

ORDINANCE NO. 2019-_____

AN ORDINANCE relating to Traffic; amending the City of Yakima Municipal Code, Chapter 9.47, Vehicle Impounds, adding a definition of “Unlicensed Vehicles” and prohibiting the parking of Unlicensed Vehicles, for which the penalty is a civil infraction; and, amending 9.47.010(J)(1)(b) and 9.47.040(B) for the purpose of clarifying a vehicle cannot be parked longer than 24 hours on one block face.

BE IT ORDAINED BY THE CITY OF YAKIMA:

Section 1. Chapter 9.47 of the Yakima Municipal Code is hereby amended to read as follows:

Chapter 9.47 VEHICLE IMPOUNDS

Sections:

- 9.47.010 Definitions.
- 9.47.020 Tow truck operators.
- 9.47.030 Junk vehicle.
- 9.47.040 Unauthorized vehicle.
- 9.47.050 Storage, return requirements—Authority to view impounded vehicle.
- 9.47.060 Criminal storage and retention of vehicle hulks on private property.
- 9.47.070 Abandoned vehicle.
- 9.47.071 Prohibition against parking Unlicensed Vehicle.
- 9.47.072 Towing and Impound of Unlicensed Vehicle.
- 9.47.073 Civil Infraction-Violation-Unlicensed Vehicle.
- 9.47.080 General administrative, interpretive authority.
- 9.47.090 Construal, severability—Nonwaiver—No rights created.

9.47.010 Definitions.

The definitions set forth in this section apply throughout this chapter:

- A. “Abandoned vehicle” means a vehicle that a registered tow truck operator has impounded and held in the operator’s possession for one hundred twenty consecutive hours.
- B. “Abandoned vehicle report” means the document prescribed by the state that the towing operator forwards to the Department after a vehicle has become abandoned.
- C. “Department” means the Washington State Department of Licensing.
- D. “Highway” means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.
- E. “Impound” means to take and hold a vehicle in legal custody. There are two types of impounds, public and private.

(1) "Public impound" means that the vehicle has been impounded at the direction of a law enforcement officer or by a public official having jurisdiction over the public property upon which the vehicle was located.

(2) "Private impound" means that the vehicle has been impounded at the direction of a person having control or possession of the private property upon which the vehicle was located.

F. "Junk vehicle" means a motor vehicle certified by the chief of police or his designee as meeting at least three of the following requirements:

(1) Is three years or older;

(2) Is extensively damaged, such damage including, but not limited to, any of the following: a broken window or windshield, or missing wheels, tires, motor, or transmission;

(3) Is apparently inoperable;

(4) Has a fair market value equal only to the value of the scrap in it.

G. "Registered tow truck operator" or "operator" means any person who engages in the impounding, transporting, or storage of unauthorized vehicles or the disposal of abandoned vehicles.

H. "Residential property" means property that has no more than four living units located on it.

I. "Tow truck" means a motor vehicle that is equipped for and used in the business of towing vehicles with equipment as approved by the State Patrol.

J. "Unauthorized vehicle" means a vehicle, motor home as defined in RCW 46.04.305, camper as defined in RCW 46.04.085 or trailer as defined in RCW 46.04.620 which is parked or left standing for the indicated period of time. There are two types of unauthorized vehicles, public and private.

(1) Public Locations.

a. A vehicle is an unauthorized vehicle immediately when:

(i) The vehicle is impeding the flow of traffic or entry or exit into any driveway, including access to city of Yakima property; or

(ii) A vehicle poses an immediate danger to public safety including but not limited to danger arising from a mechanical defect(s); or

(iii) A law enforcement officer has probable cause to believe that the vehicle is stolen; or

(iv) A law enforcement officer has contact with a vehicle operator on public property or highway for purposes of arrest, placement into custody, investigatory stop, accident

scene investigation, or voluntary contact by the operator, and the officer observes that the operator is physically or mentally incapable of deciding or refuses to decide upon steps to be taken to protect the vehicle and its contents; or

(v) A vehicle is left unattended on a highway and it is impeding construction, maintenance or repair of the highway, in violation of a temporary sign or barricade prohibiting parking on or entry into the highway, or a portion thereof, when the sign or barricade has been placed under the direction of the city of Yakima director of public works, or his designee, to facilitate construction, repair or maintenance of the public highway and when the sign or barricade notifies that vehicles parked or left unattended in violation thereof are subject to impound by inclusion of the words "subject to impound," "tow away zone," or words of similar import; or

