

BY AUTHORITY

ORDINANCE NO. **4174**

COUNCILLOR'S BILL NO. **1**

SERIES OF 2023

INTRODUCED BY COUNCILLORS
DeMott, Emmons

A BILL FOR AN ORDINANCE AMENDING SECTIONS 10-1-12, 10-1-16, AND 10-1-17 OF THE
WESTMINSTER MUNICIPAL CODE CONCERNING PARKING RESTRICTIONS AND
ENFORCEMENT

THE CITY OF WESTMINSTER ORDAINS:

Section 1. Section 10-1-12, W.M.C., is hereby AMENDED as follows:

10-1-12. Parking Restrictions.

(A) The following words, terms and phrases, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

Bus shall mean a motor vehicle designed to seat more than ten passengers and used for the transportation of persons, either for compensation or not, including, but not limited to, motor vehicles operated for profit by governmental agencies and motor vehicles used for the transportation of children to and from school.

Camper shall mean a non-wheeled, detachable piece of vehicular equipment that weighs over 500 pounds, used for temporary or permanent habitation, that has no independent motor power and that is capable of being placed on a vehicle but is not capable of being towed.

Camping trailer shall mean a trailer constructed so as to provide temporary occupancy as a dwelling or sleeping place for one or more persons.

Construction equipment shall mean a vehicle, whether self-propelled or not, designed for the use in the construction, maintenance, or repair of roadways, structures, and ditches, or modified for use in the construction, maintenance, or repair of roadways, structures, and ditches, the use of which on public roadways is incidental to its primary use.

Front yard or *side yard on street* shall mean that part of a lot that exists between any lot line that runs parallel to a street and the extension of the nearest exterior wall of the building located upon that lot.

Loading and unloading shall mean continuous and uninterrupted activity of placing cargo and or passengers into or removing cargo and or passengers from a vehicle.

~~*Loading and unloading* shall mean the uninterrupted activity of continuously moving material, equipment, goods or other items of personal property from or to a vehicle during an 24 hour maximum period.~~

Mobile home shall mean any vehicle used, or constructed so as to permit its use, as a conveyance upon streets and highways, constructed in such a manner as to permit occupancy as a dwelling or sleeping place for one or more persons.

Motor home shall mean a motorized vehicle designed or used as a conveyance upon streets and highways and constructed so as to provide temporary occupancy as a dwelling or sleeping place for one or more persons, but excluding pick-up trucks with attached campers.

Recreation vehicle or *RV* shall mean a motor home, mobile home, or camping trailer.

Residential district shall mean any area zoned RE, R1, RA, R2, R3, R4 or R5 under Title XI of this Code, or designated as a residential area in the official development plan for any planned unit development, along with all land within 300 feet of such area.

Semi-tractor shall mean a motor vehicle with a manufacturer's gross combination weight rating (GCWR) in excess of 26,001 pounds, which is designed and commonly used to draw a semi-trailer and its cargo load over the public roadways.

Trailer shall mean any wheeled vehicle without motor power that may be drawn over the roadway by a motor vehicle, including camping trailers and boat trailers.

Truck shall mean a motor vehicle with a manufacturer's gross vehicle weight rating (GVWR) over 11,000 pounds, equipped with a body designed to carry cargo or special permanently mounted equipment.

Truck trailer shall mean a wheeled vehicle, the empty weight of which is more than 2,000 pounds or the length of which is greater than 25 feet, which has no motor power and is designed to be used in conjunction with a semi-tractor so that some part of its own weight and that of its cargo load rests upon or is carried by such semi-tractor.

Vehicle associated with a business shall mean any vehicle that has a sign affixed to it referring to a business, or any vehicle displaying special tags or insignia identified with a particular occupation.

(B) The following restrictions shall apply to the parking of vehicles on public streets within the City:

(1) It shall be unlawful to park any trailer, boat, mobile home or motor home that is less than 35 feet long on any public street or highway within any residential district of the City unless:

(a) The vehicle is a recreational vehicle (RV) that is being loaded or unloaded; loading and unloading of an RV includes trip preparation or post-trip clean up or minor maintenance.

