

ORDINANCE NO. 2315

INTRODUCED BY: \_\_\_\_\_

AN ORDINANCE AMENDING THE COMMERCE CITY REVISED MUNICIPAL CODE AND FURTHER AMENDING THE MODEL TRAFFIC CODE TO REGULATE THE PARKING OF VEHICLES IN RESIDENTIAL AREAS AND ABANDONMENT AND TOWING OF VEHICLES

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COMMERCE CITY, COLORADO AS FOLLOWS:

**SECTION 1.** The City Council finds and determines that the passage of this ordinance is necessary for the preservation of the public health, safety, and welfare in the City of Commerce City.

**SECTION 2.** Sections 11-1202, 11-2102, 11-41, 11-43, 11-45, 11-46, and 11-47 of the Commerce City Revised Municipal Code are amended as shown in Exhibit A.

**SECTION 3.** This ordinance shall be effective upon approval by the City Council on second and final reading.

INTRODUCED, PASSED ON FIRST READING AND PUBLIC NOTICE ORDERED THIS 7TH DAY OF DECEMBER 2020

PASSED ON SECOND AND FILING READING AND PUBLIC NOTICE ORDERED THIS \_\_\_\_ DAY OF \_\_\_\_\_ 2020

CITY OF COMMERCE CITY, COLORADO

\_\_\_\_\_  
Benjamin A. Huseman, Mayor

ATTEST

\_\_\_\_\_  
Dylan A. Gibson, City Clerk

**Additions in blue, underlined text; deletions in red, strikethrough text.**

**Sec. 11-1202. - Amendments.**

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(n) Section 1210 of the Model Traffic Code is amended to read as follows:

*1210. Parking in residential districts.*

No person shall park any vehicle in a residential district on any surface other than a driveway or other approved parking area or on that portion of the street where parking is permitted. No person shall park any vehicle on any portion of the street where parking is permitted for more than ~~twenty-four~~five (24~~5~~) hours unless the location on the street where the ~~vehicle~~person is parked is immediately adjacent to property owned or occupied by the user of such vehicle~~such person~~. Nothing in this section shall be construed to limit the private enforcement of any private covenant within any residential district as between parties to such private covenant.

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**Sec. 11-2102. - Oversized vehicles in residential areas.**

- (a) *Parking on private property.* It shall be unlawful to park, keep, or store or allow the parking, keeping, or storing of any vehicle in excess of one-ton carrying capacity, excluding pick-up trucks, recreational vehicles, motor homes, travel trailers, ~~"hummers"~~, sport utility vehicles and camp trailers on any private property that is in a residentially zoned district or on or directly adjacent to any property which is legally used for residential purposes, regardless of the zoning, without a valid city permit. Nothing in this section shall be construed to limit the private enforcement of any private covenant within any residential district as between parties to such private covenant.
- (b) *Parking permit.* The city manager may issue a permit to allow an oversized vehicle to park on private property that is in a residentially zoned district or that is legally used for residential purposes~~in a residential area~~ if the city manager~~he or she~~ determines that the parking is not detrimental to the health, safety or welfare of the neighborhood or of the general public. The city manager may impose reasonable conditions and establish a fee for such permit. The permit may be revoked by the city manager at any time.
- (c) *Violations.* In the event any motor vehicle is found parked in violation of this section in excess of two (2) times within any period of twelve (12) consecutive months, the city may, in addition to any other enforcement mechanism authorized by this Code or by state law, order such vehicle be towed and dealt with as provided for a public tow of motor vehicles.

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**Sec. 11-41. - Purpose and definitions.**

The purpose of this article is to provide for a procedure relative to towing and storage of abandoned and/or illegally parked motor vehicles in the city and for recovery by the city of the costs incurred as a result of such towing and storage.

As used in this article, the following words and phrases shall have the meanings respectively ascribed to them, unless the context otherwise requires.

(a) *Abandoned vehicle or trailer* means any of the following:

- (1) Any vehicle or trailer left unattended on private property, including parking areas that are open to public use or on public property other than a public right-of-way, without the consent of the owner or lessee of such property or his or her legally authorized agent.
- (2) Any vehicle or trailer left unattended within any portion of a public right-of-way within the limits of the city that lacks currently valid license plates or other legally recognized identifying marks, or a vehicle or trailer that has flat tires or has deteriorated or been damaged so extensively that it has value only for junk or salvage, or the vehicle or trailer is inoperable or not usable in its existing condition.
- (3) Any vehicle or trailer left unattended within any portion of a public right-of-way within the limits of the city for a period of seventy-two (72) consecutive hours or more-~~-, provided~~  
~~to~~ To avoid being considered an abandoned vehicle or trailer under this section, any such vehicle or trailer marked or noted as having been left unattended within any portion of a public right-of-way within the limits of the city must be moved either onto private property with approval of the owner or lessee of such private property or must be moved to a point on a public right-of-way at least one hundred (100) feet from the place where such vehicle or trailer had been originally left unattended and once moved, the vehicle or trailer may not be returned for at least twenty-four (24) consecutive hours to the location where it had been originally left unattended.

