

Ordinance No. 120006

Council Bill No. 113253

AN ORDINANCE relating to the impoundment of vehicles, amending Subsections 11.30.105A and 11.30.120B, C and D and Section 11.30.160 of the Seattle Municipal Code.

The City of Seattle
Council Bill/Ordinance

(Handwritten initials)

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CF No. _____

Date Introduced:	<u>JUN - 5 2000</u>		
Date 1st Referred:	<u>JUN - 5 2000</u>	To: (committee)	Public Safety & Technology Committee
Date Re - Referred:		To: (committee)	
Date Re - Referred:		To: (committee)	
Date of Final Passage:	<u>6-26-00</u>	Full Council Vote:	<u>9-0</u>
Date Presented to Mayor:	<u>6-27-00</u>	Date Approved:	<u>7/3/00</u>
Date Returned to City Clerk:	<u>7/5/00</u>	Date Published:	<u>7/19/00</u>
Date Vetoes by Mayor:		Date Veto Published:	
Date Passed Over Veto:		Veto Sustained:	

This file is complete and ready
6-26-00

Law Department

Law Dept. Review

The City of Seattle - Legislative Department

Council Bill/Ordinance sponsored by: _____

COMPTON

Councilmember

(E)
(D)

Committee Action:

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This file is complete and ready for presentation to Full Council.

Committee: _____

(initial/date)

6-26-00 Passed 9-0

Law Department

Law Dept. Review

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ORDINANCE 120006

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3 AN ORDINANCE relating to the impoundment of vehicles, amending Subsections 11.30.105A and 11.30.120B, C and D and Section 11.30.160 of the Seattle Municipal Code.

4 WHEREAS in 1998 the City Council passed Ordinance 119180 authorizing the impoundment of
5 vehicles driven by drivers with a suspended or revoked driver's license; and

6 WHEREAS an increased effort by the City to assist persons with suspended licenses in obtaining valid
7 licenses and to assist persons receiving traffic citations in responding to those citations would
8 reduce the number of persons driving with suspended licenses and thus the number subject to
9 criminal penalties and the number of vehicles subject to impoundment; and

10 WHEREAS such an effort would not diminish every driver's responsibility to drive safely and meet the
11 legal requirements resulting from driving infractions; and

12 WHEREAS Ordinance 119180 gave to the Police Department the responsibility for conducting vehicle
13 impoundment hearings, but giving this responsibility to Municipal Court would provide a greater
14 opportunity for drivers with suspended licenses whose vehicles have been impounded to learn
15 about and meet their legal obligations; and

16 WHEREAS in adopting Ordinance 119180, the City Council intended the term "arrested" to include
17 drivers temporarily detained and then released by the police upon service of a citation and notice
18 to appear and did not intend to require that as a condition of impounding the vehicle the driver
19 first had to be physically taken into custody and booked into jail for the offense of Driving While
20 License Suspended or Revoked, (SMC 11.56.320 or 11.56.340); and

21 WHEREAS the amendment by this ordinance of Subsection 11.30.105A is intended to clarify, and not
22 change, the intended meaning of the term "arrested" used in that subsection; NOW
23 THEREFORE

24 BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 11.30.105 of the Seattle Municipal Code (Ordinance 119180
§ 4, part) is amended as follows:

A. Whenever the driver of a vehicle is arrested for a violation of Section 11.56.320 or 11.56.340,
the vehicle is subject to impoundment at the direction of a police officer. For purposes of this
subsection, "arrested" includes, but is not limited to, being temporarily detained under Section



12A.02.140B and served with a citation and notice to appear pursuant to Section 12A.02.140C and RCW 46.64.015.

Section 2. Subsections B, C and D of Section 11.30.120 of the Seattle Municipal Code (Ordinance 108200 § 2 (11.30.120), part, as last amended by Ordinance 119180 § 5) are further amended as follows:

11.30.120 Redemption of impounded vehicles.

Vehicles impounded by the City shall be redeemed only under the following circumstances:

* * *

B. Any person so redeeming a vehicle impounded by the City shall pay the towing contractor for costs of impoundment (removal, towing, and storage) and administrative fee prior to redeeming such vehicle. Such towing contractor shall accept payment as provided in RCW 46.55.120(1)(b), as now or hereafter amended. If the vehicle was impounded pursuant to Section 11.30.105 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 by payment in full, by establishment of a time payment agreement with the Municipal Court, or by other means acceptable to the Municipal Court.

