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CITY OF SEATTLE
ORDINANCE _____
COUNCIL BILL 117568

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AN ORDINANCE relating to the regulation of the tow industry; revising tow industry regulations; repealing Sections 6.214.010, 6.214.020, 6.214.030, 6.214.040, 6.214.050, 6.214.060, 6.214.070, 6.214.080, 6.214.090, 6.214.100, 6.214.110, 6.214.120, 6.214.130, 6.214.140, 6.214.150, 6.214.160, 6.214.170, and 6.214.180 of the Seattle Municipal Code; adding new sections to chapter 6.214; and amending the 2012 budget, Ordinance 123758, to appropriate funds and create a new position; all by a three-fourths vote of the City Council.

WHEREAS, while the majority of tow companies are reputable service providers, some unscrupulous companies have engaged in predatory pricing practices for vehicles impounded from private property; and

WHEREAS, predatory towing practices include charging unwarranted or excessive fees, particularly in connection with impounding vehicles from private parking lots that may not display warnings to the vehicle owners, or overcharging consumers for towing services provided under circumstances where consumers have no meaningful opportunity to withhold consent; and

WHEREAS, the legitimate business interests of tow truck companies and the needs of private property owners for relief from unauthorized parking must be balanced with the public interest in providing appropriate protection to consumers; NOW, THEREFORE,

BE IT ORDAINED BY THE CITY OF SEATTLE AS FOLLOWS:

Section 1. The City Council finds that it is in the public interest to prevent predatory towing practices, including charging unwarranted or excessive fees in connection with impounding vehicles from private parking lots or overcharging consumers for towing services provided under circumstances where the consumer has no meaningful opportunity to withhold consent. The City Council further finds that a maximum tow rate based on the highest towing rate allowed in Seattle Police Department contracts for public impounds and adjusted for costs applicable to private property impounds and a margin of profit is reasonable and compensatory.

1 **Section 2:** Sections 6.214.010, 6.214.020, 6.214.030, 6.214.040, 6.214.050, 6.214.060,
2 6.214.070, 6.214.080, 6.214.090, 6.214.100, 6.214.110, 6.214.120, 6.214.130, 6.214.140,
3 6.214.150, 6.214.160, 6.214.170, and 6.214.180 of the Seattle Municipal Code, which relate to
4 towing operators and tow truck licenses, and which were last amended by Ordinances 110373,
5 109080, 109622, and 117242, and which are shown in Attachment A, are repealed.

6
7 **Section 3:** The name of Chapter 6.214 of the Seattle Municipal Code is amended as
8 follows: (~~(TOWING OPERATOR AND TOW TRUCK LICENSES)~~) TOW COMPANY
9 LICENSES AND REGULATIONS

10
11 **Section 4:** New Sections 6.214.200 through 6.214.360 are added to the Seattle Municipal
12 Code as follows:

13
14 **6.214.200 Definitions**

15 For the purpose of this Chapter 6.214:

16 “Class A”, “Class D” and “Class E” tow trucks have the same meaning as defined in
17 Section 204-91A-170 of the Washington Administrative Code

18 “Director” means the Director of Finance and Administrative Services or his or her
19 authorized representative.

20 "Impound" means to take and hold a vehicle in legal custody.

21 “Office”, “business office”, and “place of business” have the same meaning as “office” and
22 “place of business” as defined in Section 5.30.040.

23 “Person” means an individual, a sole proprietorship, partnership, corporation, limited
24 liability company or any other business entity.

25 “Private impound” means that the vehicle has been impounded at the direction of a person
26 having control or possession of the private property upon which the vehicle was located.

1 "Public impound" means that the vehicle has been impounded at the direction of a law
2 enforcement officer or by a public official having jurisdiction over public property upon which
3 the vehicle was located.

4 "Tow company" means a person engaged in the business of impounding, transporting, or
5 storage of unauthorized vehicles or the disposal of abandoned vehicles for compensation, but
6 does not include an employee of such a business who does not have an ownership interest.

7 "Towing service" means the public or private impound of a vehicle by a tow company.

8 "Tow truck" means a vehicle used to render towing service but shall not include a vehicle
9 used by a vehicle reposessor working on contract for the owner of the legal title to a vehicle.

10 "Tow truck driver" means any individual who operates or uses a tow truck on behalf of a
11 tow company for the purpose of providing towing service.

12 "Uncompleted tow" means a situation in which the tow truck driver has not completed all
13 of the necessary steps associated with preparing a vehicle for a tow and has not yet begun to
14 operate the tow truck with the vehicle in tow.

15 "Vehicle" means every device capable of being moved upon a street and in, upon, or by
16 which any person or property is or may be transported or drawn upon a street.

17 "Vehicle operator" means any person operating a vehicle with legal authority to do so.

18 19 **6.214.210 Tow company operating requirements**

20 A. As of March 1, 2013, it is unlawful for any tow company to operate or cause to operate
21 within Seattle city limits any tow truck for the purpose of providing towing service unless:

22 1. The tow company has a valid tow company license issued under this Chapter
23 6.214.

24 2. The tow company has a current registration certificate required by RCW
25 46.55.020.

26 B. Any tow company engaging in or offering to engage in towing service within Seattle city
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1 limits in violation of this Section 6.214.210 is guilty of a misdemeanor.