(vi) A vehicle is left unattended in violation of YMC 9.50.060 and the vehicle is impeding street cleaning; or

(vii) A vehicle is left unattended in a marked loading zone posted with a sign notifying that vehicles parked in violation thereof are subject to impound by the inclusion on the sign of the words "subject to impound," "tow away zone," or words of similar import; or

(viii) A vehicle must be removed from a fire zone established in YMC 9.50.240, as determined by a commanding officer; or

(ix) A vehicle without a special license plate, card, or decal indicating that the vehicle is being used to transport a disabled person under RCW 46.16.381 is parked in a stall or space clearly and conspicuously marked under RCW 46.61.581 which space is provided on private property without charge or on public property; or

(x) The driver of a vehicle is arrested for a violation of RCW 46.20.342, 46.20.345, 46.61.502 or 46.61.504; or

(xi) A law enforcement officer finds a vehicle standing upon the roadway in violation of any of the provisions of RCW 46.61.560, the officer may provide for the removal of vehicle or may require the driver or other person in charge of the vehicle to move the vehicle to a position of safety off the roadway; or

(xii) A law enforcement officer finds a vehicle unattended upon a highway where the vehicle jeopardizes public safety; or

(xiii) A law enforcement officer finds a vehicle unattended at the scene of an accident; or

(xiv) The driver of a vehicle is arrested and taken into custody by a law enforcement officer; or

(xv) Upon determining that a person is operating a motor vehicle without a valid driver's license in violation of RCW 46.20.005 or with a license that has been expired for ninety days or more; or

(xvi) A law enforcement officer finds an unauthorized vehicle parked in violation of YMC 9.50.060(C) and/or YMC 9.50.050(55), provided the location is posted with a sign

notifying that vehicles parked during the dates and times specified therein are subject to immediate impound by the inclusion on the sign of the words "subject to impound," "tow away zone," or words of similar import; or

(xvii) If in a publicly owned or controlled parking facility, properly posted under YMC 9.47.040(D); or

(xviii) Constituting an accident or a traffic hazard.

b. After twenty-four hours on any one block face if on a highway not subject to subsection (1)(a) of this section.

(2) Private Locations.

a. Immediately if on residential property.

b. After twenty-four hours if on private, nonresidential property.

K. "Unlicensed Vehicle" for the purposes of this chapter is any car, truck, van, motor home, camper, trailer, motorcycle or other vehicle not displaying a proper, current proof of licensing from the state of license plate issuance or any car, truck, van, motor home, camper, trailer, motorcycle or other vehicle not bearing license plates.

L-K. "Vehicle hulk" means the remnant or surplus of a motor vehicle which is inoperative and cannot be mechanically operated without addition to vital parts of mechanism and the application of a substantial amount of labor to effect repairs, or any wrecked, dismantled, or inoperative vehicle or any part thereof.

9.47.040 Unauthorized Vehicle.

A. Immediate Public Impound. Unauthorized vehicles pursuant to YMC 9.47.010(J)(1)(a) may be immediately impounded by a registered tow truck operator at the direction of a law enforcement officer. A public works department employee under written designation by the public works director may authorize impoundment of vehicles pursuant to YMC 9.47.010(J)(1)(a)(i), (v) or (vi) in accord with procedures of this chapter or other applicable code sections.

B. Public Impound After Forty-Eight Hours. Unauthorized vehicles pursuant to YMC 9.47.010(J)(1)(b) may be impounded when the vehicle has ~~remained substantially in that same location failed to move one block face~~ for an additional forty-eight hours after notice is given by a law enforcement officer pursuant to subsections (B)(1) and (2) of this section as follows:

(1) The law enforcement officer shall securely attach to and conspicuously display on the vehicle a notification sticker. The chief of police or an authorized designee shall design the sticker in compliance with RCW 46.55.085.

(2) If the vehicle has current registration plates, the officer shall check the records to learn the identity of the last owner of record and the officer or the agency shall make a reasonable effort to contact the owner by telephone in order to give the owner the information on the notification sticker.

C. Immediate Private Impound. Unauthorized vehicles pursuant to YMC 9.47.010(J)(2) may be immediately impounded by a registered tow truck operator at the direction of the property owner or his agent. A law enforcement officer may also direct the impoundment pursuant to a writ or court order.

D. Posting Requirements—Exception. No person may impound, tow, or otherwise disturb any unauthorized vehicle standing in nonresidential private property or in a public parking facility for less than twenty-four hours unless a sign is posted near each entrance and on the property in a clearly conspicuous and visible location to all who park on such property that clearly indicates:

- (1) The times a vehicle may be impounded as an unauthorized vehicle;
- (2) The name, telephone number and address of the towing firm where the vehicle may be redeemed; and
- (3) Such signs shall be of a type, size and placed so as to conform with Department rules and regulations.