C. The Municipal Court (~~Chief of Police~~) is authorized to release a vehicle impounded pursuant to Section 11.30.105 prior to the expiration of any period of impoundment upon petition of the spouse of the driver, or the person registered pursuant to Ordinance 117244 as the domestic partner of the driver, 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 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 still
1 must satisfy the requirements of Section 11.30.120 A and B.

2 D. Any person seeking to redeem a vehicle impounded as a result of a parking or traffic citation
3 has a right to a hearing before a Municipal Court judicial officer (~~(an administrative hearings officer)~~) to
4 contest the validity of an impoundment or the amount of removal, towing, and storage charges or
5 administrative fee if such request for hearing is in writing, in a form approved by the Municipal Court
6 (~~(Chief of Police)~~) and signed by such person, and is received by the Municipal Court (~~(Chief of Police)~~)
7 within ten (10) days (including Saturdays, Sundays, and holidays) of the latter of the date the notice was
8 mailed to such person pursuant to Section 11.30.100 A or B, or the date the notice was given to such
9 person by the registered tow truck operator pursuant to RCW 46.55.120(2)(a). Such hearing shall be
10 provided as follows:

11
12 1. If all of the requirements to redeem the vehicle, including expiration of any period of
13 impoundment under Section 11.30.105, have been satisfied, then the impounded vehicle shall be
14 released immediately, and a hearing as provided for in Section 11.30.160 shall be held within ninety (90)
15 days of the written request for hearing.

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17 2. If not all of the requirements to redeem the vehicle, including expiration of any period
18 of impoundment under Section 11.30.105, have been satisfied, then the impounded vehicle shall not be
19 released until after the hearing provided pursuant to Section 11.30.160, which shall be held within two
20 (2) business days (excluding Saturdays, Sundays and holidays) of the written request for hearing.

21 3. Any person seeking a hearing who has failed to request such hearing within the time
22 specified in Section 11.30.120 D may petition the Municipal Court (~~(Chief of Police)~~) for an extension
23 to file a request for hearing. Such extension shall only be granted upon the demonstration of good cause
24 as to the reason(s) the request for hearing was not timely filed. For the purposes 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 chapter.

4. 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 and administrative fee are deemed to be proper, and the City shall not be liable for removal, towing, and storage charges arising from the impoundment.

5. In accordance with RCW 46.55.240(1)(d), a decision made by a Municipal Court judicial officer (~~(an administrative hearings officer)~~) may be appealed to Municipal 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 Municipal Court within fifteen (15) days after the decision of the Municipal Court judicial officer (~~(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 Municipal Court judicial officer’s (~~(administrative hearings officer’s)~~) decision is final.

Section 3. Section 11.30.160 of the Seattle Municipal Code (Ordinance 108200 § 2 (11.30.160), as last amended by Ordinance 119180 § 6) is further amended as follows:

11.30.160 Post-impoundment hearing procedure.

Hearings requested pursuant to Section 11.30.120 shall be held by a Municipal Court judicial officer (~~(an administrative hearings officer)~~), who shall determine whether the impoundment was proper and whether the associated removal, towing, storage, and administrative fees were proper. The Municipal Court judicial officer (~~(administrative hearings officer)~~) shall not have the authority to determine the commission or mitigation of any parking infraction unless a timely response under Section



1 11.31.050 A was filed to that notice of infraction requesting a hearing and the hearing date for that
2 infraction has not passed, in which case the Municipal Court judicial officer (~~(administrative hearings
3 officer)~~) has discretion to consolidate the impoundment hearing and the notice of infraction hearing.

4 A. At the hearing, an abstract of the driver's driving record is admissible without further
5 evidentiary foundation and is prima facie evidence of the status of the driver's license, permit, or
6 privilege to drive and that the driver was convicted of each offense shown on the abstract. In addition, a
7 certified vehicle registration of the impounded vehicle is admissible without further evidentiary
8 foundation and is prima facie evidence of the identity of the registered owner of the vehicle.

