

ORDINANCE NO. 41-2012

**TITLE: AMENDING BARBERTON CODIFIED ORDINANCES
SECTION 303.08 - IMPOUNDING OF VEHICLES; REDEMPTION**

AN ORDINANCE AMENDING SECTION 303.08, "IMPOUNDING OF VEHICLES; REDEMPTION," (ORD. NO. 18-2012), TO DELETE THE (2) FROM 351.04(A)(2) IN SUBSECTION (A)(11), AND DECLARING AN EMERGENCY.

NOW, THEREFORE, BE IT ORDAINED by the Council of the City of Barberton, State of Ohio:

SECTION 1. That Section 303.08, "Impounding of Vehicles; Redemption," of the Barberton Codified Ordinances (Ordinance No. 18-2012) be amended by deleting the (2) from 351.04(a)(2) in subsection (a)(11) as shown by ~~strike through~~, and which now reads as follows:

303.08 IMPOUNDING OF VEHICLES; REDEMPTION.

(a) Police officers and the Building Department are authorized to provide for the removal and impounding of a vehicle under the following circumstances:

(1) When any vehicle is left unattended upon any street, bridge or causeway and is so illegally parked so as to constitute a hazard or obstruction to the normal movement of traffic, or so as to unreasonably interfere with street cleaning or snow removal operations;

(2) When any motor vehicle, including an abandoned junk motor vehicle, as defined in Ohio R.C. 4513.63, is left on private residential property, as defined in Section 303.09(d), or on private agricultural property, for at least four consecutive hours without the permission of the person having the right to the possession of the property, or on a public street or other property open to the public for purposes of vehicular travel, or upon or within the right of way of any road or highway, for 48 consecutive hours or longer, without notification to the Police Chief of the reasons for leaving such vehicle in such place, except that when such a motor vehicle constitutes an obstruction to traffic, it may be ordered into storage immediately;

(3) When any vehicle has been stolen or operated without the consent of the owner;

(4) When any vehicle displays illegal license plates or fails to display the current lawfully required license plates;

(5) When any vehicle has been used in or connected with the commission of a felony;

(6) When any vehicle has been damaged or wrecked so as to be inoperable or violates equipment provisions of this Traffic Code whereby its continued operation would constitute a condition hazardous to life, limb or property;

(7) When any vehicle is left unattended due to the removal of an ill, injured or arrested operator;

(8) When any vehicle has been operated by any person who has failed to stop in case of an accident or collision;

(9) When any vehicle has been operated by any person who is driving without a lawful license or while his or her license has been suspended or revoked;

(10) When any vehicle is found for which two or more citation tags for violations of this Traffic Code have been issued and the owner or operator thereof has failed to respond to such citation tags as lawfully required;

(11) When any vehicle is found to be in violation of any of the provisions of Section 351.03, 351.04(a)(~~2~~), 351.05, 351.11, 351.12, 351.13, 351.14 or 351.15(a) and Chapter 632.

(b) (1) Any vehicle removed under authority of division (a)(2) of this section shall be ordered into storage and/or disposed of as provided under Ohio R.C. 4513.60 et seq. Any other vehicle removed under authority of this section shall be ordered into storage and the Police Division shall forthwith notify the registered vehicle owner of the fact of such removal and impounding, reasons therefor and the place of storage.

(2) Any person desiring to redeem an impounded vehicle shall appear at the Police Division to furnish satisfactory evidence of identity and ownership or right to possession. Prior to issuance of a release form, the claimant, owner or operator shall either pay the amount due for any fines for violations on account of which such vehicle was impounded or, as the court may require, post a bond in an amount set by the court, to appear to answer to such violations. The Police Division shall release such vehicle upon the receipt of the release form and payment of all towage and storage charges. No fee will be charged for removal of non-vehicle personal property during regular business hours.

(c) No owner or operator shall remove an impounded vehicle from the place of storage without complying with the above procedure. Possession of a vehicle which has been impounded and unlawfully taken from the place of storage, by the owner or operator, shall constitute prima-facie evidence that it was so removed by the owner or operator.

