

ORDINANCE NO. 21-\_\_\_\_\_

AN ORDINANCE CREATING A NEW ARTICLE 29 (VEHICULAR PUBLIC NUISANCES) OF CHAPTER 10 (MOTOR VEHICLES AND TRAFFIC) OF THE CODE OF THE CITY OF COLORADO SPRINGS 2001, AS AMENDED, PERTAINING TO CIVIL ABATEMENT OF VEHICULAR PUBLIC NUISANCES

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF COLORADO SPRINGS:

Section 1. Article 29 (Vehicular Public Nuisances) of Chapter 10 (Motor Vehicles and Traffic) of the Code of the City of Colorado Springs 2001, as amended, is created to read as follows:

**ARTICLE 29 VEHICULAR PUBLIC NUISANCES**

**10.29.101: POLICY**

**10.29.102: DEFINITIONS**

**10.29.103: PROCEDURE IN GENERAL**

**10.29.104: COMMENCEMENT OF PUBLIC NUISANCE ACTIONS; PRIOR NOTIFICATION**

**10.29.105: TEMPORARY RESTRAINING ORDERS IN GENERAL**

**10.29.106: TEMPORARY RESTRAINING ORDERS; VEHICULAR PUBLIC NUISANCES**

**10.29.107: MOTION TO VACATE OR MODIFY TEMPORARY RESTRAINING ORDER**

**10.29.108: REMEDIES FOR VEHICULAR PUBLIC NUISANCES**

**10.29.109: CIVIL JUDGMENT**

**10.29.110: AFFIRMATIVE DEFENSES**

**10.29.111: SUPPLEMENTARY REMEDIES FOR VEHICULAR PUBLIC NUISANCES**

**10.29.112: OTHER SEIZURES, CLOSURES, FORFEITURES, CONFISCATIONS AND REMEDIES**

**10.29.113: VOLUNTARY ABATEMENT AGREEMENT; STIPULATED ALTERNATIVE REMEDIES**

**10.29.114: LIMITATION ON ACTION**

**10.29.115: SEVERABILITY**

**10.29.101: POLICY:**

A. City Council hereby finds and determines that the abatement of vehicular public nuisances for the protection of public health, safety and welfare is a matter of local concern. The purpose of this article is not to punish, but to remedy vehicular public nuisances. The remedies provided in this part are directed at the property involved without regard to ownership, title or right of possession and,

unless otherwise provided, without regard to the culpability or innocence of those who hold these rights.

B. The vehicular public nuisances and the provisions of this part are entirely strict liability in nature. Unless otherwise provided, no culpability or mens rea of any type or degree shall be required for any of the public nuisances, actions, temporary restraining orders or remedies under the provisions of this part.

**10.29.102: DEFINITIONS:**

ABATE: To bring to a halt, eliminate or where that is not possible or feasible, to suppress, reduce, and minimize.

CLOSE, TO CLOSE, OR CLOSURE: To exercise control over the motor vehicle and remove all owners, occupants and other persons from the motor vehicle and to impound, lock, secure, and otherwise close and prohibit all entry, access, and use of the motor vehicle, except access and use as may be specifically ordered by the court for purposes of inventory, maintenance, storage, security and other purposes, and to vest the sole right of possession and control of the motor vehicle, in the City of Colorado Springs for a limited period of time defined by court order.

GANG RELATED CRIMINAL ACTIVITY: Any criminal violation of Federal law, State law or City Code committed by any person or persons, individually or acting jointly through a conspiracy or in complicity, where the person(s) is a member of an association or organization which has as one of its purposes the commission of crime.

LEGAL OR EQUITABLE INTEREST OR RIGHT OF POSSESSION: Every legal and equitable interest, title, estate, tenancy and right of possession recognized by law and equity, including any right or obligation to manage or act as agent or trustee for any person holding any interest or right.

MOTOR VEHICLE: Any self-propelled vehicle that is designed primarily for travel on the public highways and that is generally and commonly used to transport persons and property over the public highways or a low-speed electric vehicle; except that the term does not include electrical assisted bicycles, electric scooters, low-power scooters, wheelchairs, or vehicles moved solely by human power. This term shall include "recreational vehicle" as defined in section 10.1.202 of this code.

PERSON: Natural persons and every legal entity whatsoever, including, but not limited to, corporations, limited liability companies, partnerships, limited partnerships and associations.

