



Legislation Details (With Text)

File #: 2013-0347 **Version:** 2

Type: Ordinance **Status:** Passed

File created: 7/29/2013 **In control:** Law, Justice, Health and Human Services Committee

On agenda: 9/23/2013 **Final action:** 9/23/2013

Enactment date: 10/2/2013 **Enactment #:** 17668

Title: AN ORDINANCE authorizing the sheriff's office to impound watercraft in order to protect persons and property; amending Ordinance 10278, Section 1, as amended, and K.C.C. 46.08.010, Ordinance 5846, Section 2, as amended, and K.C.C.46.08.040, Ordinance 10278, Section 6, and K.C.C. 46.08.060, Ordinance 10278, Section 7, and K.C.C. 46.08.070, Ordinance 10278, Section 9, and K.C.C. 46.08.080, Ordinance 10278, Section 10, as amended, and K.C.C. 46.08.100, Ordinance 10278, Section 1, and K.C.C. 46.08.110, Ordinance 5846, Section 12, and K.C.C. 46.08.120 and adding a new section to K.C.C. chapter 46.08.

Sponsors: Rod Dembowski, Reagan Dunn

Indexes:

Code sections:

Attachments: 1. Ordinance 17668.pdf, 2. Staff Report Proposed Ordinance 2013-0347 Boat Impound Ordinance.docx, 3. 2013-0347 - Boat Impound hearing notice.doc, 4. 2013-0347 Revised Staff Report Boat Impound.docx, 5. 2013-0347 Affidavit of Pub - Seattle Times.pdf

Date	Ver.	Action By	Action	Result
9/23/2013	2	Metropolitan King County Council	Hearing Held	
9/23/2013	2	Metropolitan King County Council	Passed	Pass
8/27/2013	1	Law, Justice, Health and Human Services Committee	Recommended Do Pass Substitute Consent	Pass
7/29/2013	1	Metropolitan King County Council	Introduced and Referred	

Clerk 08/29/2013

AN ORDINANCE authorizing the sheriff's office to impound watercraft in order to protect persons and property; amending Ordinance 10278, Section 1, as amended, and K.C.C. 46.08.010, Ordinance 5846, Section 2, as amended, and K.C.C.46.08.040, Ordinance 1027|1013|, Section 6, and K.C.C. 46.08.060, Ordinance 10278, Section 7, and K.C.C. 46.08.070, Ordinance 10278, Section 9, and K.C.C. 46.08.080, Ordinance 10278, Section 10, as amended, and K.C.C. 46.08.100, Ordinance 10278, Section 1, and K.C.C. 46.08.110, Ordinance 5846,

Section 12, and K.C.C. 46.08.120 and adding a new section to K.C.C. chapter 46.08.

STATEMENT OF FACTS:

1. The sheriff's office marine unit has law enforcement jurisdiction over all lakes, rivers, and other waters within unincorporated King County. The sheriff's office marine unit patrols Puget Sound, Lake Washington, Lake Sammamish and numerous small lakes and rivers throughout King County.
2. The sheriff's office marine unit deputies receive specialized training to suit their particular patrol needs. Among this specialized training is the investigation for boating under the influence of drugs or alcohol.
3. In the course of a boating under the influence of alcohol investigation, marine unit deputies may determine that the driver and passengers of a watercraft may be ineligible or too impaired to operate a watercraft. In these particular situations, the most responsible course of action may be to impound the watercraft for the protection of persons and property.
4. When a deputy encounters an unattended and unsecured watercraft, the most responsible course of action may be to impound the watercraft for the protection of persons and property.
5. Currently, explicit state or local authority does not exist for the sheriff's office to impound watercraft.

BE IT ORDAINED BY THE COUNCIL OF KING COUNTY:

SECTION 1. Ordinance 10278, Section 1, as amended, and K.C.C. 46.08.010 are each hereby amended to read as follows:

The following definitions shall apply in the interpretation and enforcement of this chapter:

A. "Impoundment" means the removal of a vehicle or watercraft to a storage facility either by an officer or authorized agent of the ~~((King County))~~ department of public safety or by a towing contractor in response to a request from an officer or authorized agent of the ~~((King County))~~ department of public safety.

