

ORDINANCE NO. 15,131

AN ORDINANCE to amend the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, by amending Sections 114-485.12, 114-485.14, 114-485.15 and 114-485.16 and by repealing Sections 114-485.18 and 114-485.19 regarding appeals from the impoundment of vehicles.

BE IT ORDAINED by the City Council of the City of Des Moines, Iowa:

Section 1. That the Municipal Code of the City of Des Moines, Iowa, 2000, adopted by Ordinance No. 13,827, passed June 5, 2000, as heretofore amended, be and is hereby amended by amending Sections 114-485.12, 114-485.14, 114-485.15 and 114-485.16 and by repealing Sections 114-485.18 and 114-485.19 regarding appeals from the impoundment of vehicles, as follows:

Chapter 114 TRAFFIC AND VEHICLES **Article XII. Criminal Responsibility**

Sec. 114-485.12. Right of owner to redeem impounded vehicle.

- (a) The registered owner or person having a legal entitlement to possession of a motor vehicle impounded pursuant to section 114-485.11 of this article may redeem the vehicle by paying to the city its impound and preservation fee and in addition paying the city's towing contractor an amount sufficient to cover all of the towing contractor's charges attributable to the towing and storage of the vehicle. The city's impound and preservation fee shall be in the amount set in the schedule of fees adopted by the city council by resolution. If a hearing pursuant to the administrative appeal process set forth in chapter 3 of this code is held and the administrative hearing officer determines there was no probable cause to impound the vehicle, the costs attributable to the impoundment and storage not to exceed fifteen days shall be refunded by the city clerk through the normal procurement process.
- (b) If a motor vehicle was impounded pursuant to section 114-485.02 of this article, all delinquent parking citation-complaints must be satisfied.
- (c) If the vehicle is not redeemed until a final determination has been entered pursuant to the administrative appeal process set forth in chapter 3 of this code, the vehicle may be redeemed upon payment of all charges referred to in section 114-485.16 of this article less any portion thereof subject to refund under paragraph (a) above.

Sec. 114-485.14. Notice of impoundment.

When a vehicle has been impounded pursuant to this chapter, the registered owner of the vehicle shall be sent, by certified mail to the owner's last known address of record within 72 hours of

the impoundment, excluding weekends and holidays, a notice of the impoundment along with a description of any personal property contained within the vehicle and of the right to a hearing pursuant to this article. Notice personally presented within such period to the owner or person having a legal entitlement to possession shall satisfy the mailing requirement. The notice shall identify: i) that the owner or any person having a legal entitlement to possession of the vehicle may appeal whether there was probable cause to impound the vehicle by filing a notice of appeal with the city clerk within ten business days of the date of such notice; and ii) if the appeal results in a determination that there was no probable cause to impound the vehicle, the costs attributable to the impoundment and storage not to exceed fifteen days will be refunded.

Sec. 114-485.15. Right to hearing.

- (a) The registered owner or a person having a legal entitlement to possession of a vehicle impounded pursuant to this article has a right to a post-seizure administrative hearing before an administrative hearing officer pursuant to the administrative appeal process set forth in chapter 3 of this Code to determine whether there was probable cause to impound the vehicle and any personal property contained within the vehicle, provided the registered owner or person having a legal entitlement to possession files a written notice of appeal with the city clerk's office within ten business days of the date of the notice of the impoundment.
- (b) Failure to request a hearing within such time period or to attend a scheduled hearing on such appeal shall be deemed a waiver of the right to such a hearing.

Sec. 114-485.16. Conduct of hearing.

The post-seizure administrative hearing provided in this article shall be conducted pursuant to the administrative appeal process set forth in chapter 3 of this code. If the administrative hearing officer determines there was no probable cause to impound the vehicle, the costs attributable to the impoundment and storage not to exceed fifteen days shall be refunded pursuant to section 114-485.12 of this article. The decision of the hearing officer shall in no way affect any criminal proceeding in connection with the impoundment in question. Criminal charges, if any, may only be challenged in the appropriate court.

Sec. 2. This ordinance shall be in full force and effect from and after its passage and publication as provided by law. However, any administrative appeal for which the initial notice of appeal was received by the City Clerk prior to the date of such publication shall continue to be governed by the procedural rules in effect at the time such appeal was so received.

FORM APPROVED:

Roger K. Brown, Assistant City Attorney

T. M. Franklin Cownie, Mayor

Attest:

I, Diane Rauh, City Clerk of the City of Des Moines, Iowa, hereby certify that the above and foregoing is a true copy of an ordinance (Roll Call No. 12-1444), passed by the City Council of said City at a meeting held September 10, 2012 signed by the Mayor on September 10, 2012 and published as provided by law in the Business Record on September 28, 2012. Authorized by Publication Order No. 7939.

Diane Rauh, City Clerk