E. Signed Authorization. The person requesting a private impound or the law enforcement officer or the public official requesting a public impound shall provide a signed authorization for the impound at the time and place of the impound to the registered tow truck operator before the operator may proceed with the impound. A registered tow truck operator may not serve as an agent of a property owner for the purposes of signing an impound authorization.

F. Other Violations. A law enforcement officer may authorize impoundment of vehicles on public or private property for other violations, in accord with the procedures of this chapter or other applicable code sections.

G. Notice of Impound. The impounding towing operator shall notify the legal and registered owners of the impoundment of the vehicle as shown on department records. The notification shall be sent by first-class mail within twenty-four hours after the impoundment to the last known registered and legal owners of the vehicle, the addresses of whom shall be provided by the chief of police or an authorized designee. The notification shall include the name of the impounding tow firm, its address and telephone number, the location and time of the impound, and by whose authority the vehicle was impounded. The notice shall also include the written notice of the right of redemption and opportunity for a hearing to contest the validity of the impoundment pursuant to YMC 9.47.040(H), (I), (J) and (K).

H. Redemption. Vehicles may be redeemed from such operator only under the following circumstances:

- (1) Impounded vehicle may be redeemed by only:
 - a. A legal owner; or
 - b. The registered owner; or

- c. A person authorized in writing by the registered owner or the vehicle's insurer; or
- d. One who has purchased the vehicle from the registered owner and who produces proof of ownership or written authorization, and who signs a receipt acknowledging delivery of the vehicle; provided, that a person redeeming a vehicle pursuant to subsection (1)(b), (c) or (d) of this subsection shall sign an agreement in the following form:

RECEIPT/HOLD HARMLESS AGREEMENT

I claim a present right of possession as (circle one) (registered owner) (person authorized in writing by the registered owner) (person authorized in writing by the vehicle's insurer) (one who has purchased the vehicle from the registered owner) in

(vehicle make, model, year, license number, and motor number)
and, I acknowledge receipt of this vehicle from

(tow truck operator-business name)

I understand that by allowing me to redeem this vehicle the City may be subject to liability for damages to the legal owner. I agree to defend, indemnify, and hold harmless the City of Yakima, its officers, agents, and employees against all claims of liability involving release of the vehicle to me.

(Date of signature)

(Signature)

(Address)

Witness: _____

(2) No vehicles impounded pursuant to YMC 9.47.010(J)(1)(a)(i) through (xvi) shall be released without written authorization for release by the chief of police or an authorized designee.

(3) The vehicle shall be released upon conditions stated herein, including the presentation to any person having custody of the vehicle of commercially reasonable tender sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding, or storing any such vehicle.

(4) In accord with RCW 46.55.120(1)(e), any person who stops payment on a personal check, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, to a towing firm that has provided a service pursuant to

this section or in any other manner defrauds the towing firm in connection with services rendered pursuant to this section shall be liable for damages in the amount of twice the towing and storage fees, plus costs and reasonable attorney's fees.

I. Hearings. The registered tow truck operator shall give to each person who seeks to redeem an impounded vehicle written notice of the right of redemption and opportunity for a hearing, which notice shall be accompanied by a form to be used for requesting a hearing, and a copy of the towing and storage invoice. The notice shall further reflect that the written hearing request must be received by the city of Yakima municipal court within ten days of date of issuance; that the consequence of failing to request a hearing is waiver of that right and the registered owner's liability for all towing, storage and related costs; and that the party requesting the hearing may be found liable for said costs. The registered tow truck operator shall maintain a record evidenced by the redeeming person's signature that such notification was provided and the date it was provided.

(1) Any person seeking to redeem an impounded vehicle under this section has a right to a hearing in Yakima County municipal court to contest the validity of the impoundment or the amount of towing and storage charges. Any request for a hearing shall be made in writing on the form provided for that purpose and must be received by the court within ten calendar days of the date the notice was provided for in subsection I of this section. If the hearing request is not received by the court within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage, or other impoundment charges permitted under this chapter. Upon receipt of a timely hearing request, the court shall proceed to hear and determine the validity of the impoundment.

(2) The court, within five days after the request for a hearing, shall notify the registered tow truck operator, the person requesting the hearing if not the owner, the city attorney in the event of public impound, the registered and legal owners of the motor vehicle, and the person or agency authorizing the impound in writing of the hearing date, time and place.