VEHICULAR PUBLIC NUISANCE: Any motor vehicle used to commit, conduct, promote, facilitate or aid the commission of illegal activity. For purposes of this

section the illegal activity shall have the same definition as that contained in the pertinent section[s] of the Colorado Revised Statutes [C.R.S.], as amended, or the pertinent section[s] of the Code of the City of Colorado Springs [City Code]. Evidence of the existence of a vehicular public nuisance shall include evidence that the motor vehicle was used in one (1) or more of the following illegal activities:

- A. Prostitution, soliciting for prostitution, pandering, , and pimping;
- B. Any gang related criminal activity;
- C. Any drive-by crime as defined in C.R.S. §16-13-301(2.2);
- D. Vehicular eluding as prohibited in C.R.S. 18-9-116.5;
- E. Eluding or attempting to elude a police officer as prohibited in C.R.S. 42-4-1413 and/or City Code section 10.24.109
- F. Speed contests – speed exhibitions – aiding and facilitating as prohibited in C.R.S. 42-4-1105 and / or City Code section 10.5.107

**10.29.103: PROCEDURE IN GENERAL:**

A. Remedies Cumulative And Supplementary: The remedies provided in this part are cumulative and supplementary to any other criminal ordinance or statute, other civil remedies and any administrative proceedings to revoke, suspend, fine or take other action against any license. The City may pursue the remedies provided in this part, criminal penalties provided by other ordinances or statutes, other civil actions or remedies, administrative proceedings against a license or any one or more of these, and may do so simultaneously or in succession.

B. No Delay In Civil Action: In the event that the City pursues both criminal remedies provided in any other section, other civil remedies or the remedies of any administrative action and the remedies of this part, the civil action provided in this part shall not be delayed or held in abeyance pending the outcome of any proceedings in the other criminal, civil or administrative action, or any action filed by any other person, unless all parties to the action under this part so stipulate.

C. Principles: All actions under this part shall be civil and remedial in nature. All issues of fact and law shall be tried to the court without a jury. All closure, receivership and destruction remedies under this part shall be in rem. Injunctive remedies under this section may be partly in personam. The burden of proof in all proceedings under this part, including proof of the underlying criminal activity forming the basis of a vehicular public nuisance, shall be by a preponderance of the evidence, unless a different burden of proof is specified.

D. Jurisdiction, Duties And Power: Pursuant to Colorado constitution article XX, section 6 and City Charter section 8-10, the Municipal Court for the City of Colorado Springs is hereby granted the jurisdiction, duties and powers for this part.

E. Governance Of Proceedings: Proceedings under this part shall be governed by the Colorado Rules of Civil Procedure ("CRCP") unless this part provides a more specific rule. Public nuisance actions shall be included in the category of "expedited proceedings" specified in CRCP rules 16 and 26. Discovery shall be governed by the Colorado Rules of County Court Procedure. Where this part or the CRCP fail to state a rule of decision, the court shall first look to the public nuisance abatement act, Colorado Revised Statutes section 16-13-301 et seq., and the cases decided thereunder.

F. Filing: Actions under this part shall be in writing and filed by the Office of the City Attorney for the City of Colorado Springs.

G. Complaint: An action under this part shall be commenced by the filing of a written verified complaint or a written complaint verified by an affidavit and a motion for temporary restraining order.

H. Parties Defendant To Action: The parties defendant to the action and the persons liable for the remedies in this part include the motor vehicle itself, any person owning or claiming any legal or equitable interest or right of possession in the motor vehicle, all managers and agents for any person claiming a legal or equitable interest in the motor vehicle and any other person whose involvement may be necessary to abate the nuisance, prevent it from recurring or enforce the court's orders. None of these parties shall be deemed necessary or indispensable parties.

I. Service by mail: Service of the summons, complaint, and temporary restraining order upon the owners and lienors of a motor vehicle shall be deemed sufficient if a copy of the same is sent to the person shown as the owner or lienor on the records of the Colorado Department of Revenue, Division of Motor Vehicles, or any similar department of any sister state, by first class mail, at the address as shown by the records of the Colorado Department of Revenue, Division of Motor Vehicles, or any similar department of any sister state, as of the date of the public nuisance offense, or at the last known address given by the owner or listed upon any government issued identification document bearing the photograph of the owner or listed upon apparently valid documents verifying the owner's recent purchase of the motor vehicle that are in accordance with the laws of the state, presented to or found by any law enforcement officer whether or not the letter is actually received. Service shall be deemed completed seven (7) days after the letter is mailed.