(b) The vehicle is a boat or trailer (other than a camping trailer) that is being loaded or unloaded.

(2) It shall be unlawful to park any vehicle, including, but not limited to, those listed in (1) above, that is 35 feet or more long on any public street or highway within any residential district of the City, except for the purpose of loading and unloading.

(3) It shall be unlawful to park truck trailers, semi-tractors, trucks, buses and construction equipment on any public street or highway within any residential district of the City; provided, however, that parking next to a construction site for which a valid permit exists shall be allowed for the purpose of loading and unloading materials.

(4) It shall be unlawful to park any vehicle upon any public street, highway, public right-of-way, or public property in the City for the principal purpose of: (a) displaying such vehicle for sale or lease; (b) washing, greasing, painting, or repairing such vehicle, except repairs necessitated by an emergency; or (c) displaying advertising.

(5) It shall be unlawful for any camper not mounted upon a vehicle to be left upon any street or highway within the City.

(6) It shall be unlawful to park any vehicle that is required to be licensed by Colorado statute upon any street or highway within the City unless a valid license is properly displayed on the vehicle.

(7) It shall be unlawful to park any vehicle upon a street or highway in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance.

(8) It shall be unlawful to park any vehicle in such a manner as to leave available less than two feet clearance between vehicles when parked.

(9) No person shall stop, stand or park a vehicle upon a street or highway in a manner as to block the driveway entrance to any property abutting the street or highway.

(10) It shall be unlawful to park any vehicle on public right-of-way located between the curb and sidewalk.

(11) It shall be unlawful to move and repark any vehicle in the same location or within 300 feet of the same location for the principal purpose of evading the application of sub-section (1) and (2) of this Subsection (B).

(12) It shall be unlawful to park or stop a vehicle on a bike lane or path, in a clearly marked fire lane, or at any place on a street where a traffic control sign or pavement markings prohibit stopping and or parking.

(C) The following restrictions shall apply to the parking of vehicles on private property within the City:

(1) It shall be unlawful to park any vehicle that is 35 feet or more in length on any private street within any residential district of the City, or upon any residential lot within the City, except for the purpose of loading and unloading.

(2) It shall be unlawful to park trailers, boats, automobiles, mounted or unmounted campers, or any motor vehicle in any front yard or side yard on street, unless such vehicles are parked on a driveway paved with concrete, asphalt, rock or gravel, or in a side yard behind a lawfully constructed six-foot privacy fence.

(3) It shall be unlawful to park any vehicle or combination of vehicles on private property so that the public sidewalk is obstructed.

(4) It shall be unlawful to park truck trailers, semi-tractors, trucks, buses and construction equipment on any private street in a residential district, on any driveway in a residential district, on a vacant lot in a residential district or in a front yard or side yard on street; provided, however, that parking on a construction site for which a valid building permit exists is allowed for the purpose of loading and unloading materials.

(5) It shall be unlawful to park a vehicle on any private street or private property within the City displaying that vehicle for sale or lease, except that a property owner may display one vehicle per residential dwelling unit with a "For Sale" sign or a "For Lease" sign listing the owner's address in the driveway of their his residence, provided that the vehicle does not violate the requirements contained in this Section. This Subsection shall not apply to car sales lots approved for such use pursuant to this Code.

(6) Churches located in a residential district may park one multi-passenger bus on the church parking lot. Said bus is to be locked when not in use. Additional buses owned by such church shall not be parked or stored on the church parking lot, but shall be parked or stored at a location having appropriate zoning to permit such use.

(D) It shall be unlawful to park more than one vehicle associated with a business in any residential district of the City where such vehicle is visible from public or private property.

(E) Unless otherwise specified, any parking citation issued pursuant to this Section shall be a civil parking violation, and not criminal in nature. Any person who fails to comply with any provision of this

Section shall be guilty of a misdemeanor and, on conviction thereof, shall be punished by a fine as specified in Section 1-8-1, W.M.C.

