

EMERGENCY ORDINANCE NO. O- 15169  
(New Series)

JAN 21 1980

AN EMERGENCY ORDINANCE AMENDING CHAPTER VIII,  
ARTICLE 6 OF THE SAN DIEGO MUNICIPAL CODE BY  
ADDING SECTIONS 86.28, 86.29 AND 86.30, RE-  
LATING TO POST STORAGE HEARING PROCEDURES  
FOR IMPOUNDED VEHICLES.

WHEREAS, Senate Bill 848 requires any agency impounding motor vehicles to provide a prompt post-seizure hearing process to provide due process of law to the affected property owner; and

WHEREAS, The City of San Diego desires to implement an ordinance to provide prompt determination of whether there was probable cause to tow the impounded vehicle; and

WHEREAS, Senate Bill 848 requires a local procedure to be available effective January 1, 1980; and

WHEREAS, presently the San Diego Police Department causes the impound of more than 500 vehicles per month; and

WHEREAS, failure to provide the required hearings may cause numerous traffic hazards to remain in the public roadway constituting a threat to through traffic and this ordinance is necessary to provide for the immediate preservation of the public peace, property and safety of the community; NOW,  
THEREFORE,

BE IT ORDAINED, by the Council of The City of San Diego,  
as follows:

Section 1. That Chapter VIII, Article 6 of the San Diego Municipal Code be amended by adding Sections 86.28, 86.29 and 86.30 to read as follows:

SEC. 86.28 POST-STORAGE HEARINGS FOR IMPOUNDED  
VEHICLES

As to any vehicle impounded pursuant to this chapter by or at the request of The City of San Diego, 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 of San Diego 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 their 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.

SEC. 86.29 CONDUCT OF HEARING

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 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 impound 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 their agent to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

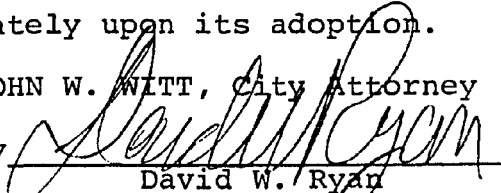
SEC. 86.30 DECISIONS OF THE HEARING OFFICERS AND  
THEIR EFFECT

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 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 Garages. 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.

Section 2. This ordinance shall take effect and be in force immediately upon its adoption.

APPROVED: JOHN W. WITT, City Attorney

By

  
\_\_\_\_\_  
David W. Ryan  
Deputy City Attorney

DWR:rc:504

12/31/79

Or.Dept.: Police

JAN 21 1980

Passed and adopted by the Council of The City of San Diego on \_\_\_\_\_  
by the following vote:

Councilmen	Yeas	Nays	Not Present	Ineligible
Bill Mitchell	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Cleator	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Bill Lowery	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Leon L. Williams	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Fred Schnaubelt	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Mike Gotch	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Larry Stirling	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Lucy Killea	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Mayor Pete Wilson	<input type="checkbox"/>	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

AUTHENTICATED BY:

PETE WILSON  
Mayor of The City of San Diego, California.

(Seal)

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

By Barbara Berridge Deputy.

I HEREBY CERTIFY that the foregoing ordinance was passed on the day of its introduction, to wit, on  
JAN 21 1980, said ordinance being of the kind and character  
authorized for passage on its introduction by Section 16 of the Charter.

~~I FURTHER CERTIFY that the final reading of said ordinance was in full.~~

I FURTHER CERTIFY that the reading of said ordinance in full was dispensed with by a vote of not  
less than a majority of the members elected to the Council, and that there was available for the consideration  
of each member of the Council and the public prior to the day of its passage a written or printed copy of said  
ordinance.

CHARLES G. ABDELNOUR  
City Clerk of The City of San Diego, California.

(Seal)

By Barbara Berridge Deputy.

