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ORDINANCE NO. 3365

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 8.48 PARKING OF THE EDMONDS CITY CODE PERTAINING TO PARKING BY AMENDING SECTION 8.48.170 PARKING SIGNS OR OTHER NOTICE REQUIRED, TO INCLUDE A NOTICE THAT VIOLATORS WILL BE TOWED AND BY ADDING SECTION 8.48.168, PARKING OF UNLICENSED VEHICLE, DECLARING IT ILLEGAL TO PARK AN UNLICENSED VEHICLE ON THE STREETS; SECTION 8.48.600 AUTHORITY TO IMPOUND, AUTHORIZING THE CITY TO IMPOUND ILLEGALLY PARKED VEHICLES; SECTION 8.48.601 DEFINITION, DEFINING IMPOUNDMENT; SECTION 8.48.602 APPLICABLE STATE LAW ADOPTED BY REFERENCE, ADOPTING CHAPTER 46.55 RCW BY REFERENCE; SECTION 8.48.603 IMPOUND WITHOUT PRIOR NOTICE, AUTHORIZING IMPOUNDMENT OF CERTAIN VEHICLES WITHOUT PRIOR NOTICE; SECTION 8.48.604 IMPOUND AFTER NOTICE, AUTHORIZING IMPOUNDMENT AFTER NOTICE; SECTION 8.48.605 HOW IMPOUNDMENT IS TO BE EFFECTED, ESTABLISHING IMPOUNDMENT PROCEDURES; SECTION 8.48.606 NOTICE TO OWNER, ESTABLISHING A METHOD FOR PROVIDING VEHICLE OWNERS WITH NOTICE OF IMPOUNDMENT; SECTION 8.48.607 REDEMPTION OF IMPOUNDED VEHICLES, ESTABLISHING A METHOD FOR REDEEMING IMPOUNDED VEHICLES; SECTION 8.48.608 POST-IMPOUND HEARING PROCEDURE, ESTABLISHING A METHOD FOR POST-IMPOUNDMENT HEARINGS; 8.48.610 CONTRACT FOR TOWING AND STORAGE, AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT FOR IMPOUND SERVICES; 8.48.611 CONTRACT FOR TOWING AND STORAGE-FINANCIAL RESPONSIBILITY, REQUIRING THE IMPOUND CONTRACTOR TO DEMONSTRATE PROOF OF FINANCIAL

RESPONSIBILITY; 8.48.613 RECORD OF IMPOUNDED VEHICLES, DIRECTING THE EDMONDS POLICE DEPARTMENT TO MAINTAIN A RECORD OF ALL IMPOUNDED VEHICLES; 8.48.614 NO IMPERMISSIBLE REGULATION OF CONSENSUAL TOWS, CLARIFYING THE SCOPE AND EFFECT OF CITY REQUIREMENTS AND STANDARDS FOR TOWING CONTRACTORS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

WHEREAS, the City Council has determined that illegally parked vehicles are a burden on City resources; and

WHEREAS, illegally parked vehicles may impede the ability of emergency vehicles in responding to an emergency; and

WHEREAS, illegally parked vehicles may impede the safe and efficient operation of public transportation; and

WHEREAS, such matters affect the public's health and safety; and

WHEREAS, impoundment is a more efficient and effective means of preventing illegal parking in "tow away" zones than issuing parking citations; NOW THEREFORE,

THE CITY COUNCIL OF THE CITY OF EDMONDS, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Edmonds City Code Chapter 8.48 "Parking" is hereby amended by the addition of the following sections:

8.48.168 Parking of unlicensed vehicle.

A. No person shall stop, stand or park a vehicle on a publicly maintained street, highway, alley or public property within the City limits of Edmonds unless such vehicle possesses a proper and current vehicle license plate or plates, and such plate or plates are properly mounted on the vehicle in accordance with the State of Washington Department of Licensing rules and regulations.

B. Penalty. Any violation of this Section shall be an infraction and punishable by a monetary penalty as provided under Section 8.48.215 of this Chapter.

