

1 BY AUTHORITY

2 ORDINANCE NO. _____
3 SERIES OF 2011

COUNCIL BILL NO. CB11-0454
COMMITTEE OF REFERENCE:
Health, Safety, Education & Services

5 A BILL

6 For an ordinance repealing portions of Sections 54-811 and 54-813, D.R.M.C.
7 concerning the impoundment of motor vehicles.
8

9 **BE IT ENACTED BY THE COUNCIL OF THE CITY AND COUNTY OF DENVER:**

10 **Section 1.** That section 54-811, D.R.M.C. shall be amended by deleting the language stricken,
11 to read as follows:
12

13 **Sec. 54-811. Authority for impoundment; vehicles deemed obstructions to**
14 **traffic or public nuisances.**

15 The chief of police, the undersheriff and the manager of public works, and
16 their respective designees, are hereby authorized to remove, or have removed at
17 their direction, a vehicle or automobile junker from any public or private way or place,
18 under any of the circumstances hereinafter enumerated, the council hereby finding
19 and determining such vehicles under such circumstances to be obstructions to traffic
20 or public nuisances. For purposes of this section, an "automobile junker" is defined in
21 section 54-812. ~~As used in this section, "illegal alien" means a person who has~~
22 ~~entered the United States illegally or is residing in the United States illegally after~~
23 ~~entering legally.~~

24 (1) When any vehicle is left unattended upon any bridge, viaduct, subway or
25 tunnel, or where such vehicle constitutes an obstruction to traffic;

26 (2) When a vehicle upon a public way is so disabled as to constitute an
27 obstruction to traffic and the person in charge of the vehicle is by reason of physical
28 injury incapacitated to such an extent as to be unable to provide for its custody or
29 removal;

30 (3) When any vehicle is left unattended upon a street or parked illegally so
31 as to constitute a definite hazard or obstruction to the normal movement of traffic, or
32 left unattended on any public street with engine running or with keys in the ignition
33 switch or lock;

1 (4) When any vehicle is parked or left standing upon any area or portion of a
2 public street in violation of or contrary to a parking limitation or prohibition
3 established by the city traffic engineer, provided such area or portion of such public
4 street has been posted with an official sign giving notice both of such limitation or
5 prohibition and of the fact that such area or portion of such street is a "Tow Away"
6 area;

7 (5) When a vehicle is parked in violation of any traffic ordinance and is an
8 obstruction or hazard or potential obstruction or hazard to any lawful function or limits
9 the normal access to a use of any public or private property;

10 (6) When a vehicle is left on a public way or place and appears to be
11 abandoned or a complaint is received that it is abandoned and remains there
12 continuously for a period of seventy-two (72) hours after notice is posted on the
13 windshield that it will be impounded, or when an automobile junker is left on public or
14 private property for such a period;

15 (7) When the driver of such vehicle is taken into custody by the police
16 department and the vehicle would thereby be left unattended upon a street, highway
17 or restricted parking area, or other public way;

18 (8) When a vehicle is found being driven upon the streets or other public way
19 of the city and the same is not equipped with all of the necessary parts and
20 equipment as required in article IV of this chapter or does not meet the standards for
21 the parts or equipment required therein;

22 (9) When the driver of a vehicle is reasonably suspected of using license
23 plates or a license permit unlawfully, misusing the license plates or license permit
24 issued to the driver, or a vehicle is driven or parked without proper license plates or
25 license permit, or with no license plates or license permit, or driven or parked with an
26 invalid or expired license permit;

27 (10) When the driver of a vehicle is driving without an operator's license or
28 chauffeur's license which is current and valid, or when the driver does not have such
29 license in the driver's immediate possession, or when the driver drives a vehicle
30 contrary to restrictions imposed upon the license, or when the driver drives a vehicle
31 while their operator's or chauffeur's license has been denied, suspended, canceled
32 or revoked by the state, ~~or when a driver of a vehicle is an illegal alien or may be~~
33 ~~reasonably suspected of being an illegal alien. A vehicle operator without a valid~~