Office of the City Clerk, San Diego, California

Ordinance Number 0-15169 Adopted JAN 21 1980

CERTIFICATE OF PUBLICATION

RECEIVED  
CITY CLERK'S OFFICE  
1980 FEB 13 AM 9:41  
SAN DIEGO, CALIF.

San Diego, City of  
12th floor, City Admin. Bldg.  
202 C St.  
San Diego, CA 92101  
Attn: Barbara Berridge

IN THE MATTER OF  
AMENDING CHAPTER VIII, ARTICLE 6  
OF THE SAN DIEGO MUNICIPAL CODE BY ADDING  
SECTIONS 86.28, 86.29 AND 86.30, RELATING TO  
POST STORAGE HEARING PROCEDURES FOR IMPOUNDED  
VEHICLES.

NO.

EMERGENCY ORDINANCE NO. 0-15169  
(New Series)

AN EMERGENCY ORDINANCE AMENDING CHAPTER VIII, ARTICLE 6 OF THE SAN DIEGO MUNICIPAL CODE BY ADDING SECTIONS 86.28, 86.29 AND 86.30, RELATING TO POST STORAGE HEARING PROCEDURES FOR IMPOUNDED VEHICLES.  
WHEREAS, Senate Bill 848 requires any agency impounding motor vehicles to provide a prompt post-seizure hearing process to provide due process of law to the affected property owner; and  
WHEREAS, The City of San Diego desires to implement an ordinance to provide prompt determination of whether there was probable cause to tow the impounded vehicle; and  
WHEREAS, Senate Bill 848 requires a local procedure to be available effective January 1, 1980; and  
WHEREAS, presently the San Diego Police Department causes the impound of more than 500 vehicles per month; and  
WHEREAS, failure to provide the required hearings may cause numerous traffic hazards to remain in the public roadway constituting a threat to through traffic and this ordinance is necessary to provide for the immediate preservation of the public peace, property and safety of the community; NOW, THEREFORE,  
BE IT ORDAINED, by the Council of The City of San Diego, as follows:  
Section 1. That Chapter VIII, Article 6 of the San Diego Municipal Code be amended by adding Sections 86.28, 86.29 and 86.30 to read as follows:  
SEC. 86.28 POST-STORAGE HEARINGS FOR IMPOUNDED VEHICLES  
As to any vehicle impounded pursuant to this chapter by or at the request of The City of San Diego, 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 of San Diego 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 their 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.  
SEC. 86.29 CONDUCT OF HEARING  
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 safe 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.

I, Camille Simpson, am a citizen of the United States and a resident of the County aforesaid; I am over the age of eighteen years, and not a party to or interested in the above-entitled matter. I am the principal clerk of the San Diego Daily Transcript, a newspaper of general circulation, printed and published daily, except Saturdays and Sundays, in the City of San Diego, County of San Diego, and which newspaper has been adjudged a newspaper of general circulation by the Superior Court of the County of San Diego, State of California, under the date of January 23, 1909, Decree No. 14894; and the

EMERGENCY ORDINANCE NO. 0-15169  
(New Series)

is a true and correct copy of which the annexed is a printed copy and was published in said newspaper on the following date(s), to wit:

February 4, 1980

I certify under penalty of perjury that the foregoing is true and correct.

Dated at San Diego, California this 4th day of Feb., 19 80

Camille Simpson

(Signature)

9" - 60.03

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 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 impound 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 their agent to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

**SEC. 86.30 DECISIONS OF THE HEARING OFFICERS AND THEIR EFFECT.**

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 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 Garages. 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.

Section 2. This ordinance shall take effect and be in force immediately upon its adoption.

Introduced, reading dispensed with and adopted by the Council of the City of San Diego on JANUARY 21, 1980.

AUTHENTICATED BY:

PETE WILSON,

Mayor of The City of San Diego, California.

CHARLES G. ABDELNOUR,

City Clerk of The City of San Diego, California.

(SEAL)

By BARBARA BERRIDGE, Deputy.

Published February 4, 1980

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