2
3 **6.214.220 Maximum private impound fees for towing service, uncompleted tow,**
4 **storage, and after-hours release**

5 A. Towing service fee: The maximum hourly fee that tow companies may charge for
6 towing service for private impounds shall be no more \$183 for the first hour and \$130.60 for the
7 second and subsequent hours for tows conducted with a Class A, D, or E tow truck. The Director
8 shall adjust this rate by rule for inflation on an annual basis following publication of the
9 preceding year's percentage change in the annual Seattle-Tacoma-Bremerton Consumer Price
10 Index for all Urban Consumers (CPI-U) Transportation, or a successor index thereto, as
11 determined by the U.S. Department of Labor, Bureau of Labor Statistics. All towing service fees
12 must be based on a flat, hourly rate only and will apply without regard to the hour of day, day of
13 the week or whether the service was performed on a Saturday, Sunday, or state recognized
14 holiday. The hourly fee for each class of truck must:

15 1. Be the only basis used by the tow company to compute total charges for private
16 impound towing services, other than the uncompleted tow, storage and after-hours release fees
17 allowed in subsections 6.214.220.B, C, and D.

18 2. Include all ancillary activities including, but not limited to necessary winching,
19 dolly service, drive line removal, installation of chains on the tow truck, installation of portable
20 lights, vehicle hookup for towing or transporting, tire replacement and standby time.

21 3. Include the labor of one person per truck. No charges for additional labor are
22 allowed for Class A, D, and E private impound tows.

23 4. The hourly fee must be applied to the resulting net time and, after the first hour,
24 must be rounded to the nearest fifteen minutes. A tow company may charge the hourly fee for the
25 first hour or any portion thereof. After the first hour, no more than one-quarter of the hourly fee
26 may be charged for each fifteen minutes of towing service work performed.

1 B. Uncompleted tow fee: Tow companies may charge no more than the maximum hourly
2 towing service fee specified in subsection 6.214.220.A for an uncompleted tow. Beginning with
3 the first hour, no more than one quarter of the hourly fee may be charged for each fifteen minutes
4 of towing service work performed. Reimbursement for time spent on an uncompleted tow can
5 only be computed from the time of dispatch to the time the car is released to the vehicle operator.

6 C. Storage fee: The maximum storage fee that tow companies may charge for storing a
7 private impound vehicle shall be no more than \$15.50 for each 12-hour increment. The Director
8 shall revise by rule the maximum storage fee for private property impounds to match the
9 maximum storage fee allowed under the City towing contracts relating to public impounds
10 performed for the Seattle Police Department made pursuant to Chapter 11.30, whenever there is
11 a change to the storage rates under those contracts.

12 D. After hours release fee: The maximum fee that a tow company may charge to release a
13 privately impounded vehicle outside of normal business hours may not exceed \$100. The
14 Director may adjust the maximum fee by rule upon written findings by the Director that reasons
15 to do so exist. The Director shall consider the number and frequency of after-hours releases, the
16 effect of the fee on consumers, the costs to tow companies, and any other factors related to after-
17 hours releases.

18 The limitations set out in this Section 6.214.220 only apply if the towed vehicle is parked
19 and upright, has all its wheels and tires attached, does not have a broken axle, and has not been
20 involved in an accident at the location from which it is being impounded.

21
22 **6.214.230 Consent required for towing from privately-owned property**

23 A. No tow company shall perform any private impound without the consent of the
24 vehicle operator, unless:

25 1. the tow company has entered into a contract for private impounds with the
26 owner of the property;

1 2. signs are posted in compliance with Chapter 46.55 RCW;

2 3. the property owner has authorized the tow company to remove the particular
3 motor vehicle in accordance with RCW 46.55.080;

4 4. the tow company tows the motor vehicle to a secure storage facility that is
5 located within a reasonable distance of the property from which the vehicle was towed;

6 5. the tow company has taken digital photographs to demonstrate that the vehicle
7 as parked was subject to impound, showing: 1) the date and time; 2) the impounded vehicle from
8 all four sides as parked prior to being hooked to a tow truck; 3) that the vehicle, as parked, was
9 on the property governed by the contract between the private property owner or agent and the
10 tow company; and 4) that appropriate signs were posted pursuant to Chapter 46.55 RCW.

11 B. No person in possession or control of private property shall authorize the towing of
12 any motor vehicle parked for an unauthorized purpose or at a time during which such parking is
13 not permitted on the private property without the consent of the vehicle operator, unless:

14 1. the person in possession or control of the private property has contracted with a
15 towing company for removal of vehicles parked on the property without authorization.

16 2. signs are posted in conformance with Chapter 46.55 RCW.

17 Each violation of this subsection 6.214.230.B shall be a Class 1 civil infraction under Chapter
18 7.80 RCW.

19 C. This Section 6.214.230 shall not apply to a motor vehicle parked in front of any
20 driveway or garage entrance where the motor vehicle is blocking access to that driveway or
21 garage entrance.

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23 **6.214.240 Receipt required**

24 A. The tow company, or his/her agent, shall prepare a receipt for all services charged for
25 in duplicate, using sequentially numbered forms for every towing service provided within Seattle
26 city limits. The receipt will contain the following:

- 1 1. Name, address, telephone number, and place of business of the operator;
- 2 2. Washington State license number or fleet number of the towing service vehicle
- 3 used in providing the service;
- 4 3. Name and address of every person engaging the operator's service;
- 5 4. License number, year, make, model and color of the vehicle towed;
- 6 5. Name and address of the vehicle's registered owner, if known, or, in cases of an
- 7 uncompleted tow, the name, address, and driver's license number of the person paying the fee for
- 8 the uncompleted tow;
- 9 6. Date, time and place service commenced, and terminated;
- 10 7. Specific service(s) rendered;
- 11 8. Total amount to be charged for all services, itemized by each particular service
- 12 rendered (e.g. towing service, storage, after-hours release) and indicating the time spent for each
- 13 if the service fee is calculated by time;
- 14 9. The signature of the operator, driver, agent or employee providing the service;
- 15 10. The signature of the person to whom the towing service was provided or to
- 16 whom the vehicle was released or delivered, unless refused.
- 17 11. Whether the tow service was voluntary or involuntary and if involuntary, if it
- 18 was requested by a private or public entity.

