

ORDINANCE NO. 2815

AN ORDINANCE REVISING TITLE 10 (VEHICLES & TRAFFIC) BY ADDING CHAPTER 10.50 (VEHICLE IMMOBILIZATION), ALLOWING THE IMMOBILIZATION OR TOWING OF VEHICLES WITH FIVE OR MORE UNPAID PARKING TICKETS; SETTING THE PROCEDURE FOR IMMOBILIZATION AND TOWING, INCLUDING A HEARING; AND PROVIDING FOR THE RELEASE OF THE VEHICLE

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA:

Section 1. That Title 10, OCCGF, pertaining to Vehicles and Traffic, be revised as depicted in Exhibit A in its entirety, where any language be added which is in bold type.

PASSED BY THE CITY COMMISSION OF THE CITY OF GREAT FALLS, MONTANA, this 19th day of February, 2002.

Randall H. Gray, Mayor

ATTEST:

Peggy J. Bourne, City Clerk

(SEAL OF CITY)

APPROVED AS TO FORM:

David V. Gliko, City Attorney

State of Montana)
County of Cascade : ss
City of Great Falls)

I, Peggy J. Bourne, City Clerk of the City of Great Falls, Montana, do hereby certify that the foregoing Ordinance 2815 was placed on its final passage and passed by the Commission of the City of Great Falls, Montana, at a meeting thereof held on the 19th day of February, 2002.

IN WITNESS THEREOF, I have set my hand and affixed the Seal of said City this 19th day of February, 2002.

Peggy J. Bourne, City Clerk

(SEAL OF CITY)

State of Montana)
County of Cascade : ss
City of Great Falls)

Peggy J. Bourne, being first duly sworn, deposes and says: That on the 19th day of February, 2002, and prior thereto, she was the City Clerk of Great Falls, Montana; that as said City Clerk she did publish and post by law and as prescribed and directed by the Commission of said city to wit:

On the Bulletin Board, first floor, Civic Center Building;
On the Bulletin Board, first floor, Cascade County Courthouse;
On the Bulletin Board, Great Falls Public Library

Peggy J. Bourne, City Clerk

(SEAL OF CITY)

ORDINANCE
EXHIBIT A

Chapter 10.50

VEHICLE IMMOBILIZATION

Sections:

- 10.50.010 Authorization to Use Vehicle Immobilizer.
- 10.50.020 Procedure for Vehicle Immobilization
- 10.50.030 Removal of Violation Vehicle
- 10.50.040 Release to the Owner.
- 10.50.050 Hearing on Immobilization.
- 10.50.060 Cost Liability.

10.50.010 Authorization to Use Vehicle Immobilizer. Members of the city police department are authorized to use a vehicle immobilizer (“boot”) to immobilize any vehicle that is parked in a city parking space located in the downtown residential district, the parking meter district or any city owned off-street pay-to-park facility/lot, and that has five (5) or more parking tickets unpaid/delinquent 30 days or more, provided that the Community Development Department’s Parking Division has either (a) mailed the registered owner of the vehicle a final notice for five or more of the unpaid/delinquent parking tickets or (b) has filed a complaint in court charging the registered owner with unpaid parking tickets on the vehicle and no individual has appeared for arraignment on the complaint.

10.50.020 Procedure for Vehicle Immobilization. If parking officials, as defined in section 10.87.010, choose to immobilize a vehicle with a boot as allowed by section 10.50.010, then the on-site officers immobilizing the vehicle shall ensure that a written notice is conspicuously affixed to the vehicle. The written notice will inform the owner, driver or person in charge of such vehicle: that the vehicle has been immobilized by the city for violation of one or more provisions of Chapter 10.48; that release from such immobilization may be obtained at a designated place; that unless arrangements are made for the release of such vehicle within forty-eight (48) hours the vehicle will be impounded and towed as provided in section 10.50.030; and that removing or attempting to remove the immobilization device before a release is obtained is unlawful.

An immobilized vehicle shall not be released by the city until the immobilization fee is paid, together with payment of all outstanding parking fines, or posting of a bond as allowed by section 10.50.040.

If the vehicle has remained immobilized for a period of forty-eight (48) hours and a release has not been obtained, then the parking official shall have the vehicle impounded and towed as provided in section 10.50.030.

