

**CITY OF SAMMAMISH
WASHINGTON
ORDINANCE NO.O2001-82**

**AN ORDINANCE OF THE CITY OF SAMMAMISH,
WASHINGTON, RESCINDING SECTION 62, VEHICLE
IMPOUNDMENT, OF ORDINANCE NO. O2000-52 AND
ADOPTING A NEW SECTION 62, VEHICLE
IMPOUNDMENT UPON ARREST OF DRIVER FOR
DRIVING WHILE LICENSE SUSPENDED OR REVOKED**

WHEREAS, RCW 46.55.113 provides municipalities with authority to impound vehicles driven by persons whose driver's licenses or privilege to drive is in suspended or revoked status; and

WHEREAS, the Council finds that an ordinance providing for impoundment and a process for redemption is appropriate;

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SAMMAMISH,
WASHINGTON, DO ORDAIN AS FOLLOWS:**

Section 1. Section 62 of Ordinance O2000-52 Rescinded and Replaced. Section 62 of Ordinance No. O2000-52 is hereby rescinded and shall be replaced by a new Section 62 to read as hereinafter set forth:

Section 62. Vehicle Impoundment Upon Arrest of Driver for Driving While License Suspended or Revoked.

1. Appointment of King County as agent for the City.

King County and the King County Sheriff's Office and/or its designees are appointed and authorized to act as agent of the City in regard to all impoundments and actions permitted by this Section.

2. Impoundment authorized.

A. If a driver is arrested for a violation of Driving While License Suspended ("DWLS") in the Third Degree, as defined in RCW 46.20.342, or if the driver is arrested for driving with a license suspended in another state, the vehicle shall be impounded.

B. If the driver is arrested for a violation of DWLS Second Degree, as defined in RCW 46.20.342, the vehicle shall be impounded for thirty (30) days.

C. If the driver is arrested for a violation of DWLS First Degree, as defined in RCW 46.20.342, the vehicle shall be impounded for thirty (30) days.

3. Administrative fee.

If a vehicle is impounded pursuant to the provisions of this Section, an administrative fee of One Hundred Dollars (\$100.00) shall be paid to the City of Sammamish Finance Department, prior to redemption of the vehicle as provided by this Section. The administrative fee shall be for the purpose of offsetting, to the extent practicable, the cost to the City of implementing, enforcing, and administering this Section and must be deposited in an appropriate account.

4. Owner of impounded vehicle to be notified.

A. Not more than twenty-four (24) hours after impoundment of any vehicle, the tow truck operator shall mail a notice by first class mail to the last known address of the legal and registered owner(s) 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 include the name of the impounding tow firm, its address, and telephone number. The notice shall include the location and time of the impound, and by whose authority the vehicle was impounded. The notice also shall include written notice of the right of redemption and opportunity for a hearing to contest the validity of the impound or the amount of towing and storage charges pursuant to this Section, as set forth on a form provided by the King County Sheriff's Office. The notice shall state the mandatory length of the impound. The notice shall state that a person who desires to redeem an impounded vehicle at the end of the mandatory period, must within five (5) days of the impound, at the request of the tow truck operator, pay a security deposit to the tow truck operator of not more than one-half ($\frac{1}{2}$) of the applicable impound storage rate for each day of the proposed suspended license impound to ensure payment of the costs of the removal, towing, and storage of the vehicle pursuant to RCW 46.55.120(1)(b). The notification shall state that if the security deposit is not posted within five (5) days of the impound, the vehicle will be processed and sold at auction as an abandoned vehicle pursuant to RCW 46.55.130. The notice shall set forth the requirements of Subsection 5 of this Section regarding the payment of the costs of removal, towing, and storage as well as providing proof of payment of the administrative fee and proof of satisfaction of any penalties, fines, or forfeitures before redemption. The notice must also state that the registered owner is ineligible to purchase the vehicle at the abandoned vehicle auction, if held.

B. Notwithstanding Part A of this Subsection, a rental car business may immediately redeem a rented vehicle it owns by payment of the costs of removal, towing, and storage, whereupon the vehicle will not be held for a suspended license impound. The officer directing the impound shall notify the rental car business as soon as practicable of the impound.

C. If the date on which a notice required by Part A of this Subsection is to be mailed falls upon a Saturday, Sunday, or postal holiday, the notice may be mailed on the next day that is neither a Saturday, Sunday, nor a postal holiday.

D. 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 notice need not be mailed. The tow truck operator shall maintain a record evidenced by the redeeming person's signature that the notification was provided.