19 The tow company, or his/her agent, shall deliver a copy of the receipt to the person
20 paying the fee for an uncompleted tow or the person redeeming the vehicle from the operator's
21 custody, and shall keep one copy, filed serially in order of the receipt number.

22 **6.214.250 Records to be kept**

23 A. Each tow company shall keep, maintain and store complete records, invoices and
24 receipts for each transaction involving any towing service performed within Seattle city limits
25 for a period of three years at the operator's place of business.
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1 B. Each tow company shall maintain a log of, and forward to the Director upon request,
2 each written complaint that the tow company receives. The tow company must include a notice
3 of the action taken by the tow company to resolve the complaint and the disposition.

4 C. Each tow company shall keep all records required to be kept under this Section
5 6.214.250 for a period of three years and shall permit the Director to carry out inspections of
6 such records without notice.

7 D. Each tow company shall comply with the record requirements of Chapter 46.55 RCW
8 and permit the Director to carry out inspections of such records without notice.

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10 **6.214.260 Unlawful Acts**

11 As of January 1, 2013, it is unlawful for any tow company, tow truck driver, or any agent
12 of a tow company to:

13 A. Misdemeanors

14 1. Demand or collect for towing service in excess of the maximum rates specified
15 in Section 6.214.220.

16 2. Demand or collect for towing service in excess of time spent providing the
17 towing service or for services not rendered.

18 3. In the case of an uncompleted tow, fail to release a vehicle when a person
19 shows reasonable proof of ownership or authorization to operate the vehicle and provides
20 payment of the fee allowed under Section 6.214.220.B. The tow truck driver must provide an
21 itemized receipt in accordance with Section 6.214.240.

22 B. Civil Infractions

23 1. Require any vehicle owner or operator to make any statement or sign any
24 document promising not to dispute the validity of the tow or fees assessed or relieving the tower
25 from responsibility for the condition of the vehicle or its contents.

26 2. Fail to release a vehicle pursuant to RCW 46.55.120 to any person authorized
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1 to redeem a vehicle under that section.

2 3. Remove a vehicle from any location unless:

3 a. The conditions of Section 6.214.230 are met;

4 b. Requested to so remove by a police officer or appropriate governmental
5 official acting in his/her official capacity; or

6 c. The vehicle's registered owner, or the owner's authorized agent, engages
7 the operator's service.

8 4. Block or otherwise interfere with the removal of a vehicle by a person properly
9 claiming such vehicle.

10 5. Be beneficially interested in a contract, agreement, or understanding that may
11 be made by or between a person having control or possession of private property and any agent
12 of such person where the agent has been granted authority to sign an impound authorization.

13 6. Have a financial, equitable, or ownership interest in a firm, partnership,
14 association, limited liability company, or corporation whose functions include acting as an agent
15 or a representative of a property owner for the purpose of signing impound authorizations.

16 7. Enter into any contract or agreement or offer any program that provides an
17 incentive to a person authorized to order a private impound to authorize an impound or number
18 of impounds.

19 8. Go to the site of a vehicle accident for purposes of soliciting or procuring
20 towing service business unless called by the owner of a vehicle, the rightful occupier of property
21 from which a vehicle is to be removed, or a police officer.

22 9. Fail to provide a receipt with all charges itemized as specified in Section
23 6.214.240.

24 10. Fail to comply with record requirements as specified in Section 6.214.250.

25 C. Each violation of subsection 6.214.260.A shall be a misdemeanor and upon conviction
26 punishable by a civil fine or forfeiture not to exceed \$1,000, or by incarceration for a term not to
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1 exceed 90 days, or by both such fine and incarceration, provided, however, that for each
2 violation of subsection 6.214.260.A, restitution shall be mandatory.

3 D. Each violation of subsection 6.214.260B shall be a Class 1 civil infraction under
4 Chapter 7.80 RCW.

5
6 **6.214.270 Tow company license**

7 A. A tow company license is valid for no more than one year and expires on December
8 31st.

9 B. A tow company shall obtain a separate tow company license for each separate office
10 location.

11 C. The annual license fee is \$500.

12
13 **6.214.280 Tow company license renewal**

14 A. If intending to renew its license, each tow company shall submit a renewal
15 application, pursuant to the application requirements specified in Section 6.214.290, at least 60
16 days prior to license expiration.

17 B. No tow company license shall be renewed unless the renewal fee has been paid and all
18 outstanding penalties and interest assessed against the tow company have been paid.

19 C. A late penalty shall be assessed on all renewal applications received later than ten
20 working days after the due date specified in this Section 6.214.280.A. The amount of the late
21 penalty shall be 15 percent of the application fee required under subsection 6.214.270.C.

22 D. For all tow company license renewal applications received by the due date specified in
23 Section 6.214.280, the Director shall issue a new license or notice of denial, to be effective upon
24 the expiration of the tow company's existing license, at least 10 days prior to the expiration of
25 the tow company's existing license.