J. Service by impoundment or detention: The summons, complaint and temporary restraining order shall be deemed served by impoundment or detention of the motor vehicle.

I. The issuance of a temporary restraining order, entry of written stipulations and voluntary abatement agreements, entry of default judgments and other uncontested matters pursuant to this part shall be ruled on by the Court based upon the written pleadings and without the appearance of the party(ies).

**10.29.104: COMMENCEMENT OF VEHICULAR PUBLIC NUISANCE ACTIONS; PRIOR NOTIFICATION:**

A. Notification Before Filing Civil Actions Under This Part: At least twenty-one (21) calendar days before filing a civil action under this part, written notice shall be served upon the owners and lienors of a motor vehicle by first class mail addressed to the person shown as the owner or lienor on the records of the Colorado Department of Revenue, Division of Motor Vehicles, or any similar department of any sister state, by first class mail, at the address as shown by the records of the Colorado Department of Revenue, Division of Motor Vehicles, or any similar department of any sister state, as of the date of the public nuisance offense, or at the last known address given by the owner or listed upon any government issued identification document bearing the photograph of the owner or listed upon apparently valid documents verifying the owner's recent purchase of the motor vehicle that are in accordance with the laws of the state, presented to or found by any law enforcement office.

B. The notice shall describe the nature of the alleged vehicular public nuisance, shall identify to the extent possible the person(s) actively involved in the vehicular public nuisance and identify the specific motor vehicle involved. The notice shall further advise the recipient that an action under this part may be filed unless the recipient enters into a voluntary abatement agreement with the City pursuant to section 10.29.114 of this part within twenty-one (21) days of service of the notice.

C. Reasonable Assistance: The Colorado Springs Police Department shall provide reasonable assistance in any effort to voluntarily abate the vehicular public nuisance.

**10.29.105: TEMPORARY RESTRAINING ORDERS IN GENERAL:**

A. Continuous Effect of Temporary Restraining Orders: Ex parte temporary restraining orders shall remain continuously in effect unless modified by court order as provided in section 10.29.107 of this part, by stipulation of the parties or after trial on the merits.

B. No Security Or Bond: No security or bond of any type shall be required of the City in obtaining any temporary restraining order under this part.

C. Form And Scope Of Temporary Restraining Order: Every temporary restraining order shall set forth the reason for its issuance, be reasonably specific in its terms and describe in reasonable detail the acts and conditions authorized, required or prohibited, and shall be binding upon the property, the parties to the action, their attorneys, agents and employees and any other person who receives actual notice of the order.

#### **10.29.106: TEMPORARY RESTRAINING ORDERS; VEHICULAR PUBLIC NUISANCES:**

A. General: The court shall issue an ex parte temporary restraining order if the written complaint, supported by an affidavit, shows by a preponderance of the evidence that there is probable cause to believe that the specified motor vehicle was used to commit, conduct, promote, facilitate or aid the commission of any vehicular public nuisance.

B. Detention and closure of motor vehicle(s): The temporary restraining order shall make the following orders for the detention and closure of motor vehicles and restrained persons as to motor vehicles:

1. The Colorado Springs Police Department shall be ordered to detain and close the motor vehicle(s) using any reasonable force necessary, and to place the same in police custody in the constructive custody of the court, until further order of the court.

2. All named defendants shall be ordered to deposit with the Colorado Springs Police Department all documents evidencing ownership, title, registration, keys and other devices for either access and/or operation of the motor vehicle(s).

3. The Colorado Springs Police Department shall serve copies of the summons, complaint, and temporary restraining order upon any person who reasonably appears or claims to hold a legal or equitable interest or right of possession the motor vehicle at the time of detention and/or closure.

4. All persons shall be restrained from removing, concealing, damaging, destroying, or selling, giving away, encumbering or transferring any interest in the motor vehicle, or using the motor vehicle as security for a bond.

5. Persons holding any legal or equitable interest or right of possession in the motor vehicle shall be ordered to take all reasonable steps to abate the vehicular public nuisance and prevent it from recurring.

6. Any other orders that may be reasonably necessary to take the motor vehicle into the court's constructive custody, and to provide access to and safeguard the motor vehicle.