5. Redemption of impounded vehicles.

Vehicles impounded pursuant to this Section shall be redeemed only under the following circumstances, and pursuant to agreement between the City and the King County Sheriff's Office:

A. Only the registered owner, a person authorized by the registered owner, or one who has purchased the vehicle from the registered owner, who produces ownership or authorization and signs a receipt therefor, may redeem an impounded vehicle. A person redeeming a vehicle impounded pursuant to this Section must, prior to redemption, establish that he or she has a valid driver's license and insurance.

B. Any person so redeeming a vehicle impounded under this Section shall pay the tow truck operator for costs of impoundment (removal, towing, and storage) and the administrative fee prior to redeeming such vehicle. The tow truck operator shall accept payment as provided in RCW 46.55.120(1)(e), as now or hereafter amended. If the vehicle was impounded pursuant to this Section and was being operated by the registered owner when it was impounded, it may not be released to any person until all penalties, fines, or forfeitures owed by the registered owner have been satisfied. A vehicle impounded pursuant to this Section can be released only pursuant to written order from the King County Sheriff's Office or a court.

C. The King County Sheriff's Office shall assign an administrative hearings officer(s) to conduct post-impoundment hearings pursuant to this Section. Any person seeking to redeem a vehicle impounded pursuant to this Section has a right to a hearing before an administrative hearings officer to contest the validity of an impoundment or the amount of removal, towing, and storage charges or administrative fee. Any request for a hearing shall be made in writing, on a form provided by the King County Sheriff's Office and signed by such person, and received by the King County Sheriff's Office within ten (10) days (including Saturdays, Sundays, and holidays) of the latter of the date the notice of right of redemption and opportunity for hearing was mailed to the person or the date the notice was given to the person by the tow truck operator. Such hearing shall be provided as follows:

i. If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under Subsection 2 of this Section have been satisfied, then the impounded vehicle shall be released immediately and a hearing shall be held within ninety (90) days of the written request for hearing.

ii. If all of the requirements to redeem the vehicle, including expiration of any period of impoundment under Subsection 2 of this Section, have not been satisfied, then the impounded vehicle shall not be released until after the hearing which shall be held within two (2) business days (excluding Saturdays, Sundays, and holidays) of the written request for hearing.

iii. Any person seeking a hearing who has failed to request such hearing within the time specified in this Section may petition the King County Sheriff's Office for an extension to file a request for hearing. Such extension shall only be granted upon the demonstration of good cause as to the reason(s) the request for hearing was not timely filed. For the purpose of this Section, good cause shall be defined as circumstances beyond the control of the person seeking the

hearing that prevented such person from filing a timely request for hearing. In the event such extension is granted, the person receiving such extension shall be granted a hearing in accordance with this Section.

iv. If a person fails to file a timely request for hearing and no extension to file such a request has been granted, the right to a hearing is waived, the impoundment and the associated costs of impoundment are deemed to be proper, and neither the City or County shall be liable for removal, towing, and storage charges arising from the impoundment.

D. The Sammamish Police Chief, or designee, is authorized to release a vehicle impounded pursuant to this Section prior to the expiration of any period of impoundment upon petition of the spouse or domestic partner of the registered owner of the vehicle, based on economic or personal hardship to such spouse or domestic partner resulting from the unavailability of the vehicle and after consideration of the threat to public safety that may result from the release of the vehicle, including, but not limited to, the driver's criminal history, driving record, license status, and access to the vehicle. If such release is authorized, the person redeeming the vehicle must satisfy the requirements of Parts A and B of this Subsection with the exception of payment of the penalties, fines, or forfeitures owed by the driver, and with the exception of the administrative fee.

E. The Sammamish Police Chief, or designee, is authorized to release a vehicle impounded pursuant to this Section prior to the expiration of any period of impoundment upon the petition of the registered owner of the vehicle based upon economic or personal hardship or equity, provided the registered owner was not the operator of the vehicle at the time of the impound. If such release is authorized, the registered owner must satisfy the requirements of Parts A and B of this Subsection, with the exception of the administrative fee, in order to redeem the vehicle.

6. Post-impoundment hearing procedure.

Hearings requested pursuant to Subsection 5 of this Section shall be held by an administrative hearings officer who shall determine whether the impoundment was proper and whether the associated towing and storage and administrative fees charged were proper.

A. At the hearing, the King County Sheriff's Office may produce any relevant evidence to show that either the impound or fees, or both, were proper. 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 convicted of each offense shown 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. At the hearing, the person who requested the hearing may produce any relevant evidence to show that either the impound or fees or both were not proper.