1 **6.214.290 Tow company license application**

2 A. Any person desiring to conduct business as a tow company within Seattle city limits
3 shall file with the Director a signed and notarized tow company application on forms approved
4 by the Director. The application shall include, but not be limited to, the following information:

5 1. The tow company's business or company name, business office street address
6 and post office box address (if any), business facsimile number, business phone number, and
7 email address where the tow company representative can generally be reached between 9:00 a.m.
8 and 5:00 p.m. on all non-holiday weekdays. For purposes of this Section 6.214.290, the business
9 office street address that the tow company lists on its application shall be the business office
10 where its files are kept.

11 2. The form of business entity under which the tow company will operate (e.g.
12 corporation, etc.).

13 3. If the tow company is individually owned, the name, business office street
14 address (or home address if no office address), telephone number and date of birth of the owner,
15 or if the applicant tow company is a corporation, partnership, limited liability company, or other
16 business entity, the names, home and business addresses, telephone numbers, and dates of birth
17 of all officers, directors, general and managing partners, registered agents, and of all other
18 persons vested with authority to manage or direct the affairs of the legal entity or to bind the
19 legal entity in dealings with third parties; the entity's true legal name, state of incorporation, or
20 registration with the Secretary of State of the State of Washington (if any); State of Washington
21 Unified Business Identifier; and any other information that the Director may reasonably require.

22 4. The name, address, phone number and date of birth of a tow company
23 representative who is authorized by the tow company to act on its behalf in all business matters.

24 5. All locations of secure areas used by the tow company for vehicle storage and
25 redemption.

26 6. The vehicle license and vehicle identification numbers of all tow trucks of
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1 which the applicant is the registered owner.

2 7. The rates that will be charged by the tow company subject to the maximum
3 rates allowed by SMC 6.214.220.

4 8. Proof that all lots used for vehicle storage have been inspected and approved by
5 the Washington State Patrol (most recent annual inspection) as required by RCW 46.55.060.

6 9. Copies of the most recent annual tow truck permits issued by the Washington
7 State Patrol for each tow truck, pursuant to RCW 46.55.040.

8 10. Any other information required by Director's Rule or under regulations
9 adopted pursuant to this Chapter 6.214.

10 B. An applicant or licensee shall inform the Director in writing within seven days of any
11 change in the information required under this Section 6.214.290.

12 C. Each application submitted to the Director must be accompanied by the license fee set
13 forth in subsection 6.214.270.C.

14
15 **6.214.300 Standards for license denial**

16 The Director shall deny any tow company license application if the Director determines
17 that:

18 A. A tow company license issued to the applicant or to any company in which the
19 applicant was an owner, officer or other principal has been revoked within one year of the
20 application; or

21 B. Grounds exist for denial of a license under Section 6.202.230; or

22 C. The tow company does not have a current registration certificate as required by RCW
23 46.55.020.

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25 **6.214.310 Standards for license suspension or revocation**

26 A. Suspension Standards. The Director shall suspend any tow company license issued
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1 under this Chapter 6.214 if the Director determines that:

2 1. The tow company or any tow truck driver or any person employed, acting as an
3 independent contractor for, or otherwise associated with the tow company has had one or more
4 convictions of any unlawful act contained in subsection 6.214.260.A occurring during the
5 preceding twelve month period. All suspensions issued under this subsection 6.214.310.A.1 shall
6 extend for one month or until expiration of the license, whichever occurs first.

7 2. The tow company or any tow truck driver or any person employed, acting as an
8 independent contractor for, or otherwise associated with the tow company has had two or more
9 convictions of any unlawful act contained in paragraphs 1 through 9 of subsection 6.214.260.B
10 occurring during the preceding twelve month period. All suspensions issued under this
11 subsection 6.214.310.A.2 shall extend for one month or until expiration of the license, whichever
12 occurs first.

13 3. The tow company or any tow truck driver or any person employed, acting as
14 an independent contractor for, or otherwise associated with the tow company has been
15 determined by the Director to have three or more violations of any provision of this Chapter
16 6.214 other than those contained in Section 6.214.260.

17 4. The tow company has failed to keep and maintain records required under
18 Section 6.214.250 or has failed to allow the inspection by the Director of such records.
19 Suspensions issued under this subsection 6.214.310.A.3 shall continue until the violation is
20 cured.

21 5. The tow company does not maintain a City of Seattle business license issued
22 under Chapter 5.55. Suspensions issued under this subsection 6.214.310.A.4 shall continue until
23 the violation is cured.

24 6. The tow company has been adjudicated to have committed one or more
25 violations of the requirements of Chapter 46.55 RCW during the preceding twelve month period.

26 B. Revocation standards. The Director shall revoke a tow company license issued under
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1 this Chapter 6.214 if the Director determines that:

2 1. The tow company has had three or more convictions of any unlawful act
3 contained in subsection 6.214.260.A occurring during the preceding twelve month period.

4 2. The tow company has had four or more convictions of any unlawful act
5 contained in subsection 6.214.260.B occurring during the preceding twelve month period.

6 3. The tow company or any tow truck driver or any person employed, acting as
7 an independent contractor for, or otherwise associated with the tow company has been
8 determined by the Director to have five or more violations of any provision of this Chapter 6.214
9 other than those contained in Section 6.214.260.

10 4. The tow company has been adjudicated to have committed three or more
11 violations of Chapter 46.55 RCW during a twelve month period.

12 5. Any one or more of the grounds exists for a revocation of license under Section
13 6.202.230.