Notwithstanding the foregoing, in the case of a motor vehicle, or trailer not exceeding thirty (30) feet in length, that has a current ~~registration~~~~license~~ and is capable of legal operation on a public right-of-way, such motor vehicle or trailer may be allowed to remain parked in the public right-of-way adjacent to the property owned and/or occupied by the owner of such motor vehicle or trailer provided no trash, leaves or other debris is allowed to accumulate under or around such motor vehicle or trailer. Any motor vehicle or trailer so parked must be within the prolongation of the property lines of the property owned or occupied by the registered owner of the vehicle. In the case of a trailer, no person may occupy said trailer while parked.

- (4) Any motor vehicle stored in an impound lot at the request of its owner or the owner's agent or a law enforcement agency and not removed from the impound lot according to the agreement with the owner or agent of the owner within seventy-two (72) hours of the time the law enforcement agency notifies the owner or agent of the owner that the vehicle is available for release upon payment of any applicable charges or fees. If a law enforcement agency requested the storage, the provisions of this article governing public tows apply as to the time of abandonment, and such law enforcement agency shall be deemed the

responsible law enforcement agency. Otherwise, the private tow provisions of this article apply as to the time of abandonment.

- (b) *Appraisal* means a bona fide estimate of reasonable market value made by any motor vehicle dealer licensed in this state or by any employee of the responsible law enforcement agency~~police department~~ whose appointment for such purpose has been reported by the head of the appointing agency to the executive director of the department of revenue.
- (c) *Department of revenue* means the Department of Revenue of the State of Colorado.
- (d) *Disabled motor vehicle* means any motor vehicle which is stopped or parked, either attended or unattended, upon a public right-of-way and which is, due to any mechanical failure or any inoperability because of a collision, a fire or any other such injury, temporarily inoperable under its own power.
- (e) *Impound lot* means a parcel of real property which is owned or leased by a government or operator at which motor vehicles are stored under appropriate protection.
- (f) *Operator* means a person or a firm licensed by the public utilities commission as a towing carrier.
- (g) *Police department* means the Commerce City Police Department.
- (h) *Private property* means any real property which is not public property.
- (i) *Private tow* means any tow of an abandoned motor vehicle not requested by a law enforcement agency.
- (j) *Public property* means any real property within the City of Commerce City having its title, ownership, use or possession held by the federal government, State of Colorado or any county, municipality or other governmental entity of this state.
- (k) *Public tow* means any tow of an abandoned motor vehicle requested by a law enforcement agency.
- (l) *Responsible law enforcement agency* means:
  - (1) In the case of a public tow, the law enforcement agency authorizing the original tow of an abandoned motor vehicle.
  - (2) In the case of a private tow, the law enforcement agency having jurisdiction over the private property where the motor vehicle becomes abandoned.

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**Sec. 11-43. - Same—Owner's opportunity to request hearing, public tow.**

- (a) Upon having an abandoned motor vehicle towed, the responsible law enforcement agency~~police department~~ shall ascertain, if possible, whether or not the motor vehicle has been reported stolen, and if so reported, the responsible law enforcement agency~~police department~~ shall recover and secure the motor vehicle and notify its rightful owner and terminate the abandonment proceedings under this article. The responsible law enforcement agency~~police department~~ shall have the right to recover from the owner its reasonable costs to recover and secure the motor vehicle. Nothing in this section shall be construed to

authorize fees for services that were not provided or that were provided by another person or entity.

