

ORDINANCE NO. 503

AN ORDINANCE TO AMEND SECTION 10.04.140(I) TO EXPAND UPON AND PROVIDE A MORE PRECISE DEFINITION OF THOSE CIRCUMSTANCES UNDER WHICH VEHICLES MAY BE TOWED FROM PUBLIC ROADS AND PRIVATE PROPERTIES, AND FURTHER TO AMEND SECTION 10.04.140(F) TO CORRECT THE ERRONEOUS SUBSECTION REFERENCE THEREIN.

WHEREAS, the City has determined that the present City Ordinance defining circumstances under which a vehicle may be towed is in need of revision to more precisely define the circumstances and authority under which vehicles may be towed and towing vehicles illegally parked in a manner which obstructs snow removal and street cleaning operations;

NOW, THEREFORE, be it resolved:

1. Section 10.04.140(I) is hereby amended to provide as follows:

I. Authority to impound vehicles: Members of the police department are hereby authorized to remove a vehicle from a street or highway to the nearest garage or other place of safety or to a garage designated or maintained by the police department or otherwise maintained by the City under the circumstances hereinafter enumerated:

- (1) When any vehicle is left unattended upon public roadway where such vehicle constitutes an obstruction to the free flow of traffic.
- (2) When any vehicle is disabled as to prevent its movement or the operator is so impaired as to prevent his capacity to safely operate a motor vehicle.
- (3) When any vehicle is left unattended or is apparently abandoned upon the public streets, or upon private property without the consent of the property owner, for a period exceeding the combined notice periods set forth in the foregoing subsections (E) and (F). Nothing in this subsection shall be construed as a limitation upon private property owners of the exercise of any available civil remedies.
- (4) When any vehicle is parked in violation of posted permanent or temporary parking restrictions in a manner which obstructs street cleaning or snow removal operations.

Whenever an officer removes a vehicle from a street as authorized in this section and the officer knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, such officer shall immediately give or cause to be given notice in writing to such owner of the fact of such removal and the reasons therefore, and of the place to which such vehicle is stored in a public garage, a copy of such notice shall be given to the proprietor of such garage.

Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner or for any other reason is unable to give the notice to the owner as hereinbefore provided, and in

the event the vehicle is not returned to the owner within a period of three days, then and in that event the officer shall immediately send or cause to be sent written report of such removal by mail to the Montana registrar of motor vehicles, and shall file a copy of such notice with the proprietor of any public garage in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal and the name of the garage or place where the vehicle is stored.

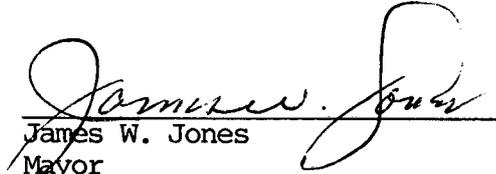
2. Section 10.04.140(F) is hereby amended to provide as follows:

(F) Presumption in reference to illegal parking: In any prosecution charging a violation of any law or regulation governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where and for the time during which such violation occurred.

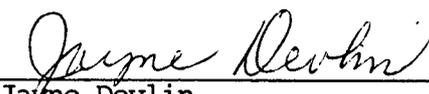
The foregoing stated presumption shall apply only when the procedure described in the preceding subsection (E) has been followed.

DATED THIS 4th Day of February, 1991.

First Reading Approved: February 4, 1991
Second Reading Approved: February 25, 1991


James W. Jones
Mayor

ATTEST:


Jayne Devlin
City Clerk