8.48.600 Authority to impound.

The Edmonds Police Department is hereby authorized to impound vehicles parked in violation of Chapter 8.48 of the Edmonds City Code provided that proper notice is given pursuant to Section 8.48.170 or 8.48.604. The Police Department is authorized to impound vehicles without notice as provided under Section 8.48.603.

8.48.601 Definition.

"Impoundment" means removal of a vehicle to a storage facility either by an officer or authorized agent of the Edmonds Police Department or by a contractor for towing and storage in response to a request from an officer or authorized agent of the Edmonds Police Department.

8.48.602 Applicable state law adopted by reference.

All applicable provisions of Chapter 46.55 RCW, as now or hereafter amended, are hereby incorporated into Edmonds City Code Chapter 8.48 by this reference. In the event that any provision of this Chapter may conflict with any provision of Chapter 46.55 RCW or other applicable state law, the state law provision will control.

8.48.603 Impound without prior notice.

A. A vehicle may be impounded with or without citation and without giving prior notice to its owner as otherwise required by this Chapter under the following circumstances:

1. When the vehicle is impeding or is likely to impede the normal flow of vehicular or pedestrian traffic; or
2. When the vehicle is illegally occupying a truck, commercial load, bus, loading, or other similar zone where, by order of the Director of Engineering or Chiefs of Police or Fire, parking is limited to designated classes of vehicles or is prohibited during certain hours, or designated days, or at all times, and where such vehicle is interfering with the proper and intended use of such zones; or
3. When a vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person as defined under RCW 46.16.381, as now or hereafter amended, is parked in a stall or space clearly and conspicuously marked as being reserved for disabled persons, whether the space is located on private property without charge or on public property; or
4. When the vehicle poses an immediate danger to public safety; or
5. When a police officer has probable cause to believe that the vehicle is stolen;

or

6. When a police officer has probable cause to believe that the vehicle constitutes or contains evidence of a crime, if impoundment is reasonably necessary in such instance to obtain or preserve the evidence.
- B. Nothing in this Section shall be construed to authorize seizure of a vehicle without a warrant where a warrant would otherwise be required by law.

8.48.604 Impound after notice.

- A. A vehicle not subject to impoundment under Section 8.48.603 may be impounded after notice of the proposed impoundment has been securely attached to and conspicuously displayed on the vehicle for a period of twenty-four (24) hours prior to such impoundment for the following reasons:
 1. When such vehicle is parked in violation of any law, ordinance, or regulation;
or
 2. 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 operation of any such defective vehicle to a place for correction of equipment defect in a manner directed by any law enforcement officer.
- B. The provisions of this Section shall not apply to vehicles impounded under Sections 8.50.030 and 8.50.040.

8.48.605 How impoundment is to be effected.

When impoundment is authorized by this Chapter, a vehicle may be impounded either by an officer or authorized agent of the Police Department, or by a contractor for towing and storage services acting at the request of an officer or authorized agent of the Police Department, and in accordance with a City contract.

8.48.606 Notice to owner.

- A. Not more than twenty-four (24) hours after impoundment of any vehicle, the towing contractor shall mail a notice by first class mail to the last known and legal

owners of the vehicle, as may be disclosed by the vehicle identification number, and as provided by the Washington State Department of Licensing. The notice shall contain the full particulars of the impoundment, procedures for redemption, a copy of the invoice for towing and storage, an opportunity for a hearing to contest the propriety of the impoundment, and a form to be submitted for requesting such a hearing.

B. Similar notice shall be given to each person who seeks to redeem an impounded vehicle except that if a vehicle is redeemed prior to the mailing of notice, then such notice need not be mailed.

C. The Edmonds Police Department shall give written notification to the vehicle's last registered and legal owner that an investigatory hold has been removed, except that if a vehicle is redeemed following notice by telephone and prior to the mailing of notice, then notice need not be mailed. In addition, the Police Department shall notify the towing contractor, by telephone or in writing, of the authorization to release such vehicle.