9 B. If the impoundment is found to be proper, the Municipal Court judicial officer
10 (~~(administrative hearings officer)~~) shall enter an order so stating. In the event that the costs of
11 impoundment (removal, towing, and storage) and administrative fee have not been paid or any other
12 applicable requirements of Section 11.30.120 B have not been satisfied or any period of impoundment
13 under Section 11.30.105 has not expired, the Municipal Court judicial officer's (~~(administrative hearings
14 officer's)~~) order shall also provide that the impounded vehicle shall be released only after payment to the
15 City of any fines imposed on any underlying traffic or parking infraction and satisfaction of any other
16 applicable requirements of Section 11.30.120 B and payment of the costs of impoundment and
17 administrative fee to the towing company and after expiration of any period of impoundment under
18 Section 11.30.105. In the event that the Municipal Court judicial officer (~~(administrative hearings
19 officer)~~) grants time payments for the costs of impoundment and administrative fee, the City shall be
20 responsible for paying the costs of impoundment to the towing company. The Municipal Court judicial
21 officer (~~(administrative hearings officer)~~) shall grant such time payments only in cases of extreme
22 financial need, and where there is an effective guarantee of payment.
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1 C. If the impoundment is found to be improper, the Municipal Court judicial officer
2 ~~((administrative hearings officer))~~ shall enter an order so stating and order the immediate release of the
3 vehicle. If the costs of impoundment and administrative fee have already been paid, the Municipal
4 Court judicial officer ~~((administrative hearings officer))~~ shall enter judgment against the City and in
5 favor of the person who has paid the costs of impoundment and administrative fee in the amount of the
6 costs of the impoundment and administrative fee.

7 D. In the event that the Municipal Court judicial officer ~~((administrative hearings officer))~~ finds
8 that the impound was proper, but that the removal, towing, storage, or administrative fees charged for
9 the impoundment were improper, the Municipal Court judicial officer ~~((administrative hearings officer))~~
10 shall determine the correct fees to be charged. If the costs of impoundment and administrative fee have
11 been paid, the Municipal Court judicial officer ~~((administrative hearings officer))~~ shall enter a judgment
12 against the City and in favor of the person who has paid the costs of impoundment and administrative
13 fee for the amount of the overpayment.

14 E. No determination of facts made at a hearing under this section shall have any collateral
15 estoppel effect on a subsequent criminal prosecution and such determination shall not preclude litigation
16 of those same facts in a subsequent criminal prosecution.

17 F. An appeal of the Municipal Court judicial officer's ~~((administrative hearings officer's))~~
18 decision in Municipal Court shall be conducted according to, and is subject to, the procedures of this
19 section. If the court finds that the impoundment or the removal, towing, storage, or administrative fees
20 are improper, any judgment entered against the City shall include the amount of the filing fee.

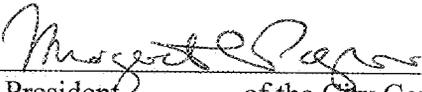
21 **Section 4.** Should Council Bill 113254 also become an ordinance, then the amendments made
22 by that ordinance and this ordinance to subsection 11.30.120B of the Seattle Municipal Code shall be
23 given full force and effect. Should Council Bill 113113 also become an ordinance, then the amendments
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made by that ordinance and this ordinance to subsection 11.30.105A of the Seattle Municipal Code shall each be given full force and effect.

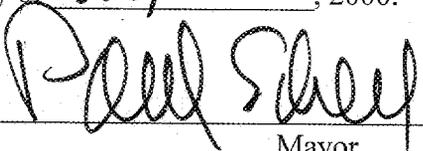
Section 5. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the 26th day of June, 2000, and signed by me in open session in authentication of its passage this 26th day of June, 2000.



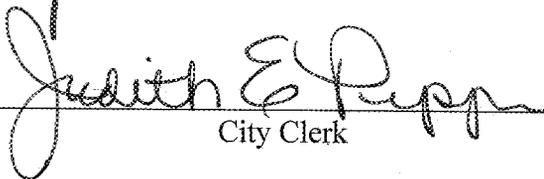
President _____ of the City Council

Approved by me this 3rd day of JULY, 2000.



Mayor

Filed by me this 5th day of July, 2000.



City Clerk

(Seal)



ORDINANCE _____

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AN ORDINANCE relating to the impoundment of vehicles, amending Subsections 11.30.105A and 11.30.120B, C and D and Section 11.30.160 of the Seattle Municipal Code.