C. Service: The summons, complaint, and temporary restraining order shall be served as provided by subsection 10.29.103(I).

D. These orders shall become effective fourteen (14) days after the date the temporary restraining order is mailed unless within that fourteen (14) day period a person claiming a legal or equitable interest or right of possession in the motor vehicle, files, sets, serves and has heard a motion to vacate or modify the temporary restraining order(s) as provided in subsection 10.29.107(C) of this part, or unless within that fourteen (14) day period a person claiming a legal or equitable interest or right of possession in the motor vehicle files, sets, serves and has heard a motion to stay execution of a temporary restraining order as provided in subsection 10.29.107(E) of this part. The motion shall be heard and determined as provided in subsections 10.29.107(C) and (E) of this part. A motion properly brought under subsection 10.29.107(C) or (E) of this part shall temporarily stay a temporary restraining order until the conclusion of the hearing. No temporary restraining order shall permit the detention and/or closure of a motor vehicle until this fourteen (14) day period has elapsed.

**10.29.107: MOTION TO VACATE OR MODIFY TEMPORARY RESTRAINING ORDER:**

A. General: Any party defendant and any person holding any legal or equitable interest or right of possession in any motor vehicle detained and/or closed under this part may file a motion to vacate or modify the temporary restraining order or for return of motor vehicle. Proceedings on these motions shall be as provided below.

B. Motion To Vacate Or Modify Orders Other Than Those Pertaining To Detained and/or closed Motor Vehicle(s): Where the specific provision in the temporary restraining order complained of pertains to any matter other than a motor vehicle that has been detained and/or closed, the provision of this subsection shall apply and control.

1. Within fourteen (14) days of the date that the temporary restraining order is mailed, the moving party must:

a. File the written motion to vacate or modify; and

b. Set the motion for a hearing to be held within twenty-one (21) days but not less than fourteen (14) days from the date the motion is filed; and

c. Personally serve the motion and notice of the hearing on the Office of the City Attorney – Prosecution Division. Any motion to vacate a temporary restraining order shall state specifically the factual and legal grounds upon which it is based, and only those grounds may be considered at the hearing.

2. At the hearing, the City shall have the burden of proving by a preponderance of the evidence that there is probable cause to believe that a public nuisance or public nuisance activity occurred on, in or about the real property, or the real property was used to commit, conduct, promote, facilitate or aid the commission of any public nuisance. The court shall not vacate or modify the temporary restraining order unless it finds that there is no probable cause to believe that a public nuisance occurred or the order is manifestly unreasonable or unjust.

C. Motion To Vacate Or Modify Orders Pertaining to Detained and/or Closed Motor Vehicle(s): Where a specific provision in the temporary restraining order pertains to the retention, closure or receivership of property, the provisions of this subsection shall apply and control.

1. Within fourteen (14) days of the date that the temporary restraining order is executed, the moving party must:

a. File the written motion; and

b. Set the motion for a hearing to be held within twenty-one (21) days but not less than fourteen (14) days from the date of the filing of the motion; and

c. Personally serve the motion and notice of the hearing on the Office of the City Attorney—Prosecution Division. Any motion for return of closed property shall state specifically the factual and legal grounds upon which it is based, and only those grounds may be considered at the hearing.

2. At the hearing on the motion for return or release of a detained and or closed motor vehicle, the party seeking release and return of the motor vehicle shall first have the burden of proving ownership or a right to possession and that the motor vehicle is not relevant evidence in any criminal proceeding. The party seeking release of the property shall also have the burden of proving that there is no probable cause to believe that a public nuisance occurred on, in or about the real property or that an affirmative defense under section 10.29.110 of this part exists.

3. The court shall not return or release the motor vehicle to the moving party unless it finds by a preponderance of the evidence that:



- a. The moving party is the owner of the property or presently entitled to possession; and
- b. The property is not relevant evidence in a criminal proceeding; and
- c. There is no probable cause to believe that a public nuisance was committed on, in or about the real property or that an affirmative defense under section 10.29.110 of this part exists.

D. Consolidated Hearing On Motion To Vacate, Modify, And Trial On The Merits: Where all parties so stipulate, the court may order the trial on the merits to be consolidated and tried with a hearing on these motions. Where the trial on the merits is not consolidated, any evidence received at the hearing on these motions need not be repeated at trial, but shall be treated as part of the record at trial