C. If the impoundment is found to be proper, the administrative hearings officer shall enter an order so stating. In the event that the costs of impoundment (removal, towing, storage, and administrative fees) have not been paid or any other applicable requirements of Subsection 5, Parts

A and B of this Section not satisfied, or any period of impoundment has not expired, the administrative hearings officer's order shall also provide that the impounded vehicle shall be released only after payment of any fines imposed on any underlying traffic violations.

D. If the impoundment is found to be improper, the administrative hearings officer shall enter an order so stating and order the immediate release of the vehicle. If the costs of impoundment have already been paid, the administrative hearings officer shall enter judgment against the County and in favor of the person who has paid the costs of impoundment in the amount of the costs of the impoundment, which are removal, towing, storage, and administrative fees, plus interest at the rate of twelve percent (12%) per year from the date that person paid the costs, and the County shall comply with the order. If the costs of impoundment, which are removal, towing, and storage, have not been paid, the hearings officer shall enter an order directing the County to pay the costs to the tow truck operator, and the County shall comply with the order. The County and City are not liable for damages if the police officer who ordered the impound relied in good faith and without gross negligence, on the records of the Department of Licensing in ascertaining whether the operator of the vehicle had a suspended or revoked driver's license.

E. In the event that the administrative hearings officer finds that the impound was proper, but that the removal, towing or storage fees charged for the impoundment were improper, the administrative hearings officer shall determine the correct fees to be charged. If the costs of impoundment have been paid, the administrative hearings officer shall enter a judgment against the County and in favor of the person who has paid the costs of impoundment for the amount of the overpayment plus interest at the rate of twelve percent (12%) per year on the overpayment from the date that person paid the costs, and the County shall comply with the order. The tow truck operator is liable to the County for the amount of the overpayment and interest at the rate of twelve percent (12%) per year. The tow truck operator shall make the payment to the County no later than sixty (60) days after the tow truck operator receives notice of the requirement to pay. The County may bring an action in the King County District Court against the tow truck operator to recover the overpayment plus interest at the rate of twelve percent (12%) per year.

F. No determination of facts made at a hearing under this Section shall have any collateral estoppel effect on a subsequent criminal prosecution and shall not preclude litigation of those same facts in a subsequent criminal prosecution.

G. An appeal of the administrative hearings officer's decision shall be conducted according to, and is subject to the procedures of this Section. In accordance with RCW 46.55.240(1)(d), a decision made by an administrative hearings officer may be appealed to the King County District Court for final judgment. The hearing on the appeal under this Subsection shall be de novo. A person appealing such a decision must file a request for an appeal in district court within fifteen (15) days after the decision of the administrative hearings officer and must pay a filing fee in the same amount required for the filing of a suit in district court. If a person fails to file a request for an appeal within the time specified by this Section or does not pay the filing fee, the right to an appeal is waived and the administrative hearings officer's decision is final.

7. Contracts for towing and storage.

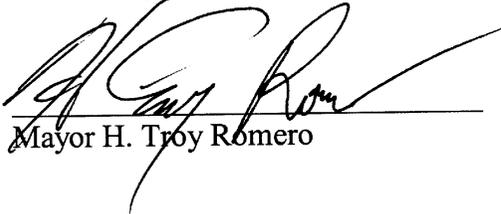
The King County Sheriff's Office and the City Manager and/or designees are authorized and directed to enter into appropriate agreements and to promulgate rules and regulations to provide for the fair and efficient administration of any contract(s) awarded to registered tow truck operators pursuant to this Section. Such contracts shall be at no cost to the County and the City and shall provide that the tow truck operator may recover the costs of towing and storage only from the person seeking to redeem the impounded vehicle, or from the proceeds of sale of an unclaimed vehicle pursuant to RCW 46.55.130, and that the County and City shall not be responsible for payment of such costs except upon order of the administrative hearings officer pursuant to Subsection 6 of this Section.

Section 2. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 3. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

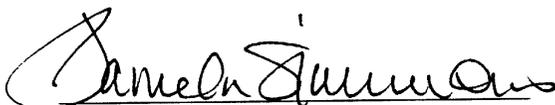
**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE 21st DAY OF MARCH, 2001.**

CITY OF SAMMAMISH



Mayor H. Troy Romero

ATTEST/AUTHENTICATED:



Pamela Simmons, Acting City Clerk

Approved as to form:



Bruce L. Disend, City Attorney

Filed with the City Clerk: March 7, 2001
Passed by the City Council: March 21, 2001
Date of Publication: March 24, 2001
Effective Date: March 29, 2001