession a driver's registration permit for Class E service vehicles under Chapter 349 of this Code. No and identification in a form approved by the supervisor of impound and towing and no person shall act as a tow truck operator in the towing of any vehicle to be impounded without having in his possession such registration permit herein provided for and identification, and such tow truck operator shall exhibit such permit registration and identification to the owner of the vehicle or his agent upon request therefor.