(F) Issuance of Parking Citations.

(1) Whenever a parking enforcement officer, police officer, code enforcement officer or any community development parking management or community preservation team member or designee, or other person designated by the chief of police or community development director determines that a violation has occurred, that person is authorized to issue a parking citation to the responsible party.

(2) Parking citations shall be considered to be lawfully served, and the responsible party shall be considered to have been provided with due notice of the parking citation when:

(a) The parking citation is placed under the windshield wiper or otherwise attached to the vehicle in a conspicuous location by the Parking Enforcement Officer, police officer, code enforcement officer or any community development parking management or community preservation team member or designee, or other person designated by the chief of police or community development director;

(b) The parking citation is handed to the driver or owner of the vehicle as shown in the motor vehicle ownership records of the state of registration, or other responsible parties, by the parking enforcement officer, police officer, code enforcement officer or any community development parking management or community preservation team member or designee, or other person designated by the chief of police or community development director, regardless of whether or not that person accepts the citation; or

(c) The parking citation is sent by U.S. mail to the address of the owner or responsible party, as shown in the motor vehicle ownership records of the state of registration.

(G) Contents of Parking Citation. The parking citation shall contain:

(1) The date, approximate time, and location of the violation(s);

(2) Basic descriptive information of the vehicle in violation, such as license plate number, state of issuance, make, model, and/or color. Minor discrepancies or absences of descriptive information, such as mistake of color, model, or minor typographic error on license plate number shall not invalidate an otherwise valid parking citation, so long as it is clear that the vehicle cited was the one observed committing the violation(s);

(3) The Code Section(s) violated and a brief description of the violation(s);

(4) The amount of penalty imposed for the violation(s), including any increase in the penalty to be imposed if payment is not made by a certain date;

(5) The methods available for making payment, the time periods by which payment shall be made, and the consequences of failure to pay within those time limits;

(6) A statement of the right to appeal, as well as a brief statement of the procedures and deadlines for appealing the parking citation; and

(7) The signature or officer ID number of the Parking Enforcement Officer, police officer, code enforcement officer or any community development parking management or community preservation team member or designee, or other person designated by the chief of police or community development director.

(H) Appeal of Parking Citation.

(1) Notwithstanding any other provision of the Westminster Municipal Code, responsible parties cited under the provisions of this Section shall have only the appeal rights granted herein.

(2) Any person issued a parking citation may appeal that parking citation by submitting a notice of appeal within 21 days of the issuance of the parking citation. The notice of appeal may be submitted through a location on the city's website to be specified on the parking citation, or the notice of appeal may be submitted in-person at a location within the City of Westminster to be specified on the parking citation. Failure to submit a notice of appeal within 21 days shall constitute a waiver of the right to appeal the parking citation.

(3) The notice of appeal must contain:

- (a) The name of the responsible party submitting the appeal;
- (b) The mailing address and email address, if any, where the responsible party may be contacted;
- (c) The make, model, color, and license plate number of the vehicle issued the parking citation;
- (d) The parking citation number;
- (e) A statement as to why the responsible party believes the citation was inappropriate or improper; and
- (f) Any other documentation the responsible party believes will be helpful or necessary in reviewing the parking citation.

(I) First Level Document Review of Appeal.

(1) A first level document review of all notices of appeal shall be conducted by the Director's designee. For the first level document review the Director's designee shall examine the parking citation, as well as the information and documentation submitted by the responsible party submitting the appeal. No in-person, evidentiary hearing will be conducted at the first level document review.

(2) Based on the evaluation of the documentation submitted, the Director's designee may either:

- (a) Dismiss the parking citation;
- (b) Uphold the parking citation, and reduce the fine amount; or
- (c) Uphold the parking citation and maintain the fine amount.

(3) The Director's designee shall notify the responsible party submitting the appeal of the first level document review decision within 21 days after the submission of the notice of appeal. Notice of the decision shall be given by electronic mail or through U.S. mail to the addresses provided on the notice of appeal. Notice shall be considered as having been given upon the sending of mailing of the notice.