10.50.030 Removal of Violation Vehicle.

A. The city is authorized to remove a vehicle or tow a vehicle from parking spaces located in the areas listed in section 10.50.010 to the designated tow site when a vehicle with an immobilization device attached remains immobilized for a period of forty-eight (48) hours and a release has not been obtained;

B. Whenever an officer removes a vehicle from a street or city parking space as authorized in this section and the officer knows or is able to ascertain from the registration records on the vehicle the name and address of the owner thereof, such officer shall give notice in writing to such owner of the fact of such removal and the reasons thereof and of the place to which such vehicle has been removed. If any such vehicle is stored at a designated tow site, a copy of such notice shall be given to the proprietor of such garage. Further, the party towing the vehicle shall immediately notify the police department dispatcher that a vehicle has been towed from a specific location and give the dispatcher a detailed description of the vehicle and the location to which it is being towed.

C. Whenever an officer removes a vehicle from a street under this section and does not know and is not able to ascertain the name of the owner, or for any other reason is unable to give the notice to the owner as hereinafter provided, and if the vehicle is not returned to the owner within a period of three (3) days, then the officer shall send or cause to be sent written reports of such removal by mail to the state department whose duty it is to register motor vehicles, and shall file a copy of such notice with the proprietor of the designated tow site in which the vehicle may be stored. Such notice shall include a complete description of the vehicle, the date, time and place from which removed, the reasons for such removal and name of the garage or place where the vehicle is stored.

D. Any officer is authorized to take possession of any motor vehicle owned by any person that has violated, as to the vehicle, any of the provisions of Chapter 10.48, and has the authority to remove such vehicle from the streets and parking facilities in the areas designated in section 10.50.010, and to store and keep possession thereof until the owner of such vehicle appears and claims the same. The cost of towing or removing such vehicle and costs of storing the same shall be chargeable against the vehicle and shall be paid by the owner of the vehicle before the same shall be released. The vehicle will be stored in a designated tow site. The owner of a vehicle impounded and towed due to unpaid parking tickets must secure the release of the vehicle as required by section 10.50.040 B.

E. The taking of possession of a vehicle for violation of any parking ordinance or regulation shall not prohibit the filing of a complaint in connection with such violation(s).

10.50.040 Release to the Owner.

A. A vehicle immobilized for unpaid parking tickets shall be released to the registered owner or any other person legally entitled to claim possession of the vehicle, and the vehicle immobilization equipment removed, upon payment of all overdue and unpaid parking tickets and the immobilization fee. The fee may be paid in the form of a refundable bond pending the outcome of any hearing requested pursuant to section 10.50.050 D.

B. A vehicle impounded and towed for unpaid parking citations, and in accordance with section 10.50.030, can only be released pursuant to a written order from the Municipal Court that all penalties, fines, or forfeitures owed by the registered owner have been satisfied by full payment or the posting of a bond pending a hearing.

10.50.050 Hearing on Immobilization.

A. After a vehicle has been immobilized pursuant to this chapter, the registered owner, and any other person(s) who reasonably appear to have an interest in the vehicle, is entitled to have speedy hearing with the Parking Official or a designated representative to determine if the vehicle was immobilized in accordance with sections 10.50.010 and 10.50.020.

B. If the Parking Official finds that the immobilization was invalid or unjustified, he/she will order the vehicle to be immediately released, and the owner or any other person(s) who have an interest in the vehicle shall not be held liable for the immobilization fee.

C. If the Parking Official finds that the immobilization was valid and justified, he/she will order that the immobilization device remains on the vehicle until payment is received for the immobilization fee and all overdue and unpaid parking tickets. However, pursuant to section 10.50.030 A., when a vehicle with an immobilization device attached remains immobilized for a period of forty-eight (48) hours and a release has not been obtained, the vehicle will be towed and impounded.

D. The decision of the Parking Official shall be the final decision by the city. Any person aggrieved by a decision can request a hearing in Municipal Court. The court shall attempt to have the hearing as soon as all parties can be present, preferably on the day the immobilization or towing occurred; but in no instance shall the hearing be any later than three business days after towing has occurred. If the Municipal Court judge determines that the immobilization or towing was in violation of sections 10.50.010, 10.50.020 and/or 10.50.030, then the court may order the city to pay or reimburse the fees for immobilization or storage.

10.50.060 Cost Liability. The cost of removal and storage of any vehicle moved or towed pursuant to this chapter shall be paid by the owner or operator of the vehicle unless the Great Falls Municipal Court orders otherwise.