WHEREAS in 1998 the City Council passed Ordinance 119180 authorizing the impoundment of vehicles driven by drivers with a suspended or revoked driver's license; and

WHEREAS an increased effort by the City to assist persons with suspended licenses in obtaining valid licenses and to assist persons receiving traffic citations in responding to those citations would reduce the number of persons driving with suspended licenses and thus the number subject to criminal penalties and the number of vehicles subject to impoundment; and

WHEREAS such an effort would not diminish every driver's responsibility to drive safely and meet the legal requirements resulting from driving infractions; and

WHEREAS Ordinance 119180 gave to the Police Department the responsibility for conducting vehicle impoundment hearings, but giving this responsibility to Municipal Court would provide a greater opportunity for drivers with suspended licenses whose vehicles have been impounded to learn about and meet their legal obligations; and

WHEREAS in adopting Ordinance 119180, the City Council intended the term "arrested" to include drivers temporarily detained and then released by the police upon service of a citation and notice to appear and did not intend to require that as a condition of impounding the vehicle the driver first had to be physically taken into custody and booked into jail for the offense of Driving While License Suspended or Revoked, (SMC 11.56.320 or 11.56.340); and

WHEREAS the amendment by this ordinance of Subsection 11.30.105A is intended to clarify, and not change, the intended meaning of the term "arrested" used in that subsection; NOW
THEREFORE

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. Subsection A of Section 11.30.105 of the Seattle Municipal Code (Ordinance 119180 § 4, part) is amended as follows:

A. Whenever the driver of a vehicle is arrested for a violation of Section 11.56.320 or 11.56.340, the vehicle is subject to impoundment at the direction of a police officer. For purposes of this



subsection, "arrested" includes, but is not limited to, being temporarily detained under Section 12A.02.140B and served with a citation and notice to appear pursuant to Section 12A.02.140C and RCW 46.64.015.

Section 2. Subsections B, C and D of Section 11.30.120 of the Seattle Municipal Code (Ordinance 108200 § 2 (11.30.120), part, as last amended by Ordinance 119180 § 5) are further amended as follows:

11.30.120 Redemption of impounded vehicles.

Vehicles impounded by the City shall be redeemed only under the following circumstances:

* * *

B. Any person so redeeming a vehicle impounded by the City shall pay the towing contractor for costs of impoundment (removal, towing, and storage) and administrative fee prior to redeeming such vehicle. Such towing contractor shall accept payment as provided in RCW 46.55.120(1)(b), as now or hereafter amended. If the vehicle was impounded pursuant to Section 11.30.105 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 by payment in full, by establishment of a time payment agreement with the Municipal Court, or by other means acceptable to the Municipal Court.

C. The Municipal Court ((Chief of Police)) is authorized to release a vehicle impounded pursuant to Section 11.30.105 prior to the expiration of any period of impoundment upon petition of the spouse of the driver, or the person registered pursuant to Ordinance 117244 as the domestic partner of the driver, 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



1 release of the vehicle, including, but not limited to, the driver's criminal history, driving record, license
2 status, and access to the vehicle. If such release is authorized, the person redeeming the vehicle still
3 must satisfy the requirements of Section 11.30.120 A and B.

4 D. Any person seeking to redeem a vehicle impounded as a result of a parking or traffic citation
5 has a right to a hearing before a Municipal Court judicial officer ~~((an administrative hearings officer))~~ to
6 contest the validity of an impoundment or the amount of removal, towing, and storage charges or
7 administrative fee if such request for hearing is in writing, in a form approved by the Municipal Court
8 ~~((Chief of Police))~~ and signed by such person, and is received by the Municipal Court ~~((Chief of Police))~~
9 within ten (10) days (including Saturdays, Sundays, and holidays) of the latter of the date the notice was
10 mailed to such person pursuant to Section 11.30.100 A or B, or the date the notice was given to such
11 person by the registered tow truck operator pursuant to RCW 46.55.120(2)(a). Such hearing shall be
12 provided as follows:

13 1. If all of the requirements to redeem the vehicle, including expiration of any period of
14 impoundment under Section 11.30.105, have been satisfied, then the impounded vehicle shall be
15 released immediately, and a hearing as provided for in Section 11.30.160 shall be held within ninety (90)
16 days of the written request for hearing.

17 2. If not all of the requirements to redeem the vehicle, including expiration of any period
18 of impoundment under Section 11.30.105, have been satisfied, then the impounded vehicle shall not be
19 released until after the hearing provided pursuant to Section 11.30.160, which shall be held within two
20 (2) business days (excluding Saturdays, Sundays and holidays) of the written request for hearing.