B. "Towing contractor" means any firm, partnership, tow operator, association~~((s))~~ or corporation duly licensed by the ~~((S))~~state of Washington to perform towing and storage services that enters into a contract with the ~~((King County))~~ department of public safety to perform towing and storage services under the provisions of this chapter.

C. "Vehicle" shall have the same definition ~~((set forth))~~ as in RCW 46.04.670, and~~((, in addition,))~~ shall also include any junk vehicle as defined in RCW 46.55.010~~((4))~~ ~~((as they currently exist or may thereafter be amended))~~.

D. "Watercraft" means a vessel used to transport persons on water.

E. "Workday" means Monday through Friday, not including Saturday and Sunday or legal holidays as defined in RCW 1.16.050.

~~((E.))~~ F. "Wrecked, dismantled or inoperative vehicle" means a motor vehicle or the remains or remnant parts of a motor vehicle, or an extensively damaged recreational vehicle or boat, that is clearly inoperative and either ~~((1.))~~ cannot be made operative without the addition of vital parts or mechanisms or ~~((2.))~~ is damaged to the extent that it prevents normal operation of the vehicle, or both.

SECTION 2. Ordinance 5846, Section 2, as amended, and K.C.C.46.08.040 are each hereby amended to read as follows:

A. A vehicle may be impounded with or without citation and without giving prior notice to its owner as required in ~~((Section))~~ K.C.C. 46.08.050 ~~((hereof))~~ under any of the following circumstances:

~~((A.))~~ 1. The vehicle is impeding or is likely to impede the normal flow of vehicular or pedestrian traffic;

~~((B.))~~ 2. The vehicle is illegally parked in a conspicuously posted restricted zone where parking is limited to designated classes of vehicles or is prohibited during certain hours, on designated days or at any time when the vehicle is interfering or likely to interfere with the intended use of such a zone;

~~((C.))~~ 3. The vehicle poses an immediate danger to the public safety;

~~((D.))~~ 4. A police officer has information sufficient to form a reasonable belief that the vehicle is stolen;

~~((E.))~~ 5. A police officer has information sufficient to form a reasonable belief that the vehicle constitutes evidence of a crime or contains evidence of a crime, if impoundment is reasonably necessary to obtain or preserve such evidence;

~~((F.))~~ 6. Whenever a police officer finds an unattended vehicle at the scene of an accident or when the driver of a vehicle involved in an accident is physically or mentally incapable, or too intoxicated, to decide upon steps to be taken to protect his or her property;

~~((G.))~~ 7. Whenever the driver of a vehicle is arrested and taken into custody by a police officer, and the driver, because of intoxication or otherwise, is mentally incapable of deciding upon steps to be taken to safeguard his or her property;

~~((H.))~~ 8. Whenever 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 46.62.581 which space is provided on private property without charge or on public property;

~~((I.))~~ 9. Whenever a mobile home is subject to removal from a mobile home park ~~((pursuant to))~~ under a writ of restitution, provided such writ is attached to a department of public safety impound report; or

~~((J.))~~ 10. Whenever a wrecked, dismantled or inoperative vehicle is left on the public right of way, or

on publicly owned or controlled property.

B. Nothing in this section shall be construed to authorize seizure of a vehicle without a warrant where a warrant would otherwise be required. Nothing in this section may derogate from the powers of police officers under the common law or other statute or ordinance.

NEW SECTION. SECTION 3. There is hereby added to K.C.C. chapter 46.08 a new section to read as follows:

Whenever it appears reasonably necessary to protect persons or property, a deputy may order the impoundment of a watercraft when the watercraft cannot be otherwise secured or released. The deputy in lieu of impound may release the watercraft to a person who, in the deputy's opinion, can safely operate the watercraft or secure the watercraft to a moorage facility when the moorage facility has been approved for that purpose. A person to whom the deputy releases the watercraft must be legally able operate a watercraft under RCW 79A.60.640. If the owner or operator of the watercraft is present, the person's signature on a waiver of impound is required before the officer may release the watercraft to a person in lieu of impoundment.