(J) Second Level Hearing Review of Appeal.

(1) A responsible party may demand a second level review in the form of a hearing within 21 days of being notified that a parking citation was upheld upon first level document review. No person shall be entitled to second level hearing review who did not first submit a notice of appeal, and have the parking citation upheld upon first level document review.

(2) The demand for second level hearing review may be submitted through a location on the city's website to be specified on the parking citation, or the notice of appeal may be submitted in-person at a location within the City of Westminster to be specified on the parking citation.

(3) Within 21 days of receiving a demand for a hearing the Parking Hearing Officer shall schedule a hearing and notify the responsible party demanding the hearing, as well as the Parking Citation Officer who issued the parking citation, of the location and time of the hearing. Notification shall be given by electronic mail or through U.S. mail to the addresses provided on the notice of appeal. Notification shall be considered as having been given upon the sending or mailing of the notification.

(4) Failure by the responsible party to attend the hearing shall be considered to be an abandonment of the appeal, and the parking citation shall be upheld without any further proceedings. An administrative fee reasonably calculated by the Director to offset the cost of conducting the hearing may be added to the cost of the parking citation upon failure to appear by the responsible party.

(5) The city bears the burden of proof at the hearing to establish that the parking violation was appropriately issued. The burden of proof is by a preponderance of the evidence.

(6) The Parking Hearing Officer shall preside over the hearing. Hearings conducted pursuant to this Section are to be informal in nature. Formal rules of evidence, procedure, and discovery do not apply, though each party shall be entitled to view the evidence submitted by the other party at the time it is admitted. The Parking Hearing Officer shall make their own determinations as to the relevance, competence, and weight of the submitted evidence.

(7) The Parking Hearing Officer shall cause to be made a record of the hearing, either stenographically or by sound recording, and shall make available a transcript of the hearing to any person upon request and payment in advance of the estimated cost of the production of the transcript.

(8) At the conclusion of the evidence the Parking Hearing Officer shall render a decision and may either:

- (a) Dismiss the parking citation;
- (b) Uphold the parking citation, and reduce the fine amount; or
- (c) Uphold the parking citation and maintain the fine amount.

(9) If the Parking Hearing Officer upholds the parking citation, an administrative fee reasonably calculated by the Director to offset the cost of conducting the hearing may be added to the cost of the parking citation. This fee may be waived at the discretion of the Parking Hearing Officer.

(10) The decision of the Parking Hearing Officer at the conclusion of the hearing shall be final and not subject to any further appeal, except as otherwise provided by law.

(K) *Parking Citation Fines.*

(1) Fines for parking violations assessed pursuant to this Section shall be as set by resolution of the City Council.

(2) Fines and fees assessed pursuant to this Section may be collected by any means allowed by law.

~~The parking of any vehicle in violation of this Section is declared to be a public nuisance, which may be abated pursuant to the provisions of Chapter 4 of Title IX of this Code.~~

~~(G) It shall be unlawful to park any vehicle within a designated fire lane as approved by the Westminster Fire Department.~~

Section 2. Section 10-1-12.5, W.M.C., is hereby REPEALED AND DELETED IN ITS ENTIRITY:

Section 3. Section 10-1-16, W.M.C., is hereby REPEALED IN ITS ENTIRITY AND REENACTED as follows:

10-1-16. Parking and Curbside Management

(A) Definitions. Unless otherwise defined, or unless context clearly requires otherwise, those terms and phrases defined in subsection 10-1-12 shall have the same meaning in this Section. The following words, terms and phrases, when used in this Section, shall have the following meaning, unless the context clearly indicates otherwise:

City shall mean the City of Westminster.

Code shall mean those provisions of the Westminster Municipal Code.

Director shall mean the Director of the Community Development Department or their designee.

Immobilization shall mean attaching a device to a vehicle in order to prevent normal operation. Immobilization is often referred to as "booting".

