

ORDINANCE NO. 2001-03-017

AN ORDINANCE AMENDING BELLINGHAM MUNICIPAL CODE SECTION 11.18.040(D) TO PERMIT REASONABLE TIME LIMITS FOR IMPOUND HEARINGS.

WHEREAS, the City wishes to permit the Hearing Examiner adequate time to prepare for impound hearings and provide sufficient notice to persons requesting hearings and witnesses, and

WHEREAS, the City believes that two business days is insufficient time for a Hearing Examiner to prepare for an impound hearing, notify the party requesting the hearing, review documents for the hearing, and subpoena witnesses,

NOW, THEREFORE, THE CITY OF BELLINGHAM DOES ORDAIN:

Section 1. Section 11.18.040(D) of the Bellingham Municipal Code shall be amended as follows:

11.18.040 - Redemption Of Impounded Vehicles (Replaces Portions Of Rcw 46.55.120)

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

A.-C. [UNCHANGED]

D. Any person seeking to redeem a vehicle impounded as a result of a parking or traffic citation has a right to a hearing before the Hearing Examiner to contest the validity of an impound or the amount of the removal, towing, and storage charges or administrative fee if such request is in writing, in a form approved by the Hearing Examiner and signed by the person, and is received by the Hearing Examiner within 10 days (including Saturdays, Sundays, and holidays) of the earlier date of the date the notice was mailed to such person pursuant to RCW 46.55.110, or the date the notice was given to such person by the registered tow truck operator pursuant to RCW 46.55.120(2) (a). Such hearing shall be provided as follows:

1. If all the requirements to redeem the vehicle, including the expiration of any period of impoundment under section 11.18.030, have been satisfied, then the impounded vehicle shall be released immediately and a hearing as provided for in Section 11.18.040 D. shall be held within 90 days of the written request for hearing.
2. If not all the requirements to redeem the vehicle, including expiration of any period of impoundment under section 11.18.030, have been satisfied, then the impounded vehicle shall not be released until after the hearing provided pursuant to Section 11.18.040 D., which shall be held as soon as the Hearing Examiner deems reasonable, but not to exceed 10 within

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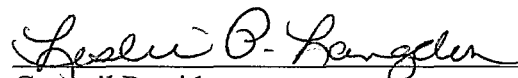
2 business days (excluding Saturdays, Sundays, and holidays) of the Hearing Examiner's receipt of the written request for hearing.

3. Any person seeking a hearing who has failed to request such hearing within the time specified in Section 11.18.040 D. may petition the Hearing Examiner for an extension to file a request for hearing. Such request shall only be granted upon the demonstration of good cause as to the reason(s) the request for hearing was not timely filed. For 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 a 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 the Hearing Examiner may be appealed to Bellingham Municipal Court for final judgment. A person appealing such a decision must file a request for an appeal in Municipal Court within 15 days (including Saturdays, Sundays, and holidays) after the decision of the Hearing Examiner and must pay a filing fee in the same amount required for 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 Hearing Examiner's decision is final.

PASSED by Council this 26TH day of MARCH, 2001.



Council President

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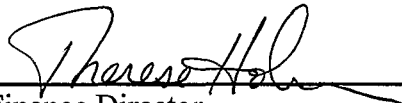
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APPROVED by me this ___ day of _____, 2001.




Mayor

ATTEST:



Finance Director

APPROVED AS TO FORM:



Office of the City Attorney

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