21 3. Any person seeking a hearing who has failed to request such hearing within the time
22 specified in Section 11.30.120 D may petition the Municipal Court ~~((Chief of Police))~~ for an extension
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1 to file a request for hearing. Such extension shall only be granted upon the demonstration of good cause
2 as to the reason(s) the request for hearing was not timely filed. For the purposes of this section, "good
3 cause" shall be defined as circumstances beyond the control of the person seeking the hearing that
4 prevented such person from filing a timely request for hearing. In the event such extension is granted,
5 the person receiving such extension shall be granted a hearing in accordance with this chapter.

6 4. If a person fails to file a timely request for hearing and no extension to file such a
7 request has been granted, the right to a hearing is waived, the impoundment and the associated costs of
8 impoundment and administrative fee are deemed to be proper, and the City shall not be liable for
9 removal, towing, and storage charges arising from the impoundment.

10 5. In accordance with RCW 46.55.240(1)(d), a decision made by a Municipal Court
11 judicial officer (~~(an administrative hearings officer)~~) may be appealed to Municipal Court for final
12 judgment. The hearing on the appeal under this subsection shall be de novo. A person appealing such a
13 decision must file a request for an appeal in Municipal Court within fifteen (15) days after the decision
14 of the Municipal Court judicial officer (~~(administrative hearings officer)~~) and must pay a filing fee in the
15 same amount required for the filing of a suit in district court. If a person fails to file a request for an
16 appeal within the time specified by this section or does not pay the filing fee, the right to an appeal is
17 waived and the Municipal Court judicial officer's (~~(administrative hearings officer's)~~) decision is final.

18 **Section 3.** Section 11.30.160 of the Seattle Municipal Code (Ordinance 108200 § 2 (11.30.160),
19 as last amended by Ordinance 119180 § 6) is further amended as follows:

20 **11.30.160 Post-impoundment hearing procedure.**

21 Hearings requested pursuant to Section 11.30.120 shall be held by a Municipal Court judicial
22 officer (~~(an administrative hearings officer)~~), who shall determine whether the impoundment was proper
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and whether the associated removal, towing, storage, and administrative fees were proper. The

1 Municipal Court judicial officer (~~administrative hearings officer~~) shall not have the authority to
2 determine the commission or mitigation of any parking infraction unless a timely response under Section
3 11.31.050 A was filed to that notice of infraction requesting a hearing and the hearing date for that
4 infraction has not passed, in which case the Municipal Court judicial officer (~~administrative hearings~~
5 ~~officer~~) has discretion to consolidate the impoundment hearing and the notice of infraction hearing.

6
7 A. At the hearing, an abstract of the driver's driving record is admissible without further
8 evidentiary foundation and is prima facie evidence of the status of the driver's license, permit, or
9 privilege to drive and that the driver was convicted of each offense shown on the abstract. In addition, a
10 certified vehicle registration of the impounded vehicle is admissible without further evidentiary
11 foundation and is prima facie evidence of the identity of the registered owner of the vehicle.

12 B. If the impoundment is found to be proper, the Municipal Court judicial officer
13 (~~administrative hearings officer~~) shall enter an order so stating. In the event that the costs of
14 impoundment (removal, towing, and storage) and administrative fee have not been paid or any other
15 applicable requirements of Section 11.30.120 B have not been satisfied or any period of impoundment
16 under Section 11.30.105 has not expired, the Municipal Court judicial officer's (~~administrative hearings~~
17 ~~officer's~~) order shall also provide that the impounded vehicle shall be released only after payment to the
18 City of any fines imposed on any underlying traffic or parking infraction and satisfaction of any other
19 applicable requirements of Section 11.30.120 B and payment of the costs of impoundment and
20 administrative fee to the towing company and after expiration of any period of impoundment under
21 Section 11.30.105. In the event that the Municipal Court judicial officer (~~administrative hearings~~
22 ~~officer~~) grants time payments for the costs of impoundment and administrative fee, the City shall be
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1 responsible for paying the costs of impoundment to the towing company. The Municipal Court judicial
2 officer (~~((administrative hearings officer))~~) shall grant such time payments only in cases of extreme
3 financial need, and where there is an effective guarantee of payment.

4 C. If the impoundment is found to be improper, the Municipal Court judicial officer
5 (~~((administrative hearings officer))~~) shall enter an order so stating and order the immediate release of the
6 vehicle. If the costs of impoundment and administrative fee have already been paid, the Municipal
7 Court judicial officer (~~((administrative hearings officer))~~) shall enter judgment against the City and in
8 favor of the person who has paid the costs of impoundment and administrative fee in the amount of the
9 costs of the impoundment and administrative fee.