8.48.607 Redemption of impounded vehicles.

Vehicles impounded by the City pursuant to this Chapter shall be redeemed only under the following circumstances:

A. An impounded vehicle may be redeemed only by the legal owner, the registered owner, a person authorized in writing by the registered owner or the vehicle's insurer, a person who is determined and verified to have the permission of the registered owner of the vehicle, or one who has purchased a vehicle from the registered owner and who produces either proof of ownership or written authorization and signs a receipt therefor.

B. Any person redeeming a vehicle properly impounded by the City shall pay the towing contractor for the costs of impoundment (removal, towing and storage) prior to redeeming such vehicle. The towing contractor shall accept payment as provided in RCW 46.55.120, as now or hereafter amended.

C. Any person seeking to redeem a vehicle impounded as a result of a parking or traffic citation has a right to a Municipal Court hearing to contest the validity of the impoundment or the amount of towing and storage charges imposed. Any such request for hearing must be in writing, in a form approved by the Municipal Court

and signed by such person, and received by the Municipal Court within 10 days after the requesting person received notice of the impound and opportunity for a hearing. Such hearing shall be provided as follows:

1. The court, within five (5) days after receiving the request for a hearing, shall, in writing, notify the towing contractor, the person requesting the hearing if not the owner, the registered and legal owners of the vehicle, and the person or agency authorizing the impound of the hearing date and time.
2. If all the requirements to redeem the vehicle have been satisfied, the impounded vehicle shall be released to such person immediately, and a hearing as provided for in Section 8.48.608 shall be held within ninety (90) days of the written request for a hearing.
3. If all the requirements to redeem the vehicle have not been satisfied, the impounded vehicle shall not be released to such person until after the hearing provided pursuant to Section 8.48.608. Such person shall have the right to a hearing within seven (7) business days (Monday through Friday, excluding court holidays) of the court's receipt of the written request for a hearing.
4. Any person seeking a hearing who has failed to request such hearing within ten (10) days of receiving notice of the opportunity therefore, shall be deemed to have waived the right to a hearing, and the registered owner of the impounded vehicle shall be liable for any towing and storage fees incurred in relation to the vehicle.
5. Redemption of vehicles impounded for violations of driving with an invalidated license shall be as provided under RCW 46.55.120.

8.48.608 Post-impound hearing procedure.

Hearings requested pursuant to Section 8.48.607 shall be held in the Edmonds Municipal Court, which court shall determine whether the impoundment was proper and whether the associated removal, towing and storage fees charged were proper.

- A. At the hearing, the person requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were improper. The court may consider a written report made under oath by the officer

who authorized the impoundment in lieu of the officer's personal appearance at the hearing. An abstract of the driver's driving record is admissible without further evidentiary foundation and is prima facie evidence of the status of the driver's license, permit or privilege to drive and that the driver was in fact convicted of each offense listed on the abstract. In addition, a certified vehicle registration of the impounded vehicle is admissible without further evidentiary foundation and is prima facie evidence of the identity of the registered owner of the vehicle.

B. If the impoundment is found to be proper, the court shall enter an order so stating. In the event that the costs of impoundment (removal, towing and storage fees) have not been paid, the court's order shall provide that the impounded vehicle shall be released only after payment to the City of any fines imposed on the underlying citation and the costs of impoundment to the towing company, as well as payment of all court costs associated with the hearing. In the event that the court grants time payments, the City shall ensure that the costs of impoundment are ultimately paid to the towing company. The court shall grant time payments only upon a showing of extreme financial need, and where there is an effective guaranty of payment.

C. If the impoundment is determined to be improper, the court shall enter an order so stating and order the immediate release of the vehicle. The court shall order that the registered and legal owner of the vehicle shall bear no impoundment, towing, or storage fees, and that the City shall be liable for any such fees. The court shall enter judgment in favor of the towing contractor against the City for the impoundment, towing, and storage fees paid. In addition, the court shall enter judgment in favor of the registered and legal owner of the vehicle and against the City for the amount of the filing fee for the impound hearing petition as well as reasonable damages for loss of use for the vehicle during the time it was impounded. Said loss of use damages shall not be less than fifty dollars per day.

