

ORDINANCE NO. 2301

AN ORDINANCE ESTABLISHING A POST-TOWING HEARING PROCEDURE ON THE TOWING OF AUTOMOBILES.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF GRAND JUNCTION:

That Section 22-20 of Chapter 28 of the Code of Ordinances of the City of Grand Junction be amended in the following particulars:

1. That Section 22-20(b) of Chapter 28 be amended to read as follows:

"(b) In the event of abandonment of a vehicle on property within this municipality other than public rights-of-way the owner of such property MAY, IN ADDITION TO HIS OTHER REMEDIES, notify the police department, and said police shall after a period of 72 hours cause the abandoned vehicle to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by the municipality."

2. That Section 22-20 of Chapter 28 be amended by the addition of a section (c), reading as follows:

"(c) (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 (10) days after such person has learned such vehicle has been impounded or within ten (10) 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 forty-eight (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 forty-eight (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 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 probably 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 proceedings 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. In the event that 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 twenty-four (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."

PASSED and ADOPTED this 20th day of August, 1986.

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President of the Council

Attest:

Neva B. Lockhart, CMC

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City Clerk

I HEREBY CERTIFY that the foregoing ordinance, being Ordinance No. 2301, was introduced, read, and ordered published by the City Council of the City of Grand Junction, Colorado, at a regular meeting of said body held on the 6th day of August, 1986, and that

the same was published in The Daily Sentinel, a newspaper published and in general circulation in said City, at least ten days before its final passage.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of said City this 21st day of August, 1986.

Neva B. Lockhart, CMC

Neva B. Lockhart, CMC  
City Clerk

Published: August 8, 1986

Published: August 22, 1986

Effective: September 21, 1986