(Adopting Ordinance)

(d) Towing and Storage Charges. The following schedule represents the maximum rates to be charged by the Police Division and Building Department to tow and store vehicles within a three-mile limit from the City of Barberton corporate limits, as determined by the City of Barberton Engineering Department:

(1) Police/Building Department impounded vehicles: \$90.00, at any time;

(2) Vehicles overturned, submerged in water, rolled over embankment or similar mishap: \$90.00 per hour, one hour minimum, billed in half-hour increments thereafter, plus towing charges to the yard; unless this calls for two men and two trucks, in which case, charges will be rated accordingly;

(3) If, due to vehicle size or type, services of another tow company are required, those fees shall be in addition to the standard tow fee of \$90.00;

(4) Minor debris cleanup is included in towing charge. A cleanup fee not to exceed \$20.00 may be charged for debris cleanup of substantial vehicle glass or fluids. If the time required exceeds one hour, debris cleanup: \$20.00 per hour;

(5) Storage: \$12.00 per day or any fraction of a day in a fenced-in area.

(6) A \$50.00 (fifty) administrative fee for all Building Department tows.

(e) The company entering into an agreement to tow vehicles at the direction of the Police Division or other authorized city official shall have a valid permit to operate a towing company within the City issued by the Safety Director. The towing company vehicle(s) location must be located within a three-mile limit from the City of Barberton corporate limits, as determined by the City of Barberton Engineering Department, and company vehicles shall comply with and carry the equipment listed in division (g) of this section.

(g) Minimum requirements for towing companies contracting with the City. Any towing company entering into an agreement with the city as described in division (e) of this section shall meet all of the following minimum requirements:

(1) All towing companies shall maintain in operable condition the following equipment:

A. At least three approved tow trucks, one of which must be equipped to tow front wheel drive vehicles without damage; and

B. A motorcycle trailer or other acceptable means of carrying a motorcycle in an upright position.

(2) Tow truck chassis shall be rated by the manufacturer at one ton or more. Each vehicle must be equipped with:

A. One rear-view mirror on each side;

B. A winch or boom rated by the manufacturer as having a four-ton capacity and equipped with steel cable having a minimum diameter of 3/8 inches;

C. At least one amber flashing light, and one work light, situated so as to illuminate the winching or craning operations at night;

D. The following additional equipment:

1. Two pickup chains at least eight feet in length;
2. One broom and shovel;
3. One all-purpose fire extinguisher maintained in operable condition;
4. Three flares;
5. One snatch block;
6. A set of hand-tools, such as screwdrivers, pliers, wire cutters, and wrenches;
7. Rope or line to tie the steering wheel;
8. Three triangle reflectors;
9. Jumper cables;
10. Operable two-way radio;
11. Fifty-pound bag of sand or oil dry; and
12. Any other equipment that may be deemed necessary in the future by the Director of Public Safety.

(3) The towing company shall be responsible for providing towing services for all vehicles that they are called to tow. Should the towing company require special equipment not readily available for larger vehicles (e.g., buses, recreational vehicles, commercial trucks), the towing company must arrange for those towing services through another company, at the towing company's expense.

(4) Any vehicle storage facility shall:

A. Be located within a three-mile limit from the City of Barberton corporate limits, as determined by the City of Barberton Engineering Department;

B. Provide on-site storage for a minimum of 20 vehicles outside, plus storage space for a minimum of four additional vehicles inside. All storage areas shall be secured by a solid fence or wall not less than eight feet in height or six feet if provided with arm extensions and barbed wire. The fence shall be well-maintained and in good appearance at all times.

SECTION 2. That it is hereby found and determined that all formal actions of this Council concerning and relating to the passage of this ordinance were taken in an open meeting of this Council and that all deliberations of this Council and of any of its committees that resulted in such formal action were meetings open to the public in compliance with the law.

SECTION 3. That this ordinance is hereby declared to be an emergency measure necessary for the immediate preservation of the public peace, health, safety, convenience and welfare of the City of Barberton and the inhabitants thereof, in order for the amendments to take effect immediately, and provided it receives the necessary votes required by the City Charter, shall be in full force and effect from and after its passage and approval; otherwise to be in full force and effect from and after the earliest period allowed by law.

Passed _____ 2012

Clerk of Council

President of Council

Approved _____ 2012

Mayor