

Appendix A

Section 1. Sections 16-601, 16-602, 16-603 and 16-604 of Article XVIII, Towing and Storage, of Chapter 1, Traffic Code, of Title 16, Vehicles and Traffic, shall be amended to read as follows:

Sec. 16-601. Implied grant of authority; authority to store vehicles.

(a) In the circumstances specified in this section, owners and drivers of motor vehicles in the city will be deemed to have authorized all sworn police officers and community service officers from the police department ~~and all members thereof and parking enforcement officers~~, to arrange for the removal, towing and storage of motor vehicles of the drivers and owners. This implied grant of authority shall exist:

(1) If the traffic code provides for removal, towing or impounding of motor vehicles which are illegally parked or abandoned.

(2) If the driver of the motor vehicle has been or is about to be taken into custody of a law enforcement agency or if the driver, in the judgment of the police officer, is unable to drive safely because of being under the influence of alcohol, ~~or other drugs, or~~ combination of both.

(3) If the motor vehicle is physically disabled and the driver or owner is unable or unwilling for any reason to arrange for removal, towing and storage of the vehicle.

(4) If the motor vehicle has been or is about to be seized by the police department or by any law enforcement agency to be held as evidence in a criminal proceeding.

(5) If the motor vehicle has been immobilized pursuant to chapter 11 of title 1 of this Code.

(b) Whenever any police officer, community service officer, or parking enforcement officer finds a vehicle, attended or unattended, standing upon any portion of a street or highway right-of-way within the city in such a manner as to constitute a violation of this title, or left unattended upon any portion of a street or highway right-of-way within the city ~~for a period of 24 hours or more~~ and presumed to be abandoned under the conditions prescribed by section 14-283 or section 16-684, such police officer, community service officer, or parking enforcement officer shall require such vehicle to be removed or cause the same to be removed and placed in storage ~~in the nearest garage or other place of safety designated or maintained by the city~~ by a towing operator.

(c) In the event of abandonment of a vehicle on property within the city other than public rights-of-way, the owner of such property may, after a period of 24 hours following the property owner's or agent's placement of notice of removal on the vehicle, cause the abandoned vehicle to be removed and placed in storage ~~in the nearest garage or other place of safety designated or maintained by the city~~ by a towing operator. If a vehicle is blocking access or creating a physical safety hazard, the vehicle may be towed without notice; however, it is the responsibility of the property owner or agent to demonstrate the immediate need for removal of the vehicle.

(d) If any vehicle is left on private property with or without the prior consent of the owner of the private property, ~~or other person in possession thereof, and following the property owner's or possessor's or agent's compliance with the notice requirements of this chapter, and if the vehicle owner fails to remove the vehicle following such notice,~~ the owner or possessor of the private property or owner's or possessor's agent may

~~cause the removal and placement of the vehicle as described in subsection (c) of this section the property owner or agent must attempt to make contact and provide notice on the vehicle for a period of 24 hours before removal.~~

Sec. 16-602. Selection of towing operators.

~~(a) If by reason of section 16-601, the police department and its members officers, community service officers, and parking enforcement officers are impliedly authorized to arrange for the removal, towing and storage of motor vehicles, or if the police department or any of its members is expressly authorized to do so, the arrangements will be carried out as provided in this chapter. Such towing and storage shall be known as city towing and storage. If the removal, towing or storage is required because the motor vehicle is abandoned or if the vehicle is being seized as evidence in a criminal proceeding, and if a towing agreement is in force between the city and another party, then the other party to the agreement shall be designated to perform the removal, towing and storage. In all other cases, the police officer, community service officer or parking enforcement officer involved shall make the arrangements by directing the police department's dispatcher to select the towing operator next in line on a rotating list.~~

~~(b) The rotating list shall consist of a list of names of towing operators who have agreed to be bound by the requirements, obligations and conditions set forth in section 16-603 and by the rules and regulations adopted by the chief of police. All towing operators who are eligible, as hereinafter provided, to be on the rotating list and who sign an appropriate form agreeing to agreement to be so bound by the rules and regulations adopted by the chief of police, shall be placed on the rotating list if they meet the following requirements of eligibility: Any towing operator shall be eligible to be on the rotating list if the operator:~~

- ~~(1) Holds a permit issued under C.R.S. title 40, article 10.1;~~
- ~~(2) Holds all licenses and permits required by the city;~~
- ~~(3) Maintains his principal place of business in the city;~~
- ~~(4) Has available for use business storage facilities in the city which, in the opinion of the chief of police are adequate to safeguard stored vehicles from weather, theft, vandalism and other hazards; and~~
- ~~(5) Is available on a 24-hour basis to provide towing services and to open his place of business so that motor vehicle owners can take custody of their vehicles.~~

Sec. 16-603. Towing operator requirements, obligations and conditions.

Each towing operator on the rotating list shall comply with, be bound by and be subject to the following requirements, obligations and ~~conditions insofar~~ the rules and regulations adopted by the chief of police as city towing and storage is concerned:

- ~~(1) He The towing operator shall file with the police department~~ comply with his the schedule of charges for towing and storage services as outlined in the agreement.
- ~~(2) He not make excessive charges for his services, and in no case will his charges exceed those set forth in his schedule of charges filed with the police department.~~
- ~~(32) In no case will he a towing operator be entitled to seek payment of his charges from the city, unless the city manager has agreed in writing prior to the rendition of towing and storage services that the city would pay those charges, or unless the vehicle towed is owned by the city.~~

~~(4) He shall comply with the reasonable instructions of police officers at accident scenes regarding the details of removing motor vehicles and cleaning up debris.~~

~~(5) He shall not attempt collection of disputed charges without first submitting the dispute to advisory arbitration by an advisory arbitration board consisting of a towing operator on the rotating list other than the towing operator whose charges are disputed, the police chief, and the city manager or his appointee; the towing operator who is to serve on the advisory board shall be selected by the city at random. If the towing operator whose charges are disputed declines the recommendation of the advisory arbitration board, and if a majority of that board is of the opinion that the charges are excessive, then the city manager shall eliminate the name of the involved towing operator from the rotating list. In determining whether, in its judgment, towing charges are excessive, the advisory board shall consider charges made by other towing operators for similar services and shall consider charges made by the towing operator in question for similar services rendered to the public when city towing and storage is not involved.~~

~~(63)~~ It is understood that the towing operators, by providing services pursuant to this chapter, shall be deemed independent contractors solely responsible for their negligent acts.

Sec. 16-604. Loss of towing privileges.

(a) A towing operator shall be dropped from the rotating list if:

(1) The chief of police determines that any of the five eligibility requirements set forth in section 16-602 is no longer being met by the operator;

(2) The chief of police determines that the towing operator has failed to take any action required by section 16-603 ~~or has done any act forbidden by said section or has attempted to do so;~~

(3) ~~The foregoing grounds for termination of the privileges of a towing operator are in addition to the grounds set forth in section 16-603. The chief of police determines that the towing operator has done any egregious act or has been suspended from the tow list three times in a two-year period.~~

(b) A towing operator who has been dropped from the rotating list under subsection (a)(1) of this section shall be reinstated on the list when and if he again satisfies the eligibility requirements. Towing operators dropped from the rotating list for ~~any other reason~~ subsection (a)(2) or (a)(3) shall not be reinstated for up to five years unless the advisory arbitration board, provided for by section 16-603, approves an earlier reinstatement for good cause.