D. In the event that the court finds that the impoundment was proper but that the removal, towing and storage fees charged for the impoundment were improper, the court shall determine the correct fees to be charged. If the costs of impoundment have been paid, the court shall enter a judgment against the City and in favor of the person who has paid the costs of impoundment for the amount of the overpayment.

E. No determination of facts made at a hearing under this Section shall have any

collateral estoppel effect on any subsequent criminal prosecution and such determination shall not preclude litigation of those same facts in a subsequent criminal prosecution.

8.48.610 Contract for towing and storage.

A. The Finance Director is authorized to prepare specifications for towing and storage of vehicles, including instructions to bidders, containing such provisions as the Director shall deem advisable and not in conflict with this Chapter. The specifications shall be subject to the review and approval of the Budget Director and the approval of the City Council by resolution passed for such purpose.

B. In lieu of the individual bidding process authorized under subsection A, the City may, at its discretion, establish a rotational list of contractors to provide towing services. Said alternative process may proceed either according to contract specifications developed by the Director or pursuant to an existing bidding and contractual arrangement utilized by another municipality with which the City has entered into an interlocal agreement providing for the reciprocal use of each jurisdiction's bids for services.

**8.48.611 Contract for towing and storage –
Financial responsibility.**

Any contract for towing and storage under the provisions of this Chapter shall require the contractor to demonstrate proof of financial responsibility for any liability which the City may have as a result of any negligence, willful conduct, or breach of contract by the contractor, and for any damage which the owner of an impounded vehicle may sustain as a result of damage to or loss of the vehicle. Proof of financial responsibility shall be furnished either by proof of insurance, filing a surety bond and/or by depositing cash in such amounts as the Finance Director shall determine necessary.

8.48.613 Record of impounded vehicles.

A. The Police Department shall keep, and make available for public inspection, a record of all vehicles impounded under the provisions of this Chapter. The record shall include, but is not necessarily limited to, the following information:

1. Manufacturer's trade name or make;

2. Vehicle license number and state of registration;
 3. Vehicle identification number;
 4. Such other descriptive information as the Chief of Police deems useful for purposes of vehicle identification;
 5. Basis for impoundment, including reference to the appropriate Section or Sections of this subtitle; and
 6. Disposition of the vehicle and date of disposition.
- B. The Police Department shall furnish to the towing contractor, upon request, the name of the registered owner of any vehicle impounded by such contractor pursuant to this Chapter.

8.48.614 No impermissible regulation of consensual tows.

The provisions of this Chapter that establish requirements and performance standards for tow contractors are limited in effect to those contractors operating pursuant to an agreement with the City to provide nonconsensual, rather than consensual, tows. Nothing in this Chapter shall be construed as an attempt by the City to regulate, in violation of any applicable federal or state law, the service or route of towing contractors in providing consensual tows.

Section 2. Edmonds City Code Section 8.48.170 Parking Signs Or Other Notice Required is hereby amended to read as follows:

8.48.170 Parking signs or other notice required.

Whenever by this title or any other ordinance of this city any parking time limit is imposed or parking prohibited on designated streets, it shall be the duty of the city traffic engineer to erect appropriate signs giving notice thereof; provided, however, that the city traffic engineer may designate such no parking zone by painting the curb yellow, in lieu of or in addition to posting no parking signs. The words "no parking" may also be painted on such yellow curb. No regulations imposing parking time limits or prohibiting parking shall be effective unless the signs and/or curb markings authorized herein are in place at the time of any alleged infraction. The words "Tow Away Zone" shall be added to signs in areas where impoundment is authorized under this chapter.

Section 3. Adoption of applicable state law. A true and correct copy of Chapter 46.55 RCW, adopted and incorporated into the Edmonds City Code as provided herein, is attached to this ordinance as Exhibit A.

Section 4. Severability. If any section, sentence, clause or phrase of this ordinance should be held to be invalid or unconstitutional by a court of competent jurisdiction, such invalidity or unconstitutionality shall not affect the validity or constitutionality of any other section, sentence, clause or phrase of this ordinance.

Section 5. Effective Date. This ordinance, being an exercise of a power specifically delegated to the City legislative body, is not subject to referendum, and shall take effect five (5) days after passage and publication of an approved summary thereof consisting of the title.

