

Resolution #71-22

Approve amendment to the vehicle and Traffic Ordinance 210-4H and add Sections 210-4I, 210-7, 210-8 and 210-9

By Mr. Milliken

Seconded by Mr. Lucarelli

H. Penalties for offenses. Any person who violates any provision of this Section 210-4 or any other parking law as set forth in the NYS Vehicle and Traffic Code, unless otherwise specified, shall pay a fine of \$25.00 within 30 days of the violation date and if not paid, the fine will increase by \$5.00 each month until paid. The fine shall not exceed \$100.00. Any vehicle that is subject to more than three (3) violations within a twelve month period may be subject to towing as provided in this Chapter.

I. Response to parking ticket. A parking ticket issued must be responded to within 30 days of its issue date by returning the ticket along with payment of the fine to the Town Clerk or notifying the Town Clerk that the parking ticket is contested. If the ticket is contested, the person contesting the ticket, either the owner or person responsible for the vehicle, must indicate on the ticket that they contest the ticket and provide the reasons and any proof of the basis for the contest. If the ticket is contested, then the matter will be scheduled before a local Town Justice for determination of the merits of the ticket. And; WHEREAS, Town Board seeks to establish the authority to impound and store motor vehicles that are in violation of Town parking ordinance or NYS Vehicle and Traffic Law and set forth process for imposing costs and providing notice.

NOW, THEREFORE, the Town Board of the Town of Elmira following a public hearing after due notice hereby adopts the following amendment to the Town of Elmira Chapter 210 – Vehicle and Traffic Ordinance, by adding Section 210-7, 210-8 and 210-9 as follows:

§ 210-7. Authority to impound vehicles.

- A. When any vehicle is parked or abandoned on any highway or public parking lot within this Town during a snowstorm, flood, fire or other public emergency which affects that portion of the public highway or parking lot upon which said vehicle is parked or abandoned, said vehicle may be removed by or under the direction of the Highway Superintendent or Code Enforcement Officer or Traffic Officer.
- B. When any vehicle is found unattended on any highway or public parking lot within the Town where said vehicle constitutes an obstruction to traffic, said vehicle may be removed by or under the direction of the Highway Superintendent or Code Enforcement Officer or Traffic Officer.
- C. In the event that any vehicle is unlawfully parked, stopped, standing or abandoned as provided by this chapter or New York State law, the Highway Superintendent or Code Enforcement Officer or Traffic Officer is authorized to tow away or have towed away, by a competent person, all such vehicles.
- D. Nothing herein shall be taken or construed as obligating the Highway Superintendent or Code Enforcement Officer or Traffic Officer, or any other municipal department, for damage done to or destruction of a vehicle impounded, removed, stored, or towed unless otherwise provided by law.

§ 210-8. Storage and charges.

- A. After removal of any vehicle as provided in this article, Highway Superintendent or Code Enforcement Officer or Traffic Officer may store or cause such vehicle to be stored in a suitable

place at the expense of the owner. Such owner or person in charge of the vehicle may redeem the same upon payment to the person with whom it was stored the cost or charges therefor.

B. The cost of towing and storage as hereinbefore provided shall be determined as follows:

- (1) If the towing or storage is done by a municipal department, the cost thereof shall be in accordance with the reasonable expense incident to same, plus a reasonable charge as compensation therefor, such storage charges not to exceed an amount set forth from time to time by the Town Board.
- (2) If the towing or storage is done by a private company or individual, then the cost shall be at the rate usually charged for such service by such company or individual, but in no case shall the cost exceed a reasonable compensation for the actual labor, material or space involved.
- (3) It shall be entirely within the discretion of the Highway Superintendent or Code Enforcement Officer or Traffic Officer as to whether the towing and storage provided in this chapter shall be done by the Town or by a private company or individual; nevertheless, best judgment shall be exercised in determining the means for such towing and the place for storage.
- (4) The cost of towing and storage shall be charged against the owner of the vehicle and shall be added to and be made a part hereof of any fine hereafter imposed for the above reasons. Irrespective of any method for collecting fines for traffic violations, and in addition thereto, all towing and storage costs imposed under this section shall constitute and be a lien against any vehicle impounded as provided above, and such lien shall not be lost, nor shall same be considered waived, by reason of the owner's taking possession of the vehicle before the costs are paid.

§ 210-9. Notice of removal.

It shall be the duty of the Highway Superintendent or Code Enforcement Officer or Traffic Officer to ascertain to the extent possible the owner of the vehicle or the person having the same in charge and to notify him of the removal and disposition of such vehicle and of the amount which will be required to redeem same. Said Highway Superintendent or Code Enforcement Officer or Traffic

Aye- Bush, Milliken, Lucarelli, Allison, Sullivan

No- None