14 C. Effective date of suspensions or revocations.

15 1. Suspension or Revocation. Suspensions or revocations become effective upon
16 the date of any notice of suspension or revocation or, in the event of an appeal, when a ruling on
17 appeal affirming the Director's findings is issued.

18 D. Lengths of suspension and revocations.

19 1. Unless a time period is specified in a particular section of this Chapter 6.214,
20 suspensions shall extend one month or until the license expires, or until evidence is produced to
21 the Director showing by preponderance that the violation is cured, whichever occurs first.

22 Revocations shall extend until the end of the annual license period.

23 2. Whenever a timely appeal is filed pursuant to Section 6.214.320, a licensee
24 may continue to engage in the activity for which the license is required pending a final decision
25 on appeal.

1 **6.214.320 Notice and hearing for denials, suspensions and revocations.**

2 A. If the Director determines there are grounds to deny, suspend, or revoke a tow
3 company license, the Director shall give written notice to a tow company. The notice shall be
4 delivered either personally or by first class mail to the address provided on the most recent
5 license application by the tow company. The notice shall state that the tow company is entitled to
6 appeal the Director's findings to the Hearing Examiner, in accordance with Chapter 3.02, within
7 15 days of the notice date.

8 B. If a tow company files a timely notice of appeal pursuant to Chapter 3.02, a hearing
9 shall be scheduled and conducted by the Hearing Examiner according to the Hearing Examiner
10 Rule of Practice and Procedure. At the Hearing Examiner hearing, the Director shall have the
11 burden of proving by a preponderance of the evidence that grounds for denying, suspending, or
12 revoking a tow company license existed.

13 C. The Hearing Examiner may affirm, modify or reverse the decisions of the Director.

14 D. In cases where the Director determines that a tow company has demonstrated a good
15 faith intent to come into compliance with the requirements of this Chapter 6.214, in lieu of
16 proceedings to deny, suspend or revoke a tow company license, the Director may enter into an
17 agreement with the tow company concerning appropriate action to cure the grounds on which a
18 license denial, suspension or revocation is based.

19
20 **6.214.330 Complaint hotline**

21 The Director may establish a complaint telephone number.

22
23 **6.214.340 Complaint process**

24 A. Upon receiving a complaint alleging a possible violation of this Chapter 6.214, the
25 Director shall determine whether there are reasonable grounds to believe that a violation has
26 occurred. If the Director determines that there are no reasonable grounds to believe that a
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1 violation occurred, or that the violation was inadvertent and minor, the Director shall dismiss the
2 complaint. If the Director does so dismiss the complaint, he or she shall do so in writing, setting
3 forth the reasons for the dismissal. If the Director determines that there are reasonable grounds to
4 believe that a violation has occurred and that the violation was not inadvertent and minor, the
5 Director may do one or more of the following:

6 1. Issue a notice of complaint to the applicable tow company representative
7 advising such person of the allegation(s) made in the complaint.

8 2. Require the company to respond in writing to the allegation(s) in the notice of
9 complaint within ten business days of receipt of the notice of complaint, including:

10 a. digital photographs to demonstrate that the vehicle as parked was subject
11 to impound, showing: 1) the date and time; 2) the impounded vehicle from all four sides as
12 parked prior to being hooked to a tow truck; 3) that the vehicle, as parked, was on the property
13 governed by the contract between the private property owner or agent and the tow company; and
14 4) that appropriate signs were posted pursuant to Chapter 46.55 RCW.

15 b. A copy of the contract between the tow company and property owner that
16 was in effect at the time of impound;

17 c. Proof of written authorization with a signature, from the property owner
18 requesting that the vehicle be impounded;

19 d. A copy of the invoice given to the vehicle owner showing details of all
20 charges made for the private impound and storage; and

21 e. A written response to the specific allegations made in the complaint.

22 3. Require the tow company to investigate the allegation(s) in the notice of
23 complaint.

24 4. Order the tow company to take appropriate action to resolve the complaint if
25 the tow company is adjudicated by a court or determined by the Director to be in violation of this
26 Chapter 6.214. The tow company shall notify the Director of the action taken.

1 B. For any violation of this Chapter 6.214, the Director may enter into an agreement
2 with the tow company concerning appropriate action to resolve the complaint. For any act
3 deemed unlawful under this Section 6.214.260, the Director may enter into such agreements in
4 lieu of prosecution.

5 C. The tow company may request a hearing to contest any complaint or order of the
6 Director made pursuant to this Section 6.214.340 by filing a written request for review with the
7 Director, submitted by the person named in the order, within ten business days after the date of
8 the order. Any such complaint or order shall state that the tow company is entitled to a hearing to
9 introduce any evidence to refute or mitigate the allegations relating to the complaint or order.
10 Upon receipt of a written request for review, the Director shall set a hearing date and time to be
11 held as soon as possible and not more than 30 calendar days from the date of the request or the
12 next business day after that if the 30th day falls on a weekend or holiday. The hearing shall be
13 held by the Director or the Director's designee provided that the designee may not be a person
14 who directly supervises the person who issued the complaint or order. The hearing shall be
15 informal, but shall be recorded by electronic means provided by the Director. Within 20 calendar
16 days of the hearing, the Director shall issue a written ruling including factual findings and the
17 Director's conclusion with supporting reasons that affirm, modify or reverse the complaint or
18 order. The decision shall be mailed by first class mail to each affected licensee at the address
19 listed on the application.

20 D. Failure to respond in writing within ten business days to a notice of complaint or order
21 of the Director shall constitute a waiver of the tow company's right to contest the allegation(s) in
22 the complaint or order.