10 D. In the event that the Municipal Court judicial officer (~~((administrative hearings officer))~~) finds
11 that the impound was proper, but that the removal, towing, storage, or administrative fees charged for
12 the impoundment were improper, the Municipal Court judicial officer (~~((administrative hearings officer))~~)
13 shall determine the correct fees to be charged. If the costs of impoundment and administrative fee have
14 been paid, the Municipal Court judicial officer (~~((administrative hearings officer))~~) shall enter a judgment
15 against the City and in favor of the person who has paid the costs of impoundment and administrative
16 fee for the amount of the overpayment.

17 E. No determination of facts made at a hearing under this section shall have any collateral
18 estoppel effect on a subsequent criminal prosecution and such determination shall not preclude litigation
19 of those same facts in a subsequent criminal prosecution.

20 F. An appeal of the Municipal Court judicial officer's (~~((administrative hearings officer's))~~)
21 decision in Municipal Court shall be conducted according to, and is subject to, the procedures of this
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section. If the court finds that the impoundment or the removal, towing, storage, or administrative fees are improper, any judgment entered against the City shall include the amount of the filing fee.

Section 4. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.

Passed by the City Council the _____ day of _____, 2000, and signed by me in open session in authentication of its passage this _____ day of _____, 2000.

President _____ of the City Council

Approved by me this _____ day of _____, 2000.

Mayor

Filed by me this _____ day of _____, 2000.

City Clerk

(Seal)



STATE OF WASHINGTON - KING COUNTY

120504
City of Seattle, City Clerk

—ss.

No.

Affidavit of Publication

The undersigned, on oath states that he is an authorized representative of The Daily Journal of Commerce, a daily newspaper, which newspaper is a legal newspaper of general circulation and it is now and has been for more than six months prior to the date of publication hereinafter referred to, published in the English language continuously as a daily newspaper in Seattle, King County, Washington, and it is now and during all of said time was printed in an office maintained at the aforesaid place of publication of this newspaper. The Daily Journal of Commerce was on the 12th day of June, 1941, approved as a legal newspaper by the Superior Court of King County.

The notice in the exact form annexed, was published in regular issues of The Daily Journal of Commerce, which was regularly distributed to its subscribers during the below stated period. The annexed notice, a

CT:120006/ORD IN FUL

was published on

07/17/00

The amount of the fee charged for the foregoing publication is the sum of \$ _____, which amount has been paid in full.

Subscribed and sworn to before me on

07/17/00

Notary Public for the State of Washington,
residing in Seattle

City of Seattle

ORDINANCE 120806

AN ORDINANCE relating to the impoundment of vehicles, amending Subsections 11.30.105A and 11.30.120B, C and D and Section 11.30.160 of the Seattle Municipal Code.

WHEREAS in 1998 the City Council passed Ordinance 119180 authorizing the impoundment of vehicles driven by drivers with a suspended or revoked driver's license; and

WHEREAS an increased effort by the City to assist persons with suspended licenses in obtaining valid licenses and to assist persons receiving traffic citations in responding to those citations would reduce the number of persons driving with suspended licenses and thus the number subject to criminal penalties and the number of vehicles subject to impoundment; and

WHEREAS such an effort would not diminish every driver's responsibility to drive safely and meet the legal requirements resulting from driving infractions; and

WHEREAS Ordinance 119180 gave to the Police Department the responsibility for conducting vehicle impoundment hearings, but giving this responsibility to Municipal Court would provide a greater opportunity for drivers with suspended licenses whose vehicles have been impounded to learn about and meet their legal obligations; and

WHEREAS in adopting Ordinance 119180, the City Council intended the term "arrested" to include drivers temporarily detained and then released by the police upon service of a citation and notice to appear and did not intend to require that as a condition of impounding the vehicle the driver first had to be physically taken into custody and booked into jail for the offense of Driving While License Suspended or Revoked, (SMC 11.56.320 or 11.56.340); and

WHEREAS the amendment by this ordinance of Subsection 11.30.105A is intended to clarify, and not change, the intended meaning of the term "arrested" used in that subsection; NOW THEREFORE

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

SECTION 1. Subsection A of Section 11.30.105 of the Seattle Municipal Code (Ordinance 119180 § 4, part) is amended as follows:

A. Whenever the driver of a vehicle is arrested for a violation of Section 11.56.320 or 11.56.340, the vehicle is subject to impoundment at the direction of a police officer. For purposes of this subsection, "arrested" includes, but is not limited to, being temporarily detained under Section 12A.02.140B and served with a citation and notice to appear pursuant to Section 12A.02.140C and RCW 46.64.015.