Loading and unloading shall mean continuous and uninterrupted activity of placing cargo and or passengers into or removing cargo and or passengers from a vehicle.

Managed parking zone shall mean any public parking space located in the public right-of-way or in a facility owned, leased, licensed, or managed under agreement through the City of Westminster that either requires payment, a permit, or otherwise is lawfully posted with a time limit restriction or other restriction to the parking public.

Parking shall mean the standing of a vehicle whether occupied or not, otherwise than legally and temporarily for the purpose of and while actually engaged in loading or unloading, in an authorized loading zone, or in compliance with directions of a police officer, parking enforcement officer or traffic control device.

Parking Enforcement Officer shall mean any city police officer, or any city employee or contractor authorized by the Director to enforce Westminster Municipal Code pursuant to this Chapter.

Parking Hearing Officer shall mean a person appointed by the City Manager or their designee to hear and determine parking citation appeals. The City Manager or their designee may appoint an employee of the city, a duly selected and qualified contractor, or another person possessing qualifications acceptable as a hearing officer to hear and receive evidence and render a decision on the law and the facts related to the parking violations set forth in this Section. The hearing officer may not have personally determined, in the first instance, the factual issues in controversy and may have no personal or financial interest in the outcome of the hearing.

Parking meter shall mean any mechanical or electronic device used, placed, installed, or erected at or near the curb adjacent to the parking lane, or otherwise on property which is owned, leased or operated by the city. A parking meter includes, but it is not limited to, single space meters, multi-space meters, and parking mobile payments applications authorized by the City of Westminster.

Responsible party shall mean a person or entity who has violated the Code or, in the case of parking violations, the responsible party may also be the vehicle owner or operator or an individual or an entity who, acting as an agent for or in any other legal capacity on behalf of the owner, has authority over property or vehicle subject to an administrative parking citation under this Chapter.

Vehicle shall mean any device in, upon, or by which any person or property is or may be transported upon a public street, except such devices as are used exclusively upon stationary rails or tracks and such devices as are propelled exclusively by human power.

(B) Authority.

(1) Authority to regulate parking, designate parking spaces and charge parking fees. The Director is hereby authorized to manage authorized paid parking zones within public right-of-way and facilities owned, leased, or operated by the city. Within such areas, parking payment devices, parking meters, and or applications may be installed and maintained at the discretion of the Director.

(2) Rules and regulations. The Director is authorized to set fees, and establish time limits, parking durations, and the manner in which to park.

(3) Temporary covering of meters authorized. Upon the authorization of the Director, parking lanes may be temporarily closed, and meters may be temporarily bagged for specific time periods for construction projects, lengthy loading and unloading, and other planned activities that require the temporary closure of the parking lane. Additional city permits may be required to close the parking lane in addition to a temporary meter bag permit. Closing a parking lane or bagging a parking meter without the proper authorization from the Director shall be a civil violation of this Code, subject to the provisions of W.M.C. 1-8-1.

(4) Permit Parking. The Director may establish areas where permits are required for parking, and issue permits for the parking of motor vehicles in these areas, if such permitting would:

- (a) Better manage the use of the public right-of-way, or
- (b) Restrict the parking of motor vehicles in these areas when such parking could:
 - (i) Cause hazardous traffic conditions;
 - (ii) Produce unacceptable levels of auto emissions, noise, trash and refuse;
 - (iii) Unreasonably burden access of the area for residents and businesses; or
 - (iv) Damage the character of those areas.

(5) The Director is hereby authorized to otherwise administer Parking Areas including the following:

- (a) Creating, regulating and administering accessible (ADA) parking zones;
- (b) Building, installing, leasing, operating, managing, repairing, acquiring, owning, financing, and controlling existing and new parking facilities, structures, and parking payment devices and software applications to further those purposes;
- (c) Contracting with any suitable and qualified person, firm, or corporation for the construction, operation, enforcement, and/or maintenance of any public parking facility or structure as is found to be in the public interest;
- (d) Contracting with any suitable and qualified person, firm, or corporation for the enforcement of the Westminster Municipal Code parking regulations, including the regulations of this Section;
- (e) Contracting with any suitable and qualified person, firm, or corporation for the adjudication and remedies of parking violations;
- (f) Enforcement of parking violations connected with parking facilities and structures, paid parking zones, other managed parking zones, or any other area where a parking violation occurs;
- (g) Promulgating rules and regulations to carry out authorized enforcement, immobilization, and impounding of vehicles;
- (h) Contracting with any suitable and qualified person, firm or corporation for vehicle immobilization and towing services for parking violations; and
- (i) Other necessary activities related to the administration, management, and enforcement of ordered parking in the City of Westminster

The issuance or renewal of a permit under this Section shall not be granted until all outstanding parking infractions under the Westminster Municipal Code are paid in full. The establishment of permit parking shall not conflict with any other restrictions contained in the Westminster Municipal Code.

Section 4. Section 10-1-17, W.M.C., is hereby AMENDED as follows:

10-1-17. Impoundment, Imobilization, Removal, or Towing of Vehicles; Authority; Procedure.

(A) No person shall abandon any vehicle upon private property other than their ~~his~~ own without the written consent of the owner or lessee thereof. The City may request that the property owner furnish a copy of the written consent. The following sign shall be posted prominently on commercial locations: "Vehicles abandoned for 24 hours on this property, without the consent of the owner or lessee, will be towed away at the discretion of this property owner or lessee."

(B) Subject to the procedures specified in this Section, a police officer, parking enforcement officer, code enforcement officer or any community development parking management or community preservation team member or designee, or other person designated by the chief of police or community development director shall require a vehicle to be immobilized, removed or cause it to be removed and placed in storage in a garage or other place of safety designated or maintained by the City when:

(1) The vehicle is found, attended or unattended, standing or parked upon any portion of a street, highway, or public thoroughfare within the City in such manner as to constitute a violation of this Code; or

(2) The vehicle has been left unattended on any portion of a street, highway or public thoroughfare and is presumed to be abandoned; or

(3) The vehicle has been left unattended on private property or City property, the vehicle is presumed to be abandoned, and the owner or lessee of such property has notified the Police Department or the Community Development Department about the vehicle; or

(4) The vehicle has three (3) or more outstanding parking violations. For purposes of enforcement of this subsection, a parking violation shall be considered outstanding when it has remained unpaid for a period of time in excess of 21 days from the date the citation was issued; or

(5) The vehicle is parked in any area designated by a sign or other clearly visible markings as a fire lane, fire access lane, tow away zone, or bike lane.

(6) For purposes of this Subsection (B), a vehicle left unattended on any portion of a street, highway or public thoroughfare for a period of 24 hours or more shall be presumed abandoned, unless the owner or operator thereof has conspicuously affixed thereto information indicating their ~~his~~ intention to return to the vehicle or has otherwise notified the police department or community development department of their ~~his~~ intention to remove the vehicle. Notwithstanding such notification of intent to return and to remove the vehicle, if the vehicle has been left unattended for longer than 48 hours, it shall be presumed to be abandoned. A vehicle left unattended on property other than a street or public thoroughfare for a period longer than 24 hours shall be presumed to be abandoned unless prior arrangements with the owner or lessee of the property have been made regarding the vehicle. A bona fide effort shall be made by the police officer, parking enforcement officer, code enforcement officer or any community development parking management or community preservation team member or designee, or other person designated by the chief of police or community development director to contact the owner or operator of the vehicle prior to towing or impoundment.

(C) *Notice:* Whenever a police officer, parking enforcement officer, code enforcement officer, or any community development parking management or community preservation team member or designee, or other person designated by the chief of police or community development director orders the immobilization or impoundment of a vehicle, and the police officer, parking enforcement officer, code enforcement officer or any community development parking management or community preservation team member or designee, or other person designated by the chief of police or community development director knows or is able to ascertain the name and address of the owner thereof, the police officer, parking enforcement officer, code enforcement officer or any community development parking management or

community preservation team member or designee, or other person designated by the chief of police or community development director shall give or cause to be given notice in writing to the owner of the fact of the removal, the reasons therefor, and of the place to which the vehicle has been removed. In the event the vehicle is stored in a designated garage, a copy of the notice shall be given to the proprietor of the garage. The written notice shall also contain the following statement:

~~"A police officer has~~ The City of Westminster has ordered the immobilization or towing of your vehicle. If you believe that the immobilization or impoundment was improper, you have twenty-one ~~seven~~ (21) days from the date of this notice to submit a notice of appeal to the City. The notice of appeal may be submitted through a location on the city's website to be specified on the parking citation, or the notice of appeal may be submitted in person at a location within the City of Westminster to be specified on the parking citation. Failure to submit a notice of appeal within 21 days shall constitute a waiver of the right to appeal the parking citation. file a written request with the Westminster Municipal Court located at 3030 Turnpike Drive, Westminster, Colorado 80030, for a hearing regarding the propriety of this impoundment. Such hearing shall be scheduled within three (3) days (excluding Saturday, Sunday and City holidays) of the date your written request is received by the Westminster Municipal Court. The Court may waive the towing and storage fees if it is found that the impoundment was improper.

The notice of appeal must contain:

- (a) The name of the responsible party submitting the appeal;
- (b) The mailing address and email address, if any, where the responsible party may be contacted;
- (c) The make, model, color, and license plate number of the vehicle issued the parking citation;
- (d) The parking citation number;
- (e) A statement as to why the responsible party believes the citation was inappropriate or improper; and
- (f) Any other documentation the responsible party believes will be helpful or necessary in reviewing the parking citation."

~~"If you retrieve your vehicle from impoundment, you still have the right to a subsequent hearing and reimbursement if you make a timely request. You are encouraged to also contact the Watch Commander of the Westminster Police Department for purposes of resolving the dispute concerning the impoundment of your vehicle without the necessity of having a formal hearing."~~

~~The written notice shall either be deposited in the United States Mail within 24 hours from the time of the impoundment of the vehicle, excluding Saturday, Sunday and holidays, or personally handed to the owner.~~

(D) First Level Document Review of Appeal.

(1) A first-level document review of all notices of appeal shall be conducted by the Community Development Director's designee. For the first level document review, the Director's designee shall examine the parking citation, as well as the information and documentation submitted by the responsible party submitting the appeal. No in-person, evidentiary hearing will be conducted at the first level document review.

(2) Based on the evaluation of the documentation submitted, the Director's designee may either:

- (a) Dismiss the parking citation, and order the impounded or immobilized vehicle released and the costs of such impoundment and/or immobilization to be borne by the City;
- (b) Uphold the parking citation, and reduce the fine amount with the costs of such impoundment and/or immobilization to be borne by the responsible party submitting the appeal; or

(c) Uphold the parking citation and maintain the fine amount with the costs of such impoundment and/or immobilization to be borne by the responsible party submitting the appeal.

(3) The Director's designee shall notify the responsible party submitting the appeal of the first-level document review decision within 21 days after the submission of the notice of appeal. Notice of the decision shall be given by electronic mail or through U.S. mail to the addresses provided on the notice of appeal. Notice shall be considered as having been given upon the sending or mailing of the notice.

~~*Hearing:* A hearing shall be conducted before the Westminster Municipal Court within three days of receipt of a written demand therefor from the person seeking the hearing, unless such person waives the right to a speedy hearing in writing. Saturdays, Sundays and City holidays are to be excluded from the calculation of the three-day period. The sole issue before the court 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 law to grant legal authority for the removal of the vehicle. The court 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 City of Westminster shall carry the burden of establishing that there was probable cause to impound the vehicle in question. The burden of proof shall be by a preponderance of the evidence. The decision shall be a final decision of the Westminster Municipal Court. 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.~~

(E) A responsible party may demand a second level review in the form of a hearing within 21 days of being notified that a parking citation was upheld upon first level document review.

(1) No person shall be entitled to second level hearing review who did not first submit a notice of appeal and have the parking citation upheld upon first level document review.

(2) The demand for second level hearing review may be submitted through a location on the city's website to be specified on the parking citation, or the notice of appeal may be submitted in-person at a location within the City of Westminster to be specified on the parking citation.

(3) Within 21 days of receiving a demand for a hearing the Parking Hearing Officer shall schedule a hearing and notify the responsible party demanding the hearing, as well as the Parking Citation Officer who issued the parking citation, of the location and time of the hearing. Notification shall be given by electronic mail or through U.S. mail to the addresses provided on the notice of appeal. Notification shall be considered as having been given upon the sending or mailing of the notification.

(4) Failure by the responsible party to attend the hearing shall be considered to be an abandonment of the appeal, and the parking citation shall be upheld without any further proceedings. An administrative fee reasonably calculated by the Director to offset the cost of conducting the hearing may be added to the cost of the parking citation upon failure to appear by the responsible party.

(5) The City bears the burden of proof at the hearing to establish that the parking violation was appropriately issued. The burden of proof is by a preponderance of the evidence.

(6) The Parking Hearing Officer shall preside over the hearing. Hearings conducted pursuant to this Section are to be informal in nature. Formal rules of evidence, procedure, and discovery do not apply, though each party shall be entitled to view the evidence submitted by the other party at the time it is admitted. The Parking Hearing Officer shall make their own determinations as to the relevance, competence, and weight of the submitted evidence.

(7) The Parking Hearing Officer shall cause to be made a record of the hearing, either stenographically or by sound recording, and shall make available a transcript of the hearing to any person upon request and payment in advance of the estimated cost of the production of the transcript.

(8) At the conclusion of the evidence the Parking Hearing Officer shall render a decision and may either:

(a) Dismiss the parking citation, and order the impounded or immobilized vehicle released and the costs of such impoundment and/or immobilization to be borne by the City;

(b) Uphold the parking citation, and reduce the fine amount with the costs of such impoundment and/or immobilization to be borne by the responsible party submitting the appeal; or

(c) Uphold the parking citation and maintain the fine amount with the costs of such impoundment and/or immobilization to be borne by the responsible party submitting the appeal.

(9) If the Parking Hearing Officer upholds the parking citation, an administrative fee reasonably calculated by the Director to offset the cost of conducting the hearing may be added to the cost of the parking citation. This fee may be waived at the discretion of the Parking Hearing Officer.

(10) The decision of the Parking Hearing Officer at the conclusion of the hearing shall be final and not subject to any further appeal, except as provided by law.

~~*Reimbursement for Improper Impoundment:* Upon a determination by the court that the subject vehicle was improperly impounded, the City shall either fully reimburse the owner of the impounded vehicle for all towing and storage fees paid by the owner, or directly pay the towing and storage company for accrued fees.~~

~~(F) The hearing and reimbursement provisions contained in this Section shall only be applicable to vehicles that have been impounded by order of a police officer.~~

~~(FG)~~ No impounded vehicle shall be released to its owner until all towing charges, storage charges and administrative fees have been paid to the City, or in the case of towing and storage charges, to such private person or firm as may have performed such services at the request of the City. The owner of the vehicle may also be issued a citation for a parking violation or abandoned vehicle violation.

~~(GH)~~ The requirements contained within this Section relating to compliance with time periods are directory in nature. Failure of the City to strictly comply with said time periods shall not cause an automatic forfeiture of the City's rights under the code.

Section 5. This ordinance shall take effect upon its passage after second reading. The title and purpose of this ordinance shall be published prior to its consideration on second reading. The full text of this ordinance shall be published within ten (10) days after its enactment after second reading.

INTRODUCED, PASSED ON FIRST READING, AND TITLE AND PURPOSE ORDERED PUBLISHED this 9th day of January, 2023.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this 23rd day of January, 2023.

ATTEST:

City Clerk

Mayor

APPROVED AS TO LEGAL FORM:

City Attorney's Office