1 ~~driver's license but with convincing corroborating identification, vehicle registration,~~
2 ~~and a valid driver's license of record may, at the discretion of the attending police~~
3 ~~officer, be issued a summons for driving without a license without impounding the~~
4 ~~vehicle. Such summons along with proof of a valid driver's license shall be submitted~~
5 ~~within three (3) working days to a Denver County Court for validation or such vehicle~~
6 ~~shall be ordered impounded;~~

7 (11) When a vehicle is found parked on or so near to any railroad track as to
8 block the same in any manner, except when the requirements of division 7 of article
9 VI of this chapter have been fulfilled;

10 (12) When any truck-tractor is found to be parked in any parking metered
11 space;

12 (13) When any semi-trailer is found to be parked in any parking metered
13 space;

14 (14) When the driver of any vehicle, or the vehicle which the driver is driving,
15 is reasonably suspected of having been involved in any hit and run accident;

16 (15) When any vehicle is reasonably suspected of being a stolen vehicle, or
17 parts thereof to be stolen parts;

18 (16) When the driver of any vehicle is taken into custody for a suspected
19 felony or misdemeanor or when the vehicle is suspected of containing stolen goods,
20 or other contraband;

21 (17) When a driver, owner or person in charge of a vehicle has failed to
22 respond to a notice of illegal parking issued pursuant to sections 54-786(c) or 54-
23 788, and has also failed to respond to the additional notice sent to the registered
24 owner or has failed to respond to the pre-seizure notice affixed to the vehicle as
25 provided for under section 54-789; provided that under the circumstances in this
26 subsection set forth employees of the city, acting in their official capacity, and
27 officers of the police department may, and they are hereby authorized to temporarily
28 and for a period of seventy-two (72) hours, immobilize such vehicle by installing on,
29 or attaching to such vehicle, a device designed to restrict the normal movement of
30 such vehicle, and if such vehicle is so immobilized, the employee of the city or police
31 officer so installing or attaching such device shall conspicuously affix to such vehicle
32 a notice, in writing, on a form provided by the chief of police, advising the owner,
33 driver or person in charge of such vehicle, that such vehicle has been immobilized by

1 the city for violation of one (1) or more of the provisions of this chapter, and that
2 release from such immobilization may be obtained at a designated place; that unless
3 arrangements are made for the release of such vehicle within seventy-two (72) hours
4 the vehicle will be removed from the streets at the direction of the employees of the
5 city, acting in their official capacity, or by a police officer, and that removing or
6 attempting to remove the device before a release is obtained is unlawful, and
7 containing such information as the chief of police shall deem necessary. It shall be
8 unlawful for any person to remove or attempt to remove any such device before a
9 release is obtained as herein provided or to move any such vehicle before the same
10 is released by the police department, clerk of the county court or any county judge;
11 and where such vehicle has been properly immobilized in such manner, a fee to be
12 established by the manager of public works based upon the actual costs, not to
13 exceed one hundred twenty-five dollars (\$125.00). The manager of public works
14 shall publish the new rate in an official publication of the city at least ninety (90) days
15 before the new rate will become effective and such fee shall be charged by the police
16 department or clerk of the county court before releasing such vehicle, and the
17 parking restrictions, if any, otherwise applicable shall not apply while such vehicle is
18 so immobilized. If the vehicle has remained immobilized for a period of seventy-two
19 (72) hours and release has not been obtained, the police officer or employee of the
20 city causing such immobilization shall have the vehicle impounded.

21 (18) When any vehicle is parked or stopped in any emergency access lane in
22 violation of or contrary to a parking limitation or prohibition established by the city
23 traffic engineer, provided that such emergency access lane has been posted with an
24 authorized sign giving notice both of such limitation or prohibition and of the fact that
25 such area or portion of such public roadway or private property is a "tow away" area.