(3) At the hearing, the person or persons requesting the hearing may produce any relevant evidence to show that the impoundment, towing, or storage fees charged were not proper.

(4) At the conclusion of the hearing, the court shall determine whether the impoundment was proper, whether the towing or storage fees charged were in compliance with the posted rates, and who is responsible for payment of the fees.

(5) If the impoundment is found proper, the impoundment, towing and storage fees as permitted under this chapter together with court costs of forty dollars shall be assessed against the person or persons requesting the hearing, registered owner or other responsible party unless the operator did not have a signed and valid impoundment authorization from a private property owner or an authorized agent. In that case, or for just cause, the operator forfeits towing and storage fees.

(6) If the impoundment is determined to be invalid, then the registered and legal owners of the vehicle shall bear no impoundment, towing, or storage fees, and any bond or other security shall be returned or discharged as appropriate, and the person or agency who authorized the impoundment, or other responsible party, shall be liable for

any towing, storage, or other fees permitted under this chapter, unless fees are adjudged forfeited or ordered paid by another.

(7) The city shall have no obligation to pay any impoundment, storage, penalty, or other charges incurred where the registered tow truck operator fails to give proper notices, furnish forms, maintain records, or furnish, without charge, proper documentation of the same when required in any hearing to determine liability, or where the towing company otherwise violates the provisions of this chapter.

(8) The court may assess, allocate, or deny fees in whole or part against any party or may impose conditions on payment.

J. Promissory Note. In the event a legal or registered owner requests a hearing under the terms of this section, the impounded vehicle shall be released to such owner without charge; provided, that such owner requests such release and executes a promissory note to the city of Yakima sufficient to cover the costs of towing, storage, or other services rendered during the course of towing, removing, impounding or storing any motor vehicle plus a penalty for failure to make timely payment. Such promissory note shall be in substantially the following form:

VEHICLE IMPOUNDMENT PROMISSORY NOTE

I promise to pay to the City of Yakima, at its police department offices at 200 South Third Street, Yakima, Washington, the sum of

\$ _____
(total amount of all towing, impoundment, storage and related fees)

within thirty days of the date set by the Yakima Municipal Court for the impounded vehicle hearing which I have requested concerning the impoundment of the following described motor vehicle:

(Vehicle make, model, year, license number)

I further promise to pay the City of Yakima at its police department office the additional penalty amount of three hundred dollars in the event that I fail to pay the amount listed in the preceding paragraph when due. Notice of default and demand are hereby waived. In the event court action is necessary to collect this note the City of Yakima shall be entitled to court costs and reasonable attorney fees.

(Signature)

(Address)

(Telephone Number)

(Name and Address of Employer)

(Driver's License Number)

In the event the signator of a vehicle impoundment promissory note shall appear at a hearing and pay immediately any judgment rendered against him, such promissory note shall be deemed cancelled.

K. Sale. Any impounded abandoned vehicle not redeemed within fifteen days of mailing of the notice of custody and sale as required by RCW 46.55.110(2) shall be sold at public auction in accordance with all the provisions and subject to all the conditions of RCW 46.55.130. A vehicle may be redeemed any time before the start of the auction upon payment of towing, storage and the related fees.

9.47.071 Prohibition against parking Unlicensed Vehicle.

No unlicensed vehicle as described in YMC 9.47.010(K) shall be permitted to park on any public street, parking lot or parking strip in the City of Yakima.

9.47.072 Towing and impound of Unlicensed Vehicle.

Any unlicensed vehicle parked on a public street or parking lot within the City of Yakima shall be towed and impounded at owner's risk and expense by a registered tow truck operator at the direction of a law enforcement officer or an authorized designee.

9.47.073 Civil Infraction-Violation-Unlicensed Vehicle

Failure to perform any act required, or the performance of any act prohibited, by this chapter is designated as a civil infraction, and any person, firm or corporation found to have committed such a civil infraction shall be assessed a monetary penalty of \$50. Each day during which a violation continues shall be deemed a separate offense. Whenever a monetary penalty is imposed by a court for violation of a city ordinance it shall be payable immediately.

Section 2. This ordinance shall be in full force and effect 30 days after its passage, approval, and publication as provided by law and by the City Charter.

PASSED BY THE CITY COUNCIL, signed and approved this 17th day of September, 2019.

ATTEST:

Kathy Coffey, Mayor

Sonya Claar Tee, City Clerk

Publication Date:_____

Effective Date:_____