SECTION 4. Ordinance 10278, Section 6, and K.C.C. 46.08.060 are each hereby amended to read as follows:

When ~~((impoundment is))~~ a deputy orders an impoundment authorized by this chapter, ~~((a vehicle may be impounded by))~~ a towing contractor acting at the request of ~~((an officer))~~ the deputy or an authorized agent of the ~~((King County))~~ department of public safety may impound the vehicle or watercraft. ~~((Such officer))~~ The deputy or authorized agent ~~((shall))~~ must provide to the towing contractor a signed authorization for the tow and the impound before the towing contractor may proceed with the impound.

SECTION 5. Ordinance 10278, Section 7, and K.C.C. 46.08.070 are each hereby amended to read as follows:

A. When a vehicle or watercraft is impounded, the impounding towing contractor shall notify the legal and registered owner~~((s))~~ or owners of the impoundment of the vehicle or watercraft. The notification shall

be in writing and sent within twenty-four hours after the impound by first-class mail (~~((within twenty-four hours after the impoundment))~~) to the last known registered and legal owner(~~((s))~~) or owners of the vehicle or watercraft, as identified by the (~~((King County))~~) department of public safety, and shall inform the owner or owners of the identity of the person or agency authorizing the impound. The notification shall include the name of the impounding tow firm, its address(~~((s))~~) and telephone number, the location and time of the impound(~~((s))~~) and by whose authority the vehicle or watercraft 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))~~) under K.C.C. 46.08.100, as set forth on a form to be provided by the (~~((King County))~~) department of public safety.

B. In the case of an abandoned vehicle, as defined in RCW 46.55.010(1), within twenty-four hours after receiving information on the vehicle owner(~~((s))~~) or owners from the state Department of Licensing through the abandoned vehicle report, the towing contractor shall send by certified mail, with return receipt requested, a notice of custody and sale to the legal and registered owner(~~((s))~~) or owners.

C. (~~((No))~~) A notice(~~((s))~~) does not need be sent to the legal or registered owner(~~((s))~~) or owners of an impounded vehicle or watercraft if the vehicle has been redeemed.

D. When a person seeks to redeem an impounded vehicle or watercraft, the towing contractor shall give (~~((said))~~) the person a copy of the towing and storage receipt as well as written notice of the right of redemption and opportunity for a hearing, as set forth on a form provided by the (~~((King County))~~) department of public safety. The towing contractor shall maintain a record evidenced by the redeeming person's signature that such notification was provided.

E. Similar written notice and record of notification for redemption and opportunity for a hearing, as set forth on a form provided by the (~~((King County))~~) department of public safety, shall be given by the towing contractor at the time of releasing a vehicle or watercraft impounded for investigatory purposes (~~((pursuant to))~~) in accordance with K.C.C. (~~((46.08.040(e))~~) 46.08.040.E, following authorization by the (~~((King County))~~)

department of public safety to release ~~((such))~~ the vehicle or watercraft.

SECTION 6. Ordinance 10278, Section 9, and K.C.C. 46.08.080 are each hereby amended to read as follows:

Vehicles or watercraft impounded by the county shall be redeemed under the following circumstances:

A. Only the registered owner, a person authorized in writing by the registered owner, or one who has purchased a vehicle or watercraft from the registered owner and who produces proof of ownership or written authorization and signs a receipt therefor, may redeem an impounded vehicle or watercraft.

B. A~~((ny))~~ person ~~((so))~~ redeeming an impounded vehicle ~~((impounded by the county))~~ or watercraft must pay the towing contractor for the reasonable costs of towing and storage resulting from the impoundment ~~((towing and storage))~~ before the vehicle ~~((will))~~ or watercraft may be released from impound. ~~((Such))~~ The towing contractor shall accept ~~only~~ cash, major bank credit cards, certified bank drafts, money orders~~((;))~~ and personal checks drawn on ~~in-state~~ banks in payment for ~~((such))~~ the costs~~((; provided, however))~~, that if ~~((such))~~ a personal check is offered in payment for ~~((such))~~ the costs, the person so offering the same may be required to show evidence of his or her identity ~~((by two pieces of identification, which may include a driver's license, Washington State Identification Card issued by the Washington State Department of Motor Vehicles, other credit cards or similar forms of identification; provided, further, however, that if the contractor has reasonable cause to believe the tendered check is uncollectible, acceptance of such check may be refused in accordance with such standards as may be promulgated in accordance with K.C.C. 46.08.150 or as may be set forth in a contract entered into pursuant to K.C.C. 46.08.130))~~.

