

TOWN OF SAN ANSELMO

ORDINANCE NO. 1058

AN ORDINANCE OF THE TOWN OF SAN ANSELMO AMENDING SECTIONS 3-5.1709, 3-5.1710 AND 3-5.1711 OF THE TOWN OF SAN ANSELMO MUNICIPAL CODE

THE TOWN COUNCIL OF THE TOWN OF SAN ANSELMO DOES ORDAIN AS FOLLOWS:

SECTION 1. Findings.

- A. The Town Council finds that it is in the public interest that hearings regarding towed and/or impounded vehicles be conducted by the Town of San Anselmo Traffic Sergeant, or his/her designee, as opposed to being conducted by the Town of San Anselmo Chief of Police. The Traffic Sergeant is a specialist in parking issues, State and Town vehicle policies, and day-to-day enforcement, and is therefore more qualified to conduct hearings regarding towed and/or impounded vehicles.
- B. The Town Council finds that adoption of this ordinance is exempt from the California Environmental Quality Act ("CEQA") under California Code of Regulations, Title 14, § 15061(b)(3).

SECTION 2. Amendment.

- A. **Section 3-5.1709 of the Town of San Anselmo Municipal Code is hereby amended to read as follows:**

Upon request by the owner of a vehicle or owner of the land received by the Chief of Police within ten (10) days after the mailing of the notices of intention to abate and remove, a public hearing shall be held by the Chief of Police Traffic Sergeant, or his/her designee, on the question of abatement and removal of the vehicle, or parts thereof, as an abandoned, wrecked, dismantled, or inoperative vehicle and the assessment of the administrative costs and the costs of removal of the vehicle, or parts thereof, against the property on which it is located.

- B. **Section 3-5.1710 of the Town of San Anselmo Municipal Code is hereby amended to read as follows:**

All hearings held pursuant to the provisions of this article shall be held before the ~~Chief of Police Traffic Sergeant~~, or his/her designee, who shall hear all facts and testimony ~~he~~ he/she deems pertinent. Such facts and testimony may include testimony on the condition of the vehicle, or parts thereof, and the circumstances concerning its location on private property or public property. The ~~Chief of Police Traffic Sergeant~~, or his/her designee, shall not be limited by the technical rules of evidence. The owner of the land may appear in person at the hearing, or present a sworn written statement in time for consideration at the hearing, and deny responsibility for the presence of the vehicle on the land, with his his/her reasons for such denial.

The ~~Chief of Police Traffic Sergeant~~, or his/her designee, may impose such conditions and take such other action as ~~he~~ he/she deems appropriate under the circumstances to carry out the purposes of this article. ~~he~~ He/she may delay the time for removal of the vehicle, or parts thereof, if, in ~~his~~ his/her opinion, the circumstances so justify. At the conclusion of the public hearing, the ~~Chief of Police Traffic Sergeant~~, or his/her designee, may find that a vehicle, or parts thereof, has been abandoned, wrecked, dismantled, or is inoperative on private or public property, order the same removed from the property as a public nuisance and disposed of as provided in this article, and determine the administrative costs and the costs of removal to be charged against the owner of the land. The order requiring removal shall include a description of the vehicle, or parts thereof, and the correct identification number and license number of the vehicle, if available at the site.

If it is determined at the hearing that the vehicle was placed on the land without the consent of the owner of the land and that he has not subsequently acquiesced in its presence, the ~~Chief of Police Traffic Sergeant~~, or his/her designee, shall not assess the costs of administration or removal of the vehicle against the property upon which the vehicle is located or otherwise attempt to collect such costs from such owner of the land.

If the owner of the land submits a sworn written statement denying responsibility for the presence of the vehicle on his his/her land but does not appear, or if an interested person ~~make~~ makes a written presentation to the ~~Chief of Police Traffic Sergeant~~, or his/her designee, but does not appear, ~~he~~ he/she shall be notified in writing of the decision.

C. Section 3-5.1711 of the Town of San Anselmo Municipal Code is hereby amended to read as follows:

Any interested party may appeal the decision of the ~~Chief of Police~~ Traffic Sergeant, or his/her designee, by filing a written notice of appeal with the Chief of Police within five (5) days after his his/her decision.

Such appeal shall be heard by the Council which may affirm, amend, or reverse the order or take other action deemed appropriate.

The City Clerk shall give written notice of the time and place of the hearing to the appellant and those persons specified in Section 3-5.1708 of this article.

In conducting the hearing, the Council shall not be limited by the technical rules of evidence.

SECTION 3. Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or any part thereof is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this ordinance. The Town Council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance irrespective of the fact that one or more sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases be declared unconstitutional or invalid or effective. To this end the provision of this ordinance are declared to be severable.

SECTION 4. Effective Date.

This Ordinance shall take effect and be in force thirty (30) days after the date of its passage. Within fifteen (15) days following its passage, a summary of the ordinance shall be published with the names of those city council members voting for and against the ordinance and the city clerk shall post in the office of the city clerk a certified copy of the full text of the adopted ordinance along with the names of the members voting for and against the ordinance.

INTRODUCED AT A PUBLIC HEARING on Aug. 14, 07 and adopted at a regular meeting of the Town Council of the Town of San Anselmo on Aug. 28, 07 by the following vote:

AYES: Breen, Cooper, Freeman, House, Thornton

NOES: (none)

ABSENT: (none)

RECUSED: (none)

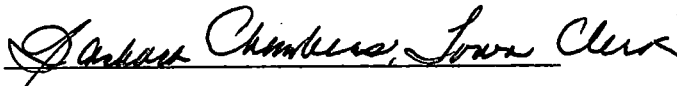
ABSTAIN: (none)

APPROVED:



Wayne Cooper, Mayor

ATTEST:



Debra Stutsman, Deputy Town Clerk