APPROVED:

GARY HAAKENSEN, MAYOR

ATTEST/AUTHENTICATED:

SANDRA S. CHASE, CITY CLERK

APPROVED AS TO FORM:

OFFICE OF THE CITY ATTORNEY:

BY _____

FILED WITH THE CITY CLERK: 06/15/2001

PASSED BY THE CITY COUNCIL: 06/19/2001

PUBLISHED: 06/24/2001

EFFECTIVE DATE: 06/29/2001

ORDINANCE NO. 3365

SUMMARY OF ORDINANCE NO. 3365

of the City of Edmonds, Washington

On the 19th day of June, 2001, the City Council of the City of Edmonds, passed Ordinance No. 3365. A summary of the content of said ordinance, consisting of the title, provides as follows:

AN ORDINANCE OF THE CITY OF EDMONDS, WASHINGTON, AMENDING CHAPTER 8.48 PARKING OF THE EDMONDS CITY CODE PERTAINING TO PARKING BY AMENDING SECTION 8.48.170 PARKING SIGNS OR OTHER NOTICE REQUIRED, TO INCLUDE A NOTICE THAT VIOLATORS WILL BE TOWED AND BY ADDING SECTION 8.48.168, PARKING OF UNLICENSED VEHICLE, DECLARING IT ILLEGAL TO PARK AN UNLICENSED VEHICLE ON THE STREETS; SECTION 8.48.600 AUTHORITY TO IMPOUND, AUTHORIZING THE CITY TO IMPOUND ILLEGALLY PARKED VEHICLES; SECTION 8.48.601 DEFINITION, DEFINING IMPOUNDMENT; SECTION 8.48.602 APPLICABLE STATE LAW ADOPTED BY REFERENCE, ADOPTING CHAPTER 46.55 RCW BY REFERENCE; SECTION 8.48.603 IMPOUND WITHOUT PRIOR NOTICE, AUTHORIZING IMPOUNDMENT OF CERTAIN VEHICLES WITHOUT PRIOR NOTICE; SECTION 8.48.604 IMPOUND AFTER NOTICE, AUTHORIZING IMPOUNDMENT AFTER NOTICE; SECTION 8.48.605 HOW IMPOUNDMENT IS TO BE EFFECTED, ESTABLISHING IMPOUNDMENT PROCEDURES; SECTION 8.48.606 NOTICE TO OWNER, ESTABLISHING A METHOD FOR PROVIDING VEHICLE OWNERS WITH NOTICE OF IMPOUNDMENT; SECTION 8.48.607 REDEMPTION OF IMPOUNDED VEHICLES, ESTABLISHING A METHOD FOR REDEEMING IMPOUNDED VEHICLES; SECTION 8.48.608 POST-IMPOUND HEARING PROCEDURE, ESTABLISHING A METHOD FOR POST-IMPOUNDMENT HEARINGS; 8.48.610 CONTRACT FOR TOWING AND STORAGE, AUTHORIZING THE CITY TO ENTER INTO AN AGREEMENT FOR IMPOUND SERVICES; 8.48.611 CONTRACT FOR TOWING AND STORAGE-FINANCIAL RESPONSIBILITY, REQUIRING THE IMPOUND CONTRACTOR TO DEMONSTRATE PROOF OF FINANCIAL RESPONSIBILITY; 8.48.613 RECORD OF IMPOUNDED VEHICLES, DIRECTING THE EDMONDS POLICE DEPARTMENT TO MAINTAIN A

RECORD OF ALL IMPOUNDED VEHICLES; 8.48.614 NO IMPERMISSIBLE REGULATION OF CONSENSUAL TOWS, CLARIFYING THE SCOPE AND EFFECT OF CITY REQUIREMENTS AND STANDARDS FOR TOWING CONTRACTORS, AND FIXING A TIME WHEN THE SAME SHALL BECOME EFFECTIVE.

The full text of this Ordinance will be mailed upon request.

DATED this 20th day of June, 2001.

CITY CLERK, SANDRA S. CHASE