C. A~~((ny))~~ person who stops payment on a personal check or credit card, or does not make restitution within ten days from the date a check becomes insufficient due to lack of funds, or in any other manner defrauds the towing contractor in connection with services rendered ~~((pursuant to))~~ in accordance with this section, shall be liable to the towing contractor for ~~((damages in the amount of twice the))~~ actual costs of towing and storage ~~((fees, plus))~~. In any action to enforce this subsection, the prevailing party shall be entitled

to its court costs and reasonable ~~((attorney's))~~ attorneys' fees.

D. A ~~((ny))~~ person seeking to redeem an impounded vehicle or watercraft has a right to a hearing ~~((pursuant to))~~ under K.C.C. 46.08.100 before an administrative hearing officer to contest the validity of the impoundment or the amount of towing and storage ~~((charges))~~ costs. A ~~((ny))~~ request for a hearing shall be made in writing on a form provided for that purpose by the ~~((King County))~~ department of public safety and signed by ~~((such))~~ the person, and must be received by the ~~((King County))~~ department of public safety within ten days ~~((t))~~, including Saturdays, Sundays and holidays ~~((t))~~ of the later of the date the notice of right of redemption and opportunity for hearing was mailed to ~~((such))~~ the person ~~((pursuant to))~~ in accordance with K.C.C. ~~((46.08.070(A)))~~ 46.08.070.A, or the date ~~((such))~~ the notice was given to ~~((such))~~ the person by the towing contractor ~~((pursuant to))~~ in accordance with K.C.C. ~~((46.08.070(D)))~~ 46.08.070.D. If the hearing request is not received by the ~~((King County))~~ department of public safety within the ten-day period, the right to a hearing is waived and the registered owner is liable for any towing, storage ~~((t))~~ or other impoundment ~~((charges))~~ costs permitted under this chapter.

E. If a hearing as provided for in K.C.C. 46.08.100 is requested, such hearing shall be held within two working days of the receipt of the written request for the hearing by the ~~((King County))~~ department of public safety.

SECTION 7. Ordinance 10278, Section 10, as amended, and K.C.C. 46.08.100 are each hereby amended to read as follows:

A. In accordance with RCW 46.55.240(1)(d), the sheriff ~~((of the King County department of public safety))~~ shall appoint one or more administrative hearing officers to conduct the ~~((post impound))~~ hearings requested ~~((pursuant to))~~ under K.C.C. 46.08.080. ~~((Such))~~ The hearing officer shall determine whether the impoundment was proper and whether either the towing ~~((and/))~~ or the storage fees charged in connection with the impound were ~~((proper))~~ reasonable.

B. At the hearing, the ~~((King County))~~ department of public safety may produce any relevant evidence

to show that the impound ~~((and/))~~ or fees, or both, were proper and reasonable. The officer's impound report and the towing contractor's impound receipts may be received in evidence. In determining whether the fees charged were ~~((proper))~~ reasonable, the hearing officer may take notice of the towing contractor's rates.

C. At the hearing, the person who requested the hearing may produce any relevant evidence to show that the impound ~~((and/))~~ or fees, or both, were not proper and reasonable.

D. If the impoundment is found to be proper, the hearing officer shall enter an order so stating. If the costs of impoundment have not been paid, the hearing officer's order shall also provide that the impounded vehicle or watercraft shall be released only after payment of the reasonable costs of impoundment to the towing contractor.

