

ORDINANCE NO. 3875

AN ORDINANCE AMENDING PART OF CHAPTER 36 OF THE CITY OF GRAND JUNCTION CODE OF ORDINANCES RELATING TO ABANDONED VEHICLES

**Recitals.**

It is desirable to modify Chapter 36, Section 6 of the Grand Junction Code of Ordinances to make it unlawful to abandon vehicles on private property within the City and to authorize private citizens within the City to tow vehicles abandoned on their property.

**NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION THAT:**

Chapter 36, Section 6 of the Code of Ordinances, City of Grand Junction, Colorado, is hereby amended to read as follows:

**Sec. 36-6. Abandoned Vehicles and Authority to Impound Vehicles.**

(a) No person shall abandon any motor vehicle upon private property within the City other than his or her own. Subject to other provisions of law concerning junk and/or inoperable motor vehicles, any owner or lessee of property within this municipality, or the owner or lessee's agent, may have an abandoned motor vehicle removed from his or her property by having it towed and impounded by a tow operator.

(b) With respect to any vehicle towed pursuant to subsection (a) of this Section 36-6, the tow operator having in his or her possession any motor vehicle that was abandoned on private property shall, within one hour of impoundment, notify the police department of the following: name of tow operator in possession of the abandoned vehicle, the location of the impound lot where the vehicle is located, a description of the abandoned motor vehicle, including make, model, color and year, the number, issuing state and expiration date of the license plate, and the vehicle identification number.

(c) Whenever any police officer finds a vehicle, attended or unattended, standing upon any portion of a street or highway right-of-way within this municipality in such a manner as to constitute a violation of Section 10-5 of the 1977 version of the Model Traffic Code, or left unattended for a period of 24 hours or more and presumed to be abandoned under the conditions prescribed by 42-4-2102 C.R.S., such officer shall require such vehicle to be removed or cause the same to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by this municipality.

(d) Notice and hearing

(1) As to any vehicle impounded pursuant to this chapter by or at the request of the City, its agents or employees, 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, on forms so provided for such a hearing, with the City within ten days after such person has learned such vehicle has been

impounded or within ten days after the mailing of the date set in the notice of stored vehicle, whichever occurs first. The notice of stored vehicle shall be sent in the mail to the legal and registered owner or his agent and to the garage where the vehicle is stored within 48 hours, excluding weekends and holidays, after impounding and storage of the vehicle.

(2) A hearing shall be conducted before a hearing officer designated by the City Manager within 48 hours of receipt of a written demand therefor 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 someone other than the person who directed 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 such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to grant legal authority for the removal of the vehicle.

The hearing officer shall conduct the hearing in an informal manner and shall not be bound by the technical rules of evidence. The person demanding the hearing 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 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 criminal proceeding in connection with the impounding in question and that any criminal charges involved in such 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 his agent to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

(3) The hearing officer shall only determine that as to the vehicle in issue, either (a) there was probable cause to impound the vehicle or (b) there was no such probable cause. If 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 official police 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 official police garage. If the possessor fails to present such certificate to the official police garage having custody of the vehicle within 24 hours of its receipt, excluding such days when the official police 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.

(4) This subsection (d) shall not apply if the vehicle was towed from private property.

**All other provisions of Chapter 36 shall remain in full force and effect.**

PASSED for first reading this 15<sup>th</sup> day of February, 2006.

PASSED AND ADOPTED this 1<sup>st</sup> day of March, 2006 on Second Reading.

/s/: Bruce Hill  
Bruce Hill  
President of the Council

Attest:

/s/: Stephanie Tuin  
Stephanie Tuin  
City Clerk