SECTION 2. Subsections B, C and D of Section 11.30.120 of the Seattle Municipal Code (Ordinance 108200 § 2 (11.30.120), part, as last amended by Ordinance 119180 § 5) are further amended as follows:

11.30.120 REDEMPTION OF IMPOUNDED VEHICLES.

Vehicles impounded by the City shall be redeemed only under the following circumstances:

B. Any person so redeeming a vehicle impounded by the City shall pay the towing contractor for costs of impoundment (removal, towing, and storage) and administrative fee prior to redeeming such vehicle. Such towing contractor shall accept payment as provided in RCW 46.55.120(1)(b), as now or hereafter amended. If the vehicle was impounded pursuant to Section 11.30.105 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 by payment in full, by establishment of a time payment agreement with the Municipal Court, or by other means acceptable to the Municipal Court.

C. The Municipal Court (Chief of Police) is authorized to release a vehicle impounded pursuant to Section 11.30.105 prior to the expiration of any period of impoundment upon petition of the spouse of the driver, or the person registered pursuant to Ordinance 117244 as the domestic partner of the driver, 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 release of the vehicle, including but not limited to, the driver's criminal

record, in which case the Municipal Court judicial officer (administrative hearings officer) has discretion to consolidate the impoundment hearing and the notice of infraction hearing.

A. At the hearing, 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. If the impoundment is found to be proper, the Municipal Court judicial officer (administrative hearings officer) shall enter an order so stating. In the event that the costs of impoundment (removal, towing, and storage) and administrative fee have not been paid or any other applicable requirements of Section 11.30.120 B have not been satisfied or any period of impoundment under Section 11.30.105 has not expired, the Municipal Court judicial officer (administrative hearings officer) order shall also provide that the impounded vehicle shall be released only after payment to the City of any fines imposed on any underlying traffic or parking infraction and satisfaction of any other applicable requirements of Section 11.30.120 B and payment of the costs of impoundment and administrative fee to the towing company and after expiration of any period of impoundment under Section 11.30.105. In the event that the Municipal Court judicial officer (administrative hearings officer) grants time payments for the costs of impoundment and administrative fee, the City shall be responsible for paying the costs of impoundment to the towing company. The Municipal Court judicial officer (administrative hearings officer) shall grant such time payments only in cases of extreme financial need, and where there is an effective guarantee of payment.

C. If the impoundment is found to be improper, the Municipal Court judicial officer (administrative hearings officer) shall enter an order so stating and order the immediate release of the vehicle. If the costs of impoundment and administrative fee have already been paid, the Municipal Court judicial officer (administrative hearings officer) shall enter judgment against the City and in favor of the person who has paid the costs of impoundment and administrative fee in the amount of the costs of the impoundment and administrative fee.

D. In the event that the Municipal Court judicial officer (administrative hearings officer) finds that the impound was proper, but that the removal, towing, storage, or administrative fees charged for the impoundment were improper, the Municipal Court judicial officer (administrative hearings officer) shall determine the correct fees to be charged. If the costs of impoundment and administrative fee have been paid, the Municipal Court judicial officer (administrative hearings officer) shall enter a judgment against the City and in favor of the person who has paid the costs of impoundment and administrative fee for the amount of the overpayment.

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

F. An appeal of the Municipal Court judicial officer's (administrative hearings officer's) decision in Municipal Court shall be conducted according to, and is subject to, the procedures of this section. If the court finds that the impoundment or the removal, towing, storage, or administrative fees are improper, any judgment entered against the City shall include the amount of the filing fee.

SECTION 4. Should Council Bill 113254 also become an ordinance, then the amendments made by that ordinance and this ordinance to subsection 11.30.120B of the Seattle Municipal Code shall be given full force and effect. Should Council Bill 113113 also become an ordinance, then the amendments made by that ordinance and this ordinance to subsection 11.30.105A of the Seattle Municipal Code shall each be given full force and effect.

SECTION 5. This ordinance shall take effect and be in force thirty (30) days from and after its approval by the Mayor, but if not approved and returned by the Mayor within ten (10) days after presentation, it shall take effect as provided by Municipal Code Section 1.04.020.