26 (19) When a driver, owner or person in charge of a vehicle has failed to pay
27 the fine or penalty imposed for a violation of section 54-62, a violation of article VII of
28 this chapter, or a violation of both section 54-62 and article VII of this chapter, by the
29 date such fine or penalty is due, employees of the city, acting in their official capacity,
30 and officers of the police department may, and they are hereby authorized to,
31 temporarily and for a period of seventy-two (72) hours, immobilize such vehicle by
32 installing on, or attaching to such vehicle, a device designed to restrict the normal
33 movement of such vehicle. If such vehicle is so immobilized, the employee of the city

1 or police officer so installing or attaching such device shall conspicuously affix to
2 such vehicle a notice, in writing, on a form provided by the chief of police, advising
3 the owner, driver or person in charge of such vehicle, that such vehicle has been
4 immobilized by the city for violation of one (1) or more of the provisions of this
5 chapter, and that release from such immobilization may be obtained at a designated
6 place; that unless arrangements are made for the release of such vehicle within
7 seventy-two (72) hours the vehicle will be removed from the streets at the direction of
8 the employees of the city, acting in their official capacity, or by a police officer, and
9 that removing or attempting to remove the device before a release is obtained is
10 unlawful, and containing such information as the chief of police shall deem
11 necessary. It shall be unlawful for any person to remove or attempt to remove any
12 such device before a release is obtained as herein provided or to move any such
13 vehicle before the same is released by the police department, clerk of the county
14 court or any county judge; and where such vehicle has been properly immobilized in
15 such manner, a fee to be established by the manager of public works based upon
16 the actual costs, not to exceed one hundred twenty-five dollars (\$125.00). The
17 manager of public works shall publish the new rate in an official publication of the city
18 at least ninety (90) days before the new rate will become effective and such fee shall
19 be charged by the police department or clerk of the county court before releasing
20 such vehicle. The parking restrictions, if any, otherwise applicable shall not apply
21 while such vehicle is so immobilized. If the vehicle has remained immobilized for a
22 period of seventy-two (72) hours and release has not been obtained, the police
23 officer or employee of the city causing such immobilization shall have the vehicle
24 impounded.

25 ~~(20) When a driver operating a vehicle registered in Colorado possesses a~~
26 ~~driver's license from another country and does not possess proof that they are in the~~
27 ~~country legally, the owner of record, if ascertained, or any lienholder, if ascertained~~
28 ~~shall be issued by certified mail, a notice of pending impoundment requiring proof~~
29 ~~that such driver was not an illegal alien or such vehicle shall be ordered impounded~~
30 ~~thirty (30) days from the day the violation notice was issued.~~

31
32 **Section 2.** That section 54-813, D.R.M.C. shall be amended by deleting the language
33 stricken, to read as follows:

1
2 **Sec. 54-813. Costs.**

3 (a) No vehicle removed and impounded shall be released until the charges for
4 impoundment and storage shall have been paid.

5 (1) The charge for impoundment of vehicles weighing up to six thousand (6,000)
6 pounds (gross vehicle weight) shall be one hundred twenty dollars (\$120.00). If the
7 vehicle is not lawfully claimed and removed by the owner within twenty-four (24) hours, a
8 storage charge assessment shall commence at twenty dollars (\$20.00) per day after
9 twenty-four (24) hours following the receipt of the vehicle at the impoundment lot, and
10 twenty dollars (\$20.00) per day for every day or portion of a day thereafter.

11 (2) The charge for impoundment of vehicles weighing in excess of six thousand
12 (6,000) pounds (gross vehicle weight) shall be one hundred seventy dollars (\$170.00). If
13 the vehicle is not lawfully claimed and removed by the owner within twenty-four (24)
14 hours, a storage charge assessment shall commence at thirty dollars (\$30.00) per day
15 after twenty-four (24) hours following receipt of the vehicle at the impoundment lot, and
16 thirty dollars (\$30.00) per day for every day or portion of a day thereafter.