- (b) As soon as possible after having an abandoned motor vehicle towed, the responsible law enforcement agency~~police department~~ shall report the same to the department of revenue by first class or certified mail, ~~or~~ by personal delivery, or by internet communication, which report shall be on a form approved and/or supplied by the department of revenue, containing such information as is required by the laws of the State of Colorado.
- (c) The responsible law enforcement agency~~police department~~, upon its receipt of a response from the department of revenue, shall determine, from all available information and after reasonable inquiry, whether or not the abandoned motor vehicle has been reported stolen, and if so reported, the responsible law enforcement agency~~police department~~ shall recover and secure the motor vehicle and notify its rightful owner and terminate the abandonment proceedings under this article. The responsible law enforcement agency~~police department~~ shall have the right to recover from the owner its reasonable cost to recover and secure the motor vehicle.
- (d) The responsible law enforcement agency~~police department~~, within ten (10) working days of the receipt of a response from the department of revenue, shall notify by certified mail or personal delivery the owner of record, if ascertained, and any lienholder, if ascertained, of the fact of such response from the department of revenue and the claim, if any, of a lien on the vehicle, and shall send a copy of such notice to the operator. The notice shall contain information that the identified motor vehicle has been reported abandoned to the department of revenue, the location of the motor vehicle and the location from which it was towed, and that, unless claimed within thirty (30) calendar days from the date the notice was sent, as determined from the postmark on the notice, the motor vehicle is subject to sale. Such notice shall also inform the owner of record of his opportunity to request a hearing concerning the legality of the towing of his abandoned motor vehicle, and to contact the responsible law enforcement agency~~police department~~ for that purpose. Such request shall be made in writing to the responsible law enforcement agency~~police department~~ within ten (10) days of the postmarked date of sending such notice. Such hearing, if requested, shall be conducted by the city manager or his designee in accord with the following minimum due process procedures:
  - (1) The owner shall be entitled to be represented by legal counsel of his choosing and to call such witnesses for relevant testimony and to produce such relevant evidence as he desires.
  - (2) The owner shall be entitled to review any evidence presented against him and to rebut the same.
  - (3) The record of the entire proceedings shall be made as determined by the hearing officer.
  - (4) Oral evidence need not be taken on oath or affirmation, unless requested by the owner or the hearing officer.
  - (5) The decision shall be made within three (3) days of the hearing and shall be in writing and shall determine all issues presented.
  - (6) In the event it is determined at the hearing that the motor vehicle was illegally towed, all towing charges and storage fees assessed against the vehicle shall be forgiven.

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**Sec. 11-45. - Same—Appraisal, sale.**

- (a) Public tow abandoned motor vehicles or motor vehicles abandoned in an impound lot subsequent to a public tow shall be appraised and sold by the city manager or his designee at a public or private sale, as determined in his sole discretion, held not less than thirty (30) days after the date the notice required by section 11-43(d) was mailed.
- (b) If the appraised value of an abandoned motor vehicle sold pursuant to this article is ~~threetwo~~ hundred and fifty dollars (\$~~350200~~.00) or less, the sale shall be made only for the purpose of junking, scrapping or dismantling such motor vehicle, and the purchaser thereof shall not, under any circumstances, be entitled to a Colorado certificate of title. The city manager or his designee making the sale shall cause to be executed and delivered a bill of sale, together with a copy of the report described in section 11-43(b) above, to the person purchasing such motor vehicle. The bill of sale shall state that the purchaser acquires no right to a certificate of title for such vehicle. The city manager or his designee shall promptly submit a report of sale, with a copy of the bill of sale, to the department of revenue and shall deliver a copy of such report of sale to the purchaser of the motor vehicle. Upon receipt of any report of sale with supporting documents on any sale made pursuant to this subsection (b), the department of revenue shall purge the records for such vehicle as required by Colorado law and shall not issue a new certificate of title for such vehicle.
- (c) If the appraised value of an abandoned motor vehicle sold pursuant to this section is more than ~~threetwo~~ hundred and fifty dollars (\$~~350200~~.00), the sale may be made for any intended use by the purchaser thereof. The city manager or his designee making the sale shall cause to be executed and delivered a bill of sale, together with a copy of the report described in section 11-43(b) above and an application for a Colorado certificate of title signed by a legally authorized representative of the city manager or his designee conducting the sale, to the person purchasing such motor vehicle. The purchaser of the abandoned motor vehicle shall be entitled to a Colorado certificate of title upon application and proof of compliance with the applicable laws of the State of Colorado.

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**Sec. 11-46. - Liens upon towed motor vehicles.**

Whenever an operator recovers, removes or stores a motor vehicle upon instructions from any duly authorized member of the police department who has determined that such motor vehicle is an abandoned motor vehicle, such operator shall have a possessory lien upon such motor vehicle and its attached accessories or equipment for all costs of recovery, towing, storage and appraisal, and if such costs are paid by the city, the city shall have a possessory lien upon such motor vehicle and its attached accessories or equipment for all costs of recovery, towing, storage and appraisal. Such lien shall be a first and prior lien on the motor vehicle, and such lien shall be satisfied before all other charges against such motor vehicle. No operator shall have a possessory lien upon a motor vehicle described in this section unless said operator is registered with the department of revenue.

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**Sec. 11-47. - Perfection of lien.**

The lien referenced in section 11-46 shall be perfected by taking physical possession of the motor vehicle and its attached accessories or equipment- and by sending to the department of revenue within ten (10) working days after the time possession was taken a notice containing the information and declaration required by the C.R.S. 42-4-1807 with respect to the perfection of such liens.

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