23 E. Nothing in this Section 6.214.340 shall be construed to limit the Director's authority to
24 prosecute any criminal or civil action in an appropriate court for any act made unlawful under
25 this Chapter 6.214.

1 **6.214.350 City impound fee**

2 A. The City shall levy a City impound fee on all private impounds conducted in the city
3 when the vehicle is redeemed. The amount of the fee shall be set by the Director by rule but shall
4 not exceed more than \$15 per vehicle redemption.

5 B. The City impound fee shall be collected by the tow company performing the impound
6 and shall be remitted to the Department of Finance and Administrative Services in the manner
7 directed by the Director. The City impound fee shall be for the purpose of offsetting, to the
8 extent practicable, the cost to the City of implementing, enforcing, and administering the
9 provisions of this Chapter 6.214 and shall be deposited in an appropriate account to be specified
10 by rule.

11
12 **6.214.360 Rule-making authority**

13 The Director is authorized to promulgate and adopt rules pursuant to SMC Chapter 3.02
14 to implement the provisions of this Chapter 6.214.

15
16 **Section 5.** To pay for necessary costs and expenses incurred or to be incurred in 2012,
17 but for which insufficient appropriations were made due to causes that could not reasonably have
18 been foreseen at the time the 2012 Budget was adopted, appropriations for the following items in
19 the 2012 Budget are increased from the funds shown as follows:

20

Fund	Department	Budget Control Level	Amount
Finance and Administrative Services Fund (50300)	Department of Finance and Administrative Services	Revenue and Consumer Protection (A4530)	\$37,120
General Subfund ((00100)	Finance General	Appropriation to General Fund Subfunds and Special Funds (2QA00)	\$37,100
Total			\$74,220

21
22
23
24
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27

1
2 **Section 6.** To implement the regulations in Chapter 6.214, the following new position
3 will be created in Department of Finance and Administrative Services:

4

Department	Position Title	FTE	Position Type
Finance and Administrative Services	Licenses & Standards Inspector	1.0	Full Time

5
6
7

8 The Director of Finance and Administrative Services is authorized to fill this position
9 subject to civil service and personnel rules and laws.

10
11 **Section 7.** Sections five and six of this ordinance shall take effect on the effective date of
12 this ordinance or November 1, 2012, whichever is later.

13
14 **Section 8.** The several provisions of this ordinance are declared to be separate and
15 severable and an order of any court of competent jurisdiction holding invalid any clause,
16 sentence, paragraph, subdivision, section, or portion of this ordinance, or holding invalid the
17 application thereof to any person or circumstance, shall not affect the validity of the remainder of
18 this ordinance or the validity of its application to other persons or circumstances.

19
20 **Section 9.** This ordinance shall take effect and be in force 30 days after its approval by
21 the Mayor, but if not approved and returned by the Mayor within ten days after presentation, it
22 shall take effect as provided by Seattle Municipal Code Section 1.04.020.

1 Passed by a 3/4 vote of all the members of the City Council the ____ day of
2 _____, 2012, and signed by me in open session in authentication of its
3 passage this ____ day of _____, 2012.
4

5
6 _____
7 President _____ of the City Council
8

9 Approved by me this ____ day of _____, 2012.
10

11 _____
12 Michael McGinn, Mayor
13

14 Filed by me this ____ day of _____, 2012.
15

16 _____
17 Monica Martinez Simmons, City Clerk
18

19 (Seal)

20 Attachment A: Towing operators and towing licenses, repealed code sections.
21
22
23
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27

Attachment A: Repealed Code Sections

The repealed sections of the Seattle Municipal Code are shown below in numerical order.

Chapter 6.214 TOWING OPERATOR AND TOW TRUCK LICENSES

SMC 6.214.010

Definitions.

For the purpose of this chapter:

A. "Impound" means removal of a vehicle to a storage facility by request of any person except the vehicle's registered owner, or authorized agent.

B. "Operator" means any person engaged in the business of offering or providing a towing service except "operator" shall not include a vehicle reposessor working exclusively on contract for the owner of the legal title to a vehicle.

C. "Towing service" means use of a vehicle by which other vehicles including, but not limited to, abandoned, disabled, inoperable, or improperly parked vehicles are towed or impounded.

D. "Tow truck" means a vehicle used to render towing service except "tow truck" shall not include a vehicle used by a vehicle reposessor working on contract for the owner of the legal title to a vehicle.

E. "Vehicle" means every device capable of being moved upon a street and in, upon, or by which any person or property is or may be transported or drawn upon a street.

(Ord. 110373 Section 1, 1982; Ord. 109080 Section 1(part),

1980; Ord. 108934 Section 7.020, 1980.)

SMC 6.214.020

License -- Expiration date.



Towing operator licenses and tow truck licenses expire annually on August 31st.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.024, 1980.)

SMC 6.214.030

License -- Operator -- Required.

It is unlawful for any person to engage in the towing service business without first obtaining a towing operator license in accordance with the provisions of the New License Code.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.030, 1980.)

SMC 6.214.040

License -- Tow truck -- Required.

It is unlawful for any person to operate a tow truck without first obtaining a tow truck license in accordance with the provisions of the New License Code.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.035, 1980.)

SMC 6.214.050

Incorporation of state law and Washington Administrative Code provisions. Whenever state law or Washington Administrative Code provisions are incorporated by reference into this chapter, the effect is to govern all



operators licensed by the City, whether or not state law or regulations by their terms govern all operators.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.100, 1980.)