17 (b) The manager of safety shall be and is hereby authorized and empowered to
18 waive or adjust any charges imposed by or described in subsection (a) whenever in the
19 manager's judgment it would be inequitable or result in an injustice to collect or require
20 the payment of such charges. Charges resulting from the following circumstances will
21 routinely be waived or refunded if previously paid unless the manager finds that
22 exceptional circumstances (such as failure to claim a vehicle within a reasonable period
23 of time) makes the collection of charges proper:

24 (1) When the vehicle was impounded as a result of the operator being taken into
25 custody and the operator has been released without charges being filed;

26 (2) When the vehicle has accumulated storage charges while being held as
27 evidence, if the operator is not convicted of an offense associated with the
28 impoundment;

29 (3) When the vehicle licensed in the county was reported as stolen and
30 subsequently recovered and impounded by the police.

31 ~~(c) Except as provided in subsection (d) of this section, the release of a motor~~
32 ~~vehicle impounded as provided in subsection 54-811(10) or 54-811(20) shall require that~~
33 ~~a \$2,500.00 bond be posted within thirty (30) days of impoundment in favor of the City~~

1 and County of Denver and a \$75.00 bond fee be paid, or the motor vehicle is subject to
2 disposal by the city by auction or otherwise. This requirement is not applied when the
3 operator of such vehicle is found to have had a valid driver's license with such vehicle
4 being released upon payment of towing and impoundment charges by owner. This bond
5 shall be held for a period of one (1) year and forfeited if such vehicle is operated by an
6 unlicensed driver in Colorado within that time. For this section, a \$100.00 impoundment
7 and acquisition fee shall be paid to the city prior to the release of vehicle.

8 (d) The requirement for the posting of a bond and payment of a bond fee as set
9 forth in subsection (c) of this section shall not apply whenever:

10 (1) A vehicle is released to a lienholder presently entitled to possession of the
11 vehicle rather than to the vehicle owner; provided, however, the lienholder shall pay all
12 other fees and charges set forth in subsections (a) and (c) of this section prior to release
13 of the vehicle; and the lienholder shall attest in writing under penalty of perjury that the
14 lienholder does not intend to return the vehicle to the person or persons who owned the
15 vehicle at the time the vehicle was impounded as provided in subsection 54-811(10) or
16 (20) unless otherwise required to do so by law;

17 (2) A vehicle was reported as stolen and subsequently recovered and
18 impounded by the police; provided, however, payment of all other fees and charges set
19 forth in subsections (a) and (c) of this section may be required prior to release of the
20 vehicle;

21 (3) A vehicle is a rental vehicle that is released to an owner engaged in the
22 business of renting or leasing of automotive vehicles; provided, however, the owner
23 shall pay all other fees and charges set forth in subsection (a) and (c) prior to release of
24 the vehicle.

25
26 **Section 3.** This ordinance shall be effective on and after August 1, 2011. Any motor
27 vehicle impoundment bonds posted pursuant to the requirements of section 54-813 (c) prior to
28 the repeal of said section shall remain outstanding for the term of the bond, and shall be
29 subject to forfeiture as provided in section 54-1000, et seq., D.R.M.C., if the conditions of the
30 bond are violated.

1 COMMITTEE APPROVAL DATE: June 14, 2011
2 MAYOR-COUNCIL DATE: N/A
3 PASSED BY THE COUNCIL: _____, 2011
4 _____ - PRESIDENT
5 APPROVED: _____ - MAYOR _____, 2011
6 ATTEST: _____ - CLERK AND RECORDER,
7 EX-OFFICIO CLERK OF THE
8 CITY AND COUNTY OF DENVER
9 NOTICE PUBLISHED IN THE DAILY JOURNAL: _____, 2011; _____, 2011
10 PREPARED BY: David W. Broadwell, City Attorney; DATE: June 8, 2011
11 Pursuant to section 13-12, D.R.M.C., this proposed ordinance has been reviewed by the office of the
12 City Attorney. We find no irregularity as to form, and have no legal objection to the proposed
13 ordinance. The proposed ordinance **is not** submitted to the City Council for approval pursuant to §
14 3.2.6 of the Charter.
15 David W. Broadwell, City Attorney
16 BY: _____, City Attorney DATE: _____, 2011