

ORDINANCE

AN ORDINANCE AMENDING CHAPTER 79 OF THE MUNICIPAL CODE CONCERNING SNOW REMOVAL

BE IT ENACTED by the City Council of the City of West Burlington, Iowa:

SECTION 1 Section 79.12.000 of the West Burlington Municipal Code of Ordinances, titled "SNOW REMOVAL", is hereby remanded and replaced with the following:

79.12.000 SNOW REMOVAL.

1. Parking on Streets.

A. Whenever the City Administrator, Public Works Director, or their designee finds, on the basis of falling snow, sleet or freezing rain, that weather conditions will make it necessary that accumulations of snow, sleet or frozen rain be plowed from or otherwise removed from City streets and that parking on City streets shall be prohibited or restricted to facilitate plowing or removal of accumulations of snow, sleet or frozen rain, said City Administrator, Public Works Director or designee shall put into effect a parking prohibition on parts or all City streets as necessary by declaring a parking prohibition in the manner prescribed in this section. While the parking prohibition is in effect, no person shall park or allow a vehicle to remain parked on any portion of any City street to which such parking prohibition applies. This section shall not be interpreted as permitting parking at any time or place where it is prohibited by any other provision of law.

B. The City Administrator, Public Works Director, or designee may, in declaring a parking prohibition pursuant to this section, declare the time at which such parking prohibition ends, in which event the parking prohibition shall end at the time declared. If the City Administrator, Public Works Director, or designee does not, in declaring a parking prohibition, declare the time at which such parking prohibition ends, then the parking prohibition shall remain in effect until terminated by announcement of the City Administrator, Public Works Director or designee in accordance with this section.

2. Notice of Declaration. The City Administrator, Public Works Director, or designee shall cause each declaration made under this section to be publicly announced by means of radio or television broadcasts from stations with normal operating range covering the City, and may cause such declaration to be further announced in newspapers of general circulation when feasible. Each announcement shall describe the action taken by the City Administrator, Public Works Director, or designee, including the time it became or will become effective, and shall specify the streets or parts of streets affected. A parking prohibition declared by the City Administrator, Public Works Director, or designee shall not go into effect until at least two hours after it has been announced to the public between

6:00 a.m. and 10:30 p.m. in accordance with this section. The Public Works Director or his designee shall keep a record of the date and time when each declaration of parking prohibition is announced to the public in accordance with this section.

3. Termination of Parking Prohibition. Whenever the City Administrator, Public Works Director, or designee finds that some or all of the conditions which give rise to a parking prohibition in effect under this section no longer exists, the Council member may declare the prohibition terminated, in whole or in part, effective immediately upon public announcement.

4. Stalled Vehicle. Whenever a vehicle becomes stalled for any reason in any location where a parking prohibition is in effect pursuant to this section, the operator of such vehicle shall take immediate action to have the vehicle moved from such location to a location where the parking prohibition is not in effect. No person shall abandon or leave a vehicle in a location where a parking prohibition is in effect except for a reasonable time necessary to receive assistance.

6. Removal of Vehicles.

A. Any member of the Police Department or the Public Works Director or Streets Foreman may remove a vehicle or have a vehicle removed from a location where a parking prohibition is in effect to the nearest garage or other place of safety when:

(1) The vehicle is parked in any location where a parking prohibition is in effect pursuant to this section;

(2) The vehicle is stalled in any location where a parking prohibition is in effect and the operator of such vehicle does not appear to be removing it in accordance with the provisions of this section;

(3) The vehicle is parked in violation of any parking ordinance or provisions of law and is interfering with or about to interfere with snow removal or similar operations.

B. When any member of the Police Department or the Public Works Director or Street Foreman removes a vehicle or has a vehicle removed from a location where a parking prohibition is in effect, as authorized in this section, and the individual removing such vehicle or having such vehicle removed knows or is able to ascertain from the registration records in the vehicle the name and address of the owner thereof, the Police Department shall be immediately notified of the necessary facts concerning such removal, and the Police Department shall, within twenty-four (24) hours, give notice in writing to such owner of the fact of the removal and the reason therefor and of the place to which the vehicle has been removed. If the owner does not appear within three (3) days and identify and claim the vehicle and pay the reasonable cost for removal and storage, such vehicle

shall be considered to be an abandoned vehicle and impoundment and sales steps may be taken by the Police Department in accordance with State law. If the owner does appear within three (3) days and identifies and claims the vehicle, such vehicle shall be returned to the owner when, but not until, the owner pays the reasonable cost for removal and storage.

C. Members of the Police Department, the Public Works Director, the Streets Foreman and the City shall not be liable for damages occasioned by reason of the towing, removal or storage of such vehicle.

6. Citation of Illegally Parked or Left Vehicles.

A. Whenever any motor vehicle without a driver is parked or stopped in violation of any of the restrictions imposed by this section and is not removed and impounded, a peace officer or any authorized person finding such vehicle may take such vehicle registration number and any other information displayed on the vehicle which identifies its driver or owner and shall attach a written summons to such vehicle in a conspicuous place and the owner, operator or lessee of such motor vehicle may be held to appear at the time and place designated in the summons. The peace officer or other authorized person issuing such summons may, if the driver or owner of the illegally parked vehicle is available, deliver a copy of such summons to such driver or owner instead of affixing the summons to the vehicle.

B. The owner of the vehicle shall not be held responsible for a violation of a provision of this section if the owner establishes that at the time of the violation the vehicle was in the custody of an identified person other than the owner pursuant to a lease as defined in Section 321F of the Code of Iowa. The furnishing to the Clerk of the Court where the charge is pending of a copy of the certificate of responsibility prescribed in Section 321F.6 of the Code of Iowa that was in effect for the vehicle at the time of alleged violation shall be prima facie evidence that the vehicle was in the custody of an identified person other than the owner within the meaning of this section and the charge against the owner shall be dismissed. There shall then be issued a uniform citation and complaint against the lessee of the vehicle and the citation shall be served on the defendant by ordinary mail directly to the defendant at the address on the certificate of responsibility.

C. Otherwise, in any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this section, proof that the particular vehicle described in the complaint was parked or left in violation of a provision of this section, together with proof that the defendant named in the complaint was at the time the registered owner of that vehicle, is prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this section.

SECTION 2. Repealer. All ordinances or parts of ordinances in conflict with the provisions of this ordinance are, to the extent of such conflict, hereby repealed.

SECTION 3. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of the ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. When Effective. This ordinance shall be in effect after its passage, approval, and publication as provided by law.

PASSED, APPROVED, AND ADOPTED by the West Burlington City Council this ____ day of _____, 2022.

Ron Teater, Mayor

ATTEST:

Kelly D. Fry, City Clerk

First Reading: _____

Second Reading: _____

Third Reading: _____

I certify that the foregoing was published as Ordinance No. 639 on the ____ day of _____, 2022.

Kelly D. Fry, City Clerk