

ORDINANCE NO. 2144

AN ORDINANCE OF THE CITY OF MESQUITE, TEXAS
ESTABLISHING PROCEDURES FOR A HEARING FOR
PARTIES AGGRIEVED BY THE TOWING AND/OR
IMPOUNDMENT OF VEHICLES AND RELATED
PROPERTY; DESIGNATING A HEARING OFFICER
AND PROVIDING THE TIME FOR HEARING AND
THE PURPOSES AND STANDARDS FOR SUCH
HEARING; PROVIDING A SEVERABILITY CLAUSE;
AND DECLARING AN EMERGENCY:

WHEREAS, it is the intent of the City of Mesquite to
provide due process to those aggrieved by the towing or
impoundment of their vehicle;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE
CITY OF MESQUITE, TEXAS:

SECTION 1. That there is hereby established a procedure
for a hearing for any person aggrieved by the towing and
impoundment of a motor vehicle or other vehicle and/or
vehicle accessories, attachments and items within a vehicle
under authority of the City or its employees where the
vehicle or item of property is held against the will of the
owner or person having control thereof prior to the
impoundment or the payment of charges are required as a
condition of release; provided that procedures established
hereby shall not be applicable to vehicles or property held
as evidence in a criminal or forfeiture proceeding or
property on the person of a party arrested and shall not
apply to impoundments under other sections of the City Code
or State law wherein procedures for hearing are established
but shall be applicable to all other impoundments of vehicles
and related property where no hearing is other wise provided:

Hearing Officer: For the purpose of providing hearings
herein the Municipal Court Judge and such substitute Judges
as may be authorized shall act as hearing officers.

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Method of Procedure: Hearings shall be informal and evidence admitted in administrative hearings generally shall be admissible. The Court shall take judicial notice of the law of the State of Texas and ordinances of the City of Mesquite pertaining to the parking and standing of vehicles on public streets and highways.

Nature of Inquiry and Standards: The purpose of the inquiry shall be to determine whether or not the vehicle or related item of property was lawfully towed or impounded and the hearing officer shall determine from the evidence available whether the vehicle, if not towed and/or impounded, would have created any hazard, been in violation of any law or ordinance of the State or City or, if towed or impounded under the caretaking functions of the police power, whether other reasonable alternatives were available for the safe and prudent care of the vehicle and/or property. In no event shall it be required that the arresting officer endanger himself or others to park a vehicle or release a prisoner from his immediate custody to park a vehicle and such shall not be deemed a reasonable alternative.

Remedy Available: If the hearing officer determines that no lawful reason existed for towing or impounding a vehicle or related property he shall announce his finding and the Police Department shall order the release of said vehicle and/or related property without charge. If the towing or impoundment fee has already been paid the City shall cause such amount to be refunded.

Method of Obtaining and Time of Hearing: Any person aggrieved herein may request a hearing by notification to the Clerk of the Municipal Court within thirty (30) days of the act deemed unlawful or, if the person aggrieved shall be in custody, within thirty (30) days from time of release but not more than six (6) months after the date of the claimed unlawful act. (If a party aggrieved is in custody more than six (6) months he may give notice within the six (6) months and the hearing officer may, if justice requires, continue such hearing until such party is released.)

Upon request for hearing, a hearing shall be held within ten (10) days but may be continued by the hearing officer for good cause upon request by either party or upon the hearing officer's own motion.

Finality of Hearing: Absent question of Constitutional

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deprivations the findings of the hearing offices shall be final.

SECTION 2. That should any word, sentence, clause, paragraph or provision of this ordinance be held to be invalid or unconstitutional the remaining provisions of this ordinance shall remain in full force and effect.

SECTION 3. The fact that the present ordinances of the City do not provide for a hearing for persons aggrieved by the towing and impoundment of their vehicles creates an urgency and an emergency for the preservation of the public health, safety, and welfare and requires that this ordinance shall take effect immediately from and after its passage and publication of said ordinance, as the law in such cases provides.

DULY PASSED AND APPROVED by the City Council of the City of Mesquite, Texas, on the 4th day of February, A.D., 1985.


Mrs. Brunhilde Nystrom
Mayor

ATTEST:

APPROVED AS TO FORM:


Lynn Prugel
City Secretary

ELLAND ARCHER
CITY ATTORNEY

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