E. If the impoundment is found to be improper, the hearing officer shall enter an order so stating and shall order the immediate release of the vehicle or watercraft. If the costs of impoundment have already been paid, the hearing officer shall enter an order 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 plus interest at the rate of ~~((12%))~~ twelve percent per ((annum)) year from the date that person paid ~~((such))~~ the costs, and the county shall comply with ~~((such))~~ the order. If the reasonable costs of impoundment have not been paid, the hearing officer shall enter an order directing the county to pay ~~((such))~~ the costs to the towing contractor, and the county shall comply with ~~((such))~~ the order.

F. If the hearing officer finds that the impoundment was proper, but that the towing ~~((and/))~~ or storage, or both, fees were ~~((improper))~~ unreasonable, the hearing officer shall determine the correct fees to be charged. If the costs of impoundment have not been paid, the hearing officer shall order the release of the vehicle or watercraft upon payment of the correct impoundment fees as determined by the hearing officer. If the costs of impoundment have been paid, the hearing officer shall enter an order 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 ~~((12%))~~ twelve percent per ((annum)) year on the overpayment from the date that person paid ~~((such))~~ the costs,

and the county shall comply with ~~((such))~~ the order. The towing contractor shall be liable to the county for the amount of ~~((such))~~ the overpayment and interest at the rate of ~~((12%))~~ twelve percent per ~~((annum))~~ year. The towing contractor shall make ~~((such))~~ the payment to the county no later than sixty days after it receives notice of ~~((such))~~ the requirement to pay. The county may bring an action in the ~~((King County))~~ district court against the towing contractor to recover ~~((such))~~ the overpayment plus interest at the rate of ~~((12%))~~ twelve percent per ~~((annum))~~ year.

G. In accordance with RCW 46.55.240(1)(d), a decision made by an administrative hearing officer may be appealed to the ~~((King County))~~ district court for final judgment. SECTION 8. Ordinance 10278, Section 1, and K.C.C. 46.08.110 are each hereby amended to read as follows:

A. Any impounded vehicle or watercraft not redeemed within fifteen days of mailing of the notice required by K.C.C. 46.08.070, and not listed as a stolen vehicle or watercraft, shall be deemed unclaimed and shall be sold at a public auction in accordance with the provisions and subject to all conditions of RCW 46.55.130~~((; provided that))~~. However, in the case of a vehicle impounded and held ~~((pursuant to))~~ under order of a county police officer, the fifteen days shall not begin until forty-eight hours after the ~~((King County))~~ department of public safety ~~((shall have))~~ has notified both the owner and the towing company that it has authorized the release of the vehicle~~((; provided further that))~~ or watercraft. Also, when a timely request for a ~~((post impound))~~ hearing has been made ~~((pursuant to))~~ under K.C.C. 46.08.080, the sale of the vehicle or watercraft at public auction shall not take place until after the hearing has been conducted and the hearing officer has entered an order. ~~((Prior to))~~ Before sale at public auction, the towing contractor shall confirm with the ~~((King County))~~ department of public safety that ~~((no))~~ a hearing is not pending.

B. When an unclaimed vehicle or watercraft is sold at public auction ~~((pursuant to))~~ under ~~((S))s~~ subsection A. ~~((above))~~ of this section, the towing contractor may recover its towing and storage charges from the proceeds of the sale. ~~((Such))~~ The towing and storage charges shall be limited to the contract rates established ~~((pursuant to))~~ under K.C.C. 46.08.130.

SECTION 9. Ordinance 5846, Section 12, and K.C.C. 46.08.120 are each hereby amended to read as follows:

King County department of public safety shall keep, and make available for inspection, a record of all vehicles or watercraft impounded under the provisions of this chapter. The record shall include at least the following information:

- A. Vehicle or watercraft make, year, and model;
- B. Vehicle or watercraft license number and state of registration;
- C. Vehicle or watercraft identification number, if ascertainable;
- D. Such other descriptive information as the director of ((King County)) department of public safety deems useful for purposes of vehicle or watercraft identification;
- E. Name of impounding officer and serial number; and
- F. Reason for impoundment, and the time, date and location the approved towing company took custody.

10 days prior

Official paper

Public Hearing: Sept. 23

Advertise: Seattle Times on Sept. 11