SMC 6.214.060

Unlawful acts.

It is unlawful for any operator, or his/her agent to:

- A. Demand or collect for towing service in excess of the rates filed;
- B. Fail to provide a receipt with all charges itemized;
- C. Fail to release a vehicle to its rightful owner if the appropriate charge to which the person is entitled has been tendered in a form acceptable under RCW Chapter 46.52 and regulations promulgated thereunder, and the person making such tender promises to remove or promptly secure removal of the towed vehicle;
- D. Remove a vehicle from any location unless:
 1. Requested to so remove by a police officer or appropriate governmental official acting in his/her official capacity, or
 2. The vehicle's registered owner, or the owner's authorized agent, engages the operator's service, or
 3. A written contractual agreement exists between the operator and the real property owner, or rightful occupier of real property, and provides for tow services to remove vehicles from the real property, or
 4. The operator has a signed authorization from the rightful occupier of real property for each such vehicle removed in accordance with RCW



46.52.118, 46.52.119, and 46.52.119 (2) and with WAC 308-62-020;

E. Charge any fee or other remuneration for attempting to tow a vehicle unless:

1. The licensee has gained custody of a vehicle to be towed by hooking it to the tow truck and raising the vehicle's wheels off the ground, in which event no more than fifty percent (50%) of the impound fee, plus charges for other service actually performed may be charged, or

2. The licensee has completed the process of preparing the vehicle for towing, and the licensee has begun to operate the tow truck with the vehicle in tow, in which event the total amount of the impound fee and other allowable charges may be charged;

F. Block or otherwise interfere with the removal of a vehicle by a person properly claiming such vehicle;

G. Go to the site of a vehicle accident for purposes of soliciting or procuring towing service business unless called by the owner of a vehicle, the rightful occupier of property from which a vehicle is to be removed, or a police officer.

(Ord. 109622 Section 1, 1981; Ord. 109080 Section 1(part), 1980; Ord. 108934 Section 7.140, 1980.)

SMC 6.214.070

Financial responsibility.

Each tow truck operator shall submit to the Director for filing by the City Clerk, a copy of public liability insurance in the minimum amount of One Hundred Thousand Dollars (\$100,000.00) for any one (1) person killed or



injured in any one (1) accident or occurrence and Three Hundred Thousand Dollars (\$300,000.00) for more than one (1) person killed or injured in any one (1) accident or occurrence, and Ten Thousand Dollars (\$10,000.00) of garage keeper legal liability insurance.

(Ord. 117242 Section 11, 1994: Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.170, 1980.)

SMC 6.214.080

Failure to satisfy judgment.

If a licensee fails to satisfy a judgment arising out of the tow truck business prior to license renewal, the license may be denied, unless a stay of denial is procured during the pendency of a court appeal.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.180, 1980.)

SMC 6.214.090

License plates.

For each tow truck, the Director shall issue to an operator tow truck license plates, to be at all times prominently displayed as required by the Director.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.210, 1980.)

SMC 6.214.100

Marking towing service vehicles.

Every tow truck shall be marked in compliance with WAC 308-61-110(7).



(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.215,
1980.)

SMC 6.214.110

Rates -- Filing.

The rates for towing or storing vehicles charged by an operator shall be filed with the Director on a form as prescribed by the Director.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.220,
1980.)

SMC 6.214.120

Rates -- Posting.

Rates shall be posted, conspicuously, exactly as filed, at all locations of the towing business from which towed vehicles are released. The sign shall be of sufficient contrast in color to be clearly readable, and be in such form, location, and size as required by the Director.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.225,
1980.)

SMC 6.214.130

Rates -- Quoting orally.

Rates shall be orally quoted by the operator, or his agent to any member of the public upon request. The operator shall disclose both towing and storage fees.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.230,
1980.)



SMC 6.214.140

Rates -- Publishing.

A schedule of tow rates will be maintained on file by the Department and furnished to any person on request.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.231, 1980.)

SMC 6.214.150

Rates -- Changing.

An operator may file new rates at any time. New rates shall become effective fifteen (15) days after filing.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.235, 1980.)

SMC 6.214.160

Direct route.

Any operator, or his/her agent, when engaged in towing a vehicle to a definite location, shall take the most direct route possible consistent with public safety.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.250, 1980.)

SMC 6.214.170

Removing vehicles from private property -- Releasing such vehicles --
Selling impounded vehicles.



Any towing operator or agent removing a vehicle from private property, releasing such vehicle, or selling any abandoned vehicle shall comply with the requirements of RCW Chapter 46.52 and regulations promulgated pursuant thereto.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.260, 1980.)

SMC 6.214.180

Receipt required -- Records to be kept.

The operator, or his/her agent, shall prepare a receipt for all services charged for in duplicate, using sequentially numbered forms for every towing service provided within or from the City. The receipt will contain the following:

- A. Name, address, telephone number, and place of business of the operator;
- B. Washington State license number or fleet number of the towing service vehicle used in providing the service;
- C. Name and address of every person engaging the operator's service;
- D. License number, year, make, model and color of the vehicle towed;
- E. Name and address of the vehicle's registered owner, if known;
- F. Date, time and place service commenced, and terminated;
- G. Specific service(s) rendered;
- H. Total amount to be charged for all services including storage;
- I. The signature of the operator, driver, agent or employee providing the service;
- J. The signature of the person to whom the towing service was provided or to



whom the vehicle was released or delivered, unless refused.

The operator, or his/her agent, shall deliver a copy of the receipt to the person redeeming the vehicle from the operator's custody, and shall keep one (1) copy, filed serially in order of the receipt number. Such filed receipts shall be retained for a period of one (1) year at the operator's place of business.

(Ord. 109080 Section 1(part), 1980: Ord. 108934 Section 7.270,
1980.)



FISCAL NOTE FOR NON-CAPITAL PROJECTS

Department:	Contact Person/Phone:	CBO Analyst/Phone:
Legislative	Christa Valles/684-5336	

Legislation Title:

AN ORDINANCE relating to the regulation of the tow industry; revising tow industry regulations; repealing Sections 6.214.010, 6.214.020, 6.214.030, 6.214.040, 6.214.050, 6.214.060, 6.214.070, 6.214.080, 6.214.090, 6.214.100, 6.214.110, 6.214.120, 6.214.130, 6.214.140, 6.214.150, 6.214.160, 6.214.170, and 6.214.180 of the Seattle Municipal Code; adding new sections to chapter 6.214; and amending the 2012 budget, Ordinance 123758, to appropriate funds and create a new position; all by a three-fourths vote of the City Council.

Summary of the Legislation:

This legislation establishes maximum fees that tow companies operating in the city of Seattle can charge. It also requires tow companies to obtain tow company licenses. It empowers FAS to enforce the maximum rates and creates a city impound fee to fund enforcement.

Background:

X **This legislation has financial implications.**

(If the legislation has direct fiscal impacts (e.g., appropriations, revenue, positions), fill out the relevant sections below. If the financial implications are indirect or longer-term, describe them in narrative in the "Other Implications" Section. Please delete the instructions provided in parentheses at the end of each title and question.)

Appropriations:

(This table should reflect appropriations that are a direct result of this legislation. In the event that the project/programs associated with this ordinance had, or will have, appropriations in other legislation please provide details in the Appropriation Notes section below. If the appropriation is not supported by revenue/reimbursements, please confirm that there is available fund balance to cover this appropriation in the note section.)

Fund Name and Number	Department	Budget Control Level*	2012 Appropriation	2013 Anticipated Appropriation
Finance and Administrative Services Fund (50300)	Department of Finance and Administrative Services	Revenue and consumer protection (A4530)	\$37,120	\$84,900
TOTAL			\$37,120	\$84,900



**See budget book to obtain the appropriate Budget Control Level for your department.*

Appropriations Notes:

These appropriations pay for 1.0 license inspector position at .75 FTE. It also includes appropriations to pay for miscellaneous costs associated with the position, such as

Anticipated Revenue/Reimbursement Resulting from this Legislation:

(This table should reflect revenues/reimbursements that are a direct result of this legislation. In the event that the issues/projects associated with this ordinance/resolution have revenues or reimbursements that were, or will be, received because of previous or future legislation or budget actions, please provide details in the Notes section below the table.)

Fund Name and Number	Department	Revenue Source	2012 Revenue	2013 Revenue
Finance and Administrative Services Fund (50300)	Department of Finance and Administrative Services	License/fee revenue	-0-	11,500
Finance and Administrative Services Fund (50300)	Department of Finance and Administrative Services	City impound fee	-0-	\$60,000
TOTAL				

Revenue/Reimbursement Notes:

License fee revenue: Revenue from license fees assumes there are approximately 23 tow companies operating in Seattle that will be required to obtain a city tow company license, and while each tow company must acquire a separate license for each separate license location, the revenue estimate does not take this into account. The cost of a license is \$500 annually.

City impound fee revenue: The city impound fee is \$15 per redemption. It is, however, difficult to know how many private impounds occur in the city as this information is not currently tracked. FAS had at one time estimated 8,000 annually, but the tow industry thought this number inaccurately included voluntary tows. This estimate here assumes 4000 private impounds per year, resulting in net revenue of \$60,000.

Total Regular Positions Created, Modified, or Abrogated through this Legislation, Including FTE Impact:

(This table should only reflect the actual number of positions affected by this legislation. In the event that positions have been, or will be, created as a result of other legislation, please provide details in the Notes section below the table.)



Position Title and Department	Position # for Existing Positions	Fund Name & #	PT/FT	2012 Positions	2012 FTE	2013 Positions *	2013 FTE*
License and Standards Inspector		General Fund (00100)	FT	1	.75	1	.75
TOTAL							

* 2013 positions and FTE are total 2013 position changes resulting from this legislation, not incremental changes. Therefore, under 2013, please be sure to include any continuing positions from 2012.

Position Notes:

Funding is assumed for .75 FTE. If revenues are greater than anticipated, FAS can fully fund the license inspector position.

Do positions sunset in the future? No

Other Implications:

- a) **Does the legislation have indirect financial implications, or long-term implications?**
 Law department resources may be used to help enforce legislation (see c. below). The City impound fee may need to increase if revenues do not come in as anticipated.
- b) **What is the financial cost of not implementing the legislation?**
 The public would continue to be at risk of predatory pricing associated with private impounds.
- c) **Does this legislation affect any departments besides the originating department?** If FAS decides to pursue certain misdemeanors in court, the Law Department will need to become involved. The law department does not believe this legislation will create a unmanageable body of work for it.
- d) **What are the possible alternatives to the legislation that could achieve the same or similar objectives?** The State legislature could pass maximum private impound rates.
- e) **Is a public hearing required for this legislation?** no
- f) **Is publication of notice with *The Daily Journal of Commerce* and/or *The Seattle Times* required for this legislation?** no
- g) **Does this legislation affect a piece of property?** no

Other Issues:

