

ORDINANCE

The Mayor and Council of the City of Duluth, Georgia hereby ordain that the Code of Ordinances of the City of Duluth is hereby amended by deleting in their entirety Article IV of Chapter 8, and by further adding the following amended Article IV of Chapter 13 commencing with Section 8-86 and ending with Section 8-96.

ARTICLE IV. ABANDONED VEHICLES AND IMPOUNDING OF VEHICLES*

*State law references: Authority to provide by ordinance for removal and disposal of junked vehicles, O.C.G.A. § 36-60-4; abandoned motor vehicles, O.C.G.A. § 40-11-1 et seq.; when police officers may remove vehicles, O.C.G.A. § 40-6-206; removal of improperly parked cars or trespassing personal property, O.C.G.A. § 44-1-13.

Sec. 8-86. General prohibition; removal required.

It shall be unlawful to abandon a vehicle on any street or public property in the city for more than five days. Any vehicle found so abandoned may be impounded or otherwise removed and all expense incurred shall be paid by the owner thereof or any other party claiming the same.

Sec. 8-87. Notice to remove; penalty for noncompliance.

It shall be unlawful for any person to retain in the city inoperative, wrecked or junked automobiles or other motor vehicles for more than seventy-two (72) hours after being advised to remove such motor vehicles by the city through its city clerk or police department representative. Such notice to remove may be attached to such vehicle, in the event authorities are unable to ascertain ownership. Each twenty-four-hour period which occurs after such seventy-two-hour notice has expired shall be deemed a separate violation of this article.

Sec. 8-88. Presumption of ownership.

It shall be presumed that the owner of an abandoned vehicle is the registered owner of the vehicle according to state records, but any person causing or allowing any such vehicle to be left on the public streets shall likewise be guilty and subject to punishment for the violation of this article.

Sec. 8-89 Impoundment.

A police officer may impound a vehicle from the public streets or highways of the city under the following circumstances:

- (1) Threat of public safety. When the vehicle poses a threat to the public health and safety or inconvenience to other vehicular traffic.
- (2) Unattended vehicle. A vehicle which has been left unattended for a period of at least five days, provided it appears the individual who left the vehicle does not intend to return and remove the vehicle.

(3) Unlawful operation of vehicle. Any motor vehicle that is required to be towed pursuant to lawful mandate or when operation of such vehicle would constitute a violation of law.

(4) Arrest situations. When the driver of a motor vehicle has been arrested, the motor vehicle may be impounded under the following circumstances and after a reasonable attempt to contact the owner of such vehicle to find an alternate disposition to impoundment:

- a. If there is no one present who is authorized and/or capable of removing the vehicle;
- b. If the driver can not provide a name or number of a person or towing company to pick up the vehicle within 20 minutes; and
- c. If the vehicle is not at a location where it can be safely left at the request of the owner/driver; however, vehicles may not be left on the side of the roadway.

Sec. 8-90 Leaving vehicles on scene.

(a) No vehicle shall be left on the side of any street, road or highway by any police officer. If the vehicle is in a parking lot or on private property and the driver requests such vehicle to be left on the scene, the police officer shall, when practical to do so, obtain consent from the owner of the property, or an agent thereof, before leaving the vehicle.

(b) In cases where a vehicle is left on private property, the driver shall be advised that the police department in no way accepts liability for any theft or damage to such vehicle.

Sec. 8-91. Agreement for wrecker service and regulatory fees.

The city council is authorized to enter into agreements for the services of a wrecker to be used for the purposes of this article. Such agreement shall include the following:

- a. A term stating that a fixed charge is to be paid for each vehicle towed under the provisions of this article consistent with Georgia law and maximum rates established by the Public Service Commission.
- b. A term stating that a \$15 (fifteen dollar) fee shall be paid to the City by the contractor for each vehicle towed pursuant to this article to offset costs incurred by the city in regulating the contract and supervising the towing of vehicles as provided in this article.
- c. A requirement that the contractor comply with all Georgia laws including but not limited to O.C.G.A. 40-11-1, et. seq., rules and regulations of the Public Service Commission and the Georgia Security and Immigration Act.
- d. A requirement that the contractor be licensed by the Public Service Commission.
- e. A requirement that the contractor successfully undergo a background check to be performed and evaluated by the Duluth Police Department.

Sec. 8-92. Storage charge.

All cars, trucks or vehicles impounded by the police department for any reason shall be assessed with a daily storage fee, in addition to towing fee. The car, truck or vehicle shall stand as security to satisfy the storage fee upon failure of the owner to pay same.

Sec. 8-93. State emergency vehicle certification decal.

All wrecker service vehicles being operated in the city shall have a current valid state emergency vehicle certification decal placed in a position on the windshield of each wrecker service vehicle as specified by the state department of public safety.

Sec. 8-94. Redemption of vehicle.

When vehicles are towed under this article, the vehicles shall not be released until the person calling for the vehicle has afforded satisfactory evidence of ownership and paid all costs incidental thereto.

Sec. 8-95. Release of vehicles.

Every wrecker service operating in the City of Duluth must be available to release vehicles Monday through Friday, 8:00 a.m. to 5:00 p.m., and Saturday, 8:00 a.m. to 1:00 p.m., at no additional charge.

Sec. 8-96 Records.

Every wrecker service operating in the City of Duluth shall maintain a daily list of vehicles towed and/or stored for nonowner initiated towing and storage services. The daily list shall contain details as to the make, year, model, color, vehicle identification number, license plate number, name of the owner and the purpose for removing and/or storing such vehicle. Such records shall be retained for a period of 180 days and shall be made available to the police department at any reasonable hour.

IT IS SO ORDAINED this 8th day of November, 2010.

Council Member Marsha A. Bomar

Council Member Jim Dugan

Council Member Billy Jones

Council Member Doug Mundrick

Council Member Greg Whitlock

Mayor, Nancy Harris

ATTEST:

Teresa S. Lynn, City Clerk