



Request for City Council Committee Action from the Department of Regulatory Services

Date: August 24, 2011

To: Council Member Don Samuels, Chair – Public Safety, Civil Rights & Health Committee

Referral to: Council Member Sandy Colvin Roy, Chair - Transportation & Public Works Committee

Subject: Amendment of Article X of MCO 478 related to vehicle impoundment - updating processes to be consistent with state statutes.

Recommendation: That the process amendments as proposed be approved.

Previous Directives: None

Department Information

Prepared by: Clara Schmit-Gonzalez, Manager of Parking Management and Traffic Control – (612) 673-5310

Approved by:

Henry Reimer, Interim Director of Regulatory Services

Charles Elliott, Director, Construction Services & Development Review

Clara Schmit-Gonzalez, Manager of Parking Management and Traffic Control

Presenters in Committee: Clara Schmit-Gonzalez, Joel Fussy, Atif Saeed

Financial Impact

- No financial impact

Community Impact

- City Goals

Supporting Information

An incident surrounding the ticketing and towing of a vehicle for more than 5 outstanding traffic violations on March 18, 2011 resulted in the realization that certain portions of Article X of Chapter 478 of Title 18 of City ordinances relating to the impoundment of vehicles were out of date and needed to be updated.

In the specific incident a hearing was requested to review the tow authorization per City ordinance 478.1045 requiring such within 48 hours and the vehicle owner also challenged the tow based on the fact that the owner appeared before the removal of the vehicle by the tow truck as referenced in City ordinance 478. 1080.

Upon review of this request, City Attorney Joel Fussy realized that this section of City ordinances had not been revised as statutory changes were made and though it logically made no sense to cancel a statutorily authorized tow under 169. 041, subd. 5 (2)(b)(13), our ordinance did not make that clear.

As a result of this incident, staff from the Public Works Impound Lot. Traffic Control and the City Attorney's office reviewed Article X of Chapter 478 and drafted the attached amendments to the Code of City ordinances.

These amendments in general accomplish three things. First of all, the requirement for a hearing upon the impoundment of a vehicle is removed, since processes already exist to challenge the legality of a tow. Statute currently requires that a ticket be written for such violations, so the validity of such is reviewable in the courts, but as well, claims of unauthorized towing also come before the City Claims Committee. At the time, the original ordinance language was drafted, such processes were not in place.

Additionally, State Statute 169.041 now clarifies when vehicles may be towed and it specifies in 169.041, Subd.5 (2) (b) (13) that having five or more outstanding traffic citations is reason for impoundment of a vehicle. The statute does not call for a hearing or for any reason for release other than resolving the outstanding citations with the Courts. Recent court decisions have ruled that where there is shared power on the state and city level such as exists in the traffic area, where any conflict exists, the statute language is prevailing. Therefore, we have proposed modifications of the City ordinance language to match statutory language.

With respect to the "drop fee" ordinance 478.1080 calling for the release of a vehicle from the tow hook if the owner showed up before removal, it logically only makes sense in those instances in which removal of the vehicle from the area resolves the violation. This is not the case for the instance of five or more outstanding traffic violations, however, our ordinance did not specifically state that exception. Our modification now makes that exception clear.

In addition, we made some other terminology changes such as changing "meter monitor" to "traffic control agent".

These changes make Article X of Chapter 478 consistent with statutory processes and requirements and we recommend that the changes be adopted. If these changes are not adopted, City Attorney Joel Fussy has raised a concern that the hearing referred to in the original language might overwhelm our existing administrative hearing capacity.