

BY AUTHORITY

ORDINANCE NO. **4202**

COUNCILLOR'S BILL NO. **30**

SERIES OF 2023

INTRODUCED BY COUNCILLORS

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A BILL

FOR AN ORDINANCE AMENDING CHAPTER 1 OF TITLE X OF THE WESTMINSTER MUNICIPAL CODE CONCERNING IMPOUNDMENT OF VEHICLES; PROCEDURE

THE CITY OF WESTMINSTER ORDAINS:

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

10-1-17. – Impoundment of Vehicles; procedure.

(A) No person shall abandon any vehicle upon private property other than 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 shall require a vehicle to be 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 about the vehicle.

(4) 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 his intention to return to the vehicle or has otherwise notified the police department of 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 to contact the owner or operator of the vehicle prior to towing or impoundment.

(C) Notice: Whenever a police officer orders the impoundment of a vehicle, and the police officer knows or is able to ascertain the name and address of the owner thereof through querying readily available government records or other reasonable means, the police officer shall ~~give or cause to be given~~ make reasonable efforts to give 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 ordered the towing of your vehicle. If you believe that the impoundment was improper, you have seven (7) days from the date of this notice to 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.

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~~ The Westminster Police Department shall make reasonable efforts to deposited the written notice 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 ~~the notice~~ to the owner.

(D) ~~Hearing: A hearing shall be conducted before t~~ The Westminster Municipal Court shall only have jurisdiction to conduct a hearing regarding the impoundment of a vehicle when the vehicle was impounded (1) by order of a Westminster police officer, (2) within the City of Westminster and (3) stored at a facility designated by the City. The hearing shall be conducted 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 or another date is deemed necessary and ordered by the court. 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~~ were sufficient ~~facts breach of law~~ facts to grant legal authority under this Code 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 and that the court has jurisdiction over the matter. 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) *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. If the subject vehicle is towed and stored by a private towing and storage facility designated by the City, the court may not waive fees associated with the towing or storage of the vehicle unless authorized by the designated towing and storage company.

(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.~~

(~~G~~) No impounded vehicle shall be released to its owner until all towing charges, storage charges and administrative fees incurred by the City have been reimbursed to the City by the owner, or in the case of towing and storage charges, paid directly by the owner 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, abandoned vehicle violation, or other applicable violation.

(H) ~~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.~~

(~~I~~) The provisions and procedures in this Section apply to vehicles impounded within the City of Westminster, by a Westminster Police Officer, and stored at a facility designated by the City of Westminster. A Westminster Police Officer shall not knowingly order a vehicle to be impounded pursuant to this section when the vehicle is located outside the City of Westminster.

(H) Vehicles subject to closure proceedings under the public nuisance code Title VIII Chapter 3. Such vehicles may be impounded pursuant the procedures identified in the Title VIII Chapter 3.

Section 2. 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 \_\_\_ day of \_\_\_\_\_, 2023.

PASSED, ENACTED ON SECOND READING, AND FULL TEXT ORDERED PUBLISHED this \_\_\_ day of \_\_\_\_\_, 2023.

ATTEST:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor

APPROVED AS TO LEGAL FORM:

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City Attorney's Office