

ORDINANCE NO. 89

AN ORDINANCE OF THE CITY OF GREENBUSH, MINNESOTA PROHIBITING PARKING DURING PERIODS OF SNOW REMOVAL

The City Council of the City of Greenbush, Minnesota, does ordain as follows:

Section 1: Application. The owner, driver, operator or person in charge of any motor vehicle within the city limits of the City of Greenbush shall conform to and observe the regulations set forth in this ordinance.

Section 2: Definitions. As used and set forth in this Ordinance, the following terms shall have the following meanings and definitions:

- (a) "Motor Vehicle" shall mean any self-propelled motor vehicle or other vehicle on wheels which would ordinarily travel on city streets.
- (b) "Parked" or "Parking" shall mean stopping or allowing any motor vehicle to stand upon any public street.
- (c) "Public Street" shall mean the entire width between boundary lines of any way or piece within the city limits when any part thereof is open to public use for vehicular traffic and shall include public ways commonly referred to as "alleys", "avenues", or "boulevards".

Section 3: General Parking Prohibition. No motor vehicle shall be parked on any public street or municipal parking facility for more than seventy-two (72) continuous hours.

Section 4: Winter Parking Restrictions. No motor vehicle shall be parked on any public street, until it has been plowed, when there has been an accumulation of new snow to a depth of two (2) or more inches. The Public Works Director shall determine whether there has been a snowfall requiring such parking restrictions. This section shall not apply to the portion of the downtown business district on which parking is prohibited from 1 a.m. to 6 a.m. following an accumulation of new snow to a depth of two (2) or more inches.

Section 5: Violations. A violation of this Ordinance shall result in an administrative fine of \$60.00 issued by the Police Department. The Police Department may also determine a violation of this Ordinance is a petty misdemeanor, punishable by a fine of up to \$300, as defined in Minnesota Statutes, Section 609.02, Subd. 4a.

(a) Notice of Violation. Any police officer or any other person employed by City with authority to enforce this Ordinance shall, upon determining that there has been a violation, attach notice of violation to the vehicle, and notify the registered owner of the vehicle, if that person can be found. The notice shall identify the vehicle, state the nature, date, and time of the violation, the name of the official issuing the notice, the amount of the penalty and any applicable charges.

(b) Payment. The fine shall be paid as stated in Ordinance No. 81- Administrative Fines.

(c) Contested Violations. Any person contesting the penalty pursuant to this Ordinance shall use the method as set in Ordinance No. 81- Administrative Fines.

(d) Failure to Pay. Any one failing to pay will be dealt with as stated in Ordinance No. 81-Administrative Fines.

(e) Disposition of Penalties. All penalties collected under this Ordinance shall be paid to the City for deposit in its general fund.

(f) Option to Withdraw; City's Option. The administrative fine procedure under this Ordinance is intended to be voluntary on the part of those who have been charged with a violation. At any time before paying the penalty as is provided in this Ordinance, the individual may withdraw from participation in the procedures whereupon the City may bring petty misdemeanor court charges according to the Greenbush Ordinance and State law. Likewise, nothing in this Ordinance shall prohibit the City, in its discretion, to initiate court charges in lieu of collection of the penalty.

Section 6. Towing & Impoundment. Any vehicle parked in violation of this Ordinance is hereby declared to be a public nuisance and may at any time more than two hours following the attachment of the Notice of Violation described in Section 5a of this Ordinance to the vehicle be summarily removed without further notice to the owner or operator thereof. Said vehicle may be towed to and stored in any place designated by the Police Department. The vehicle so towed under this Ordinance cannot be redeemed by any person until the penalty imposed by this Ordinance, and all costs of removing, towing, and storage of the vehicle are paid.

(a) Notice of Impoundment. Whenever the Police Department has impounded a vehicle pursuant to this Ordinance, a notice of such impoundment and the storage of the vehicle shall be mailed to the last registered owner of such vehicle, if the name and address of such owner can be ascertained with reasonable diligence. Such notice shall state that if the owner fails to reclaim such vehicle within sixty (60) days from the date of the mailing, title to such vehicle will be sold at public auction to be held not sooner than thirty (30) days after the expiration of the sixty-day period contained in the notice. This notice shall be mailed within 48 hours, excluding weekends and holidays, after impounding and storage of the vehicle.

(b) Impoundment Hearing. As to any vehicle impounded pursuant to this Ordinance, a person who has a legal entitlement to possession of the vehicle has a right to a post-seizure administrative hearing to determine whether there was probable cause to impound the vehicle; if such person files a written demand for such a hearing with City within ten (10) days after such person has learned such vehicle has been impounded or within ten (10) days after the mailing date of the Notice of Impoundment required in Section 6a of this Ordinance, whichever occurs first. A hearing shall be conducted before a hearing officer designated by the City within forty-eight (48) hours of receipt of a written demand therefore from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays, and City holidays are to be excluded from the calculation of the 48-hour period. The hearing officer shall be some person designated by the City but shall not be a person theretofore involved in any decision relating to the impounding and storage of the vehicle. The sole issue before the hearing officer shall be whether there was probable cause to impound the vehicle in question. "Probable cause to impound" shall mean a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of law to grant legal authority for the removal of the vehicle. The hearing officer shall conduct the hearing in an informal manner and the party seeking possession shall carry the burden of establishing that such person has the right to possession of the vehicle. The Police Department shall carry the burden of establishing that there was probable cause to impound the vehicle in question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the Police Department, the person demanding the hearing and the registered owner of the vehicle (if not the person requesting the hearing). The hearing officer's decision in no way affects any charges or court proceeding arising from or relating to the facts underlying the imposition of the

administrative penalty or the impoundment. Any such charges or court proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final. Failure of the registered or legal owner or their agent to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing. The hearing officer shall only determine that as to the vehicle in issue either there was or was not probable cause to impound the vehicle.

In the event that the hearing officer determines that there was no probable cause, the hearing officer shall prepare and date a certificate of no probable cause, copies of which shall be given to the possessor of the vehicle and the Police Department. Upon receipt of the possessor's copy of such certificate, the pound or authorized garage having custody of the vehicle shall release the vehicle to its possessor. Upon a finding of no probable cause, towing and storage fees shall be paid by the City in accordance with arrangements made between the City and the pound or authorized garage. If the possessor fails to present such a certificate to the pound or authorized garage having custody of the vehicle within twenty-four (24) hours of its receipt, excluding such days when the pound or authorized garage is not open for business, the possessor shall assume liability for all subsequent storage charges. Such certificate shall advise the possessor of such requirement.

Section 7. This ordinance hereby repeals Ordinance No 55.

Section 8. This Ordinance shall going into upon its adoption and publication as required by law.

The foregoing ordinance was duly passed and adopted by the City Council of Greenbush, Minnesota at its regular meeting on the 15th of November, 2010.

Scott Waage
Mayor

Attest:

Anita Locken
Clerk-Treasurer