

CHAPTER 17

PARKING VIOLATIONS

17.015 PARKING CITATIONS - DEFENDANT'S APPEARANCE

- (1) A person receiving a parking citation has three options to appear:
 - (a) Plead guilty by paying in full the bail indicated on the citation, either by mailing or personally delivering the payment, together with the citation, to the Multnomah County Courthouse. All payments in full must be received within 30 days of the date of violation.
 - (b) Mail the full amount of the bail applicable at the time of the request, together with the citation and a letter of explanation to the Multnomah County Courthouse, requesting a judge to make a determination. The court may refund the bail or forfeit all or part of it.
 - (c) Request a court hearing either by letter or by personally appearing at the Parking Section of the Criminal Division located in the Multnomah County Courthouse. All such requests must be accompanied by a check or money order for the full amount of bail applicable at the time of the request. Bail is forfeited if the person fails to appear at the hearing.
- (2) The bail amount set on a parking citation will double after 30 days from the date of issuance of the citation if the defendant has not appeared in a manner indicated by this rule. A partial payment of the bail does not constitute an appearance under this rule.
- (3) An Order for impoundment of a vehicle may be issued in the manner set forth in SLR 17.035 if the defendant does not appear in a manner indicated in this Rule.

17.025 DISMISSAL OF A PARKING CITATION BEFORE TRIAL

- (1) The Presiding Judge or the Chief Criminal Law Judge may dismiss parking citations without the appearance of the defendant in the following instances:
 - (a) The parking citation was issued prior to release of title interest and transfer of possession of the vehicle to the new owner, but the new owner is named as the defendant on the notice of delinquency, the new owner will be dismissed from the parking offense without a hearing. However, the new owner's failure to submit an application for title to the Department of Transportation within 30 days of the transferor's release of interest shall not be grounds for summary dismissal of the citation and an appearance shall be required;
 - (b) The parking citation was issued subsequent to the release of title interest and transfer of possession to the new owner but the named defendant on the notice of delinquency is the

prior registered owner. A prior owner who provides documentation described in SLR 17.025(3), below, will be dismissed from the parking offense.

- (c) There was no vehicle license number or other registration number written on the citation;
 - (d) The vehicle license number written on the citation does not correspond to the vehicle registration information filed with the Motor Vehicles Division;
 - (e) The mechanical parking space meter at which an overtime parking citation was issued was defective, according to the City of Portland's Office of Transportation;
 - (f) No violation is indicated on the parking citation;
 - (g) The parking citation was issued to a vehicle that was reported to the police as stolen within 24 hours of the date and time listed on the citation or was issued on a date when the status of the vehicle remained listed as stolen, and a stolen report was on file with the Police Bureau;
 - (h) A parking citation was issued to a vehicle on government business of such urgency that the driver was prevented from complying with parking regulations. The driver must sign an affidavit describing the urgent circumstances, and the department owning the vehicle must verify that the vehicle was on urgent government business;
 - (i) The Court received a special written report from the issuing officer or Parking Patrol deputy explaining that there was no basis for the parking citation and requesting that it be dismissed; or
 - (j) The exemption or privilege in ORS 811.635 for the holder of a disabled person parking permit is applicable to the type of parking offense cited and the registered owner or other recipient of the ticket provides proof to the Clerk of the Court of a valid disabled person parking permit at the time of the violation. This includes:
 - (i) Overtime tickets, or tickets for parking in a metered space without paying, unless the zone allows parking for only 30 minutes or less; or
 - (ii) Parking in a disabled zone pursuant to ORS 811.615(1)(a); or
 - (iii) Disabled zone parking offenses cited under Portland City Code 16.20.250 if a disabled person was being transported; or
 - (k) A parking citation was issued for unlawful use or misuse of a disabled person parking permit for parking in a manner that would otherwise be a privilege for a permit holder and the registered owner or other recipient of the ticket provides proof to the Clerk of the Court of renewal of an expired disabled person parking permit.
- (2) The Presiding Judge or the Chief Criminal Judge may dismiss the parking citations listed in

SLR 17.025(1) by signing a list containing the license numbers of the vehicles and the reasons for the dismissals.

(3) When a parking citation is subject to dismissal under SLR 17.025(1)(A) or (B), above, the person receiving the notice of the citation must bring the parking citation(s) and relevant documents relating to the transfer of the vehicle, including title, bill of sale or contract and vehicle registration if available, to the Parking Section of the Criminal Division. Proof that the prior owner notified the Department of Transportation of the transfer of the vehicle as required by Oregon law, together with proof of delivery of possession of the vehicle and assignment of title to a transferee, shall exempt the prior owner from liability for the parking of the vehicle by another person, provided the date of issuance of the parking citation is subsequent to the date of transfer of the vehicle reported by the prior owner.

(4) In all cases, the Presiding Judge or the Chief Criminal Judge may order a hearing to prevent abuse of the summary dismissal proceedings.

17.035 TOWING AND IMPOUNDMENTS

(1) The Court may order a vehicle towed and impounded if the registered owner or any other person, has not paid the bail or fine accrued on the parking citation in full, including all amounts that have accrued after the first 30-day period, or posted bail in full and requested a hearing. The Court order for towing and impoundment of the vehicle may be issued 60 days after the date on which the notice of delinquent parking citation is mailed to the registered owner or 90 days following filing of the citation if a registered order cannot be determined. The towing and impoundment order attaches to the vehicle for which it is issued *in rem*, as the instrumentality of the parking offenses, and will not be removed until further order of the court.

(2) Requests for a court hearing on the validity of a parking citation after receipt of an impoundment notice, or after impoundment, must be made personally at the Multnomah County Courthouse. All requests must include the posting of the total amount of the financial obligations against the vehicle for parking citations that are unpaid in full or in part applicable at the time of the request, unless waived by a judge.

(3) Subsequent Bona Fide Purchaser for Value Hearing on Impounded Vehicle

(a) A subsequent bona fide purchaser for value of a vehicle that is towed and impounded under an order of the court for unpaid financial obligations which all relate to the prior owner of the vehicle, other than citations incident to the towing, may request an ex parte hearing to apply for an order for the release of the vehicle from the impoundment order without complying with the requirement of section (2) of this rule. The person requesting the hearing must provide to the court at the hearing the documents supporting the claim that the person is a bona fide purchaser for value relating to the transfer of the vehicle, including title, if available, bill of sale or contract stating the purchase price for the vehicle and proof that the purchaser has registered and titled the vehicle in the purchaser's name in the appropriate

jurisdiction as required by statute and proof that a fair market price was paid for the vehicle. Proof of payment consists of a negotiated bank check payable to the seller (or a bank image of such a check), endorsed by the seller and drawn on the checking account of the purchaser or such other proof of payment as the court may find acceptable. In addition to documentation of the purchase and transfer, the person must provide evidence that the transfer of ownership on the sale was not a transaction between parties with a shared interest in avoiding the towing and impoundment of the vehicle and the financial liability due on the outstanding parking citations. Transfers of vehicles for no value or between family members or individuals who share or have shared a residential address will raise a rebuttable presumption that the transfer or purchase of the vehicle was to avoid the financial obligations due on the parking citations for which the vehicle was impounded and was not a bona fide purchase for value.

(b) An ex parte hearing requested under this rule will be conducted as soon as is possible and within two business days. Following the hearing, the court may release the vehicle to the subsequent bona fide purchaser for value without requiring payment of the outstanding financial obligations by the prior registered owner arising from unpaid parking citations owed on the vehicle. If the court denies relief under this section, then the person may only proceed under section (2) of this rule for a hearing.

(c) The release of the vehicle under this rule will not address any other financial obligations arising from the towing and impoundment of the vehicle owed to third parties or the rights of the subsequent bona fide purchaser for value against a prior owner of the vehicle.

(d) A release without payment of the financial obligations due on the vehicle under this section does not remove the duty of any prior registered owner or defendant to pay those unpaid financial obligations for parking citations incurred in the ownership or use of that vehicle. The release only dissolves the court's hold on the vehicle and removes it from further orders for towing or impoundment based on the citations issued prior to the sale of the vehicle to the person given relief under this process.

17.045 NOTICE OF REPRESENTATION BY AN ATTORNEY

An attorney representing a person in a parking citation case must notify the Court in writing of the representation at least seven days before the date of trial. The notification must certify that a copy has been delivered to the prosecuting attorney.

17.055 POSTPONEMENTS AND OTHER MOTIONS

(1) When requested at least 14 days prior to the scheduled trial date for a parking citation, a person may obtain a single postponement of the court hearing. Such requests may be made in writing or by appearing personally at the Parking Section of the Criminal Division. The person

making the request must state a reason for the postponement.

(2) Additional postponement requests must be decided by the Court and will only be granted if good cause is shown. The request must be in writing and state the reasons relied on for the request. Such requests must be received by the Court at least 14 days prior to the scheduled hearing date. At its discretion, the Court may require an appearance, oral argument, and the presentation of evidence on a motion for postponement.

(3) At any time before the trial date, the person cited, whether or not represented by counsel, may withdraw a not guilty plea or remove the case from the court docket by following the procedure for mail pleas set out in SLR 17.015. The Court will notify the police officers, the parking enforcement deputies and volunteers and the District Attorney, when appropriate.

(4) A person whose car has been ordered impounded by the Court may appear personally at the Parking Section of the Criminal Division and request that the matter be placed on the Traffic Court Calendar. Bail is required unless waived by a judge.

17.065 HEARING PROCEDURE IN PARKING CITATION CASES

(1) In trial, the judge may take an active role in questioning the witnesses to insure substantial justice will be done.

(2) Jury trials are not permitted in parking citation cases.

(3) Parking citations issued against a particular defendant's vehicle may be consolidated for trial only at the discretion of the Court.

17.067 FAILURE TO APPEAR

(1) The registered owner of a vehicle for which a parking citation is issued, is required to appear, as described in SLR 17.015, above, on the cited offense. If the registered owner of a vehicle for which a parking citation has been issued, or any other person, fails to appear to answer the citation within 30 days, the court may, after notice to the named defendant, enter a default judgment against the defendant 60 days from the date of the citation. The notice of citation mailed to the named defendant will indicate the length of time before which the court will make a finding on the citation based on available evidence, without a hearing, and enter judgment thereon. If the determination is one of conviction, the court may impose a sentence of a fine up to the maximum amount allowed by law and may order a warrant for the impoundment of the vehicle listed on the citation to enforce the collection of the fine. Citations may also have collection and late fees added to the financial obligations to be paid and be assigned for collection. Unless otherwise ordered by the court, a judgment of conviction on the parking citation shall be entered against the registered owner of the vehicle.

(2) A defendant against whom a judgment is entered under subsection (1) of this section, may file a written motion for relief from default judgment within a reasonable time, not to exceed one year. An accompanying affidavit must set forth facts demonstrating that the failure to appear on the citation in a manner set forth herein, was due to mistake, inadvertence, surprise or excusable neglect. At the time the motion for relief is filed with the court, the defendant must post bail in the amount of the fine imposed in the judgment. The bail requirement may be waived by the Court for good cause. A motion for relief cannot be filed until the bail is posted or waived by the Court. The Court may rule on the motion without a hearing or may require the defendant to present oral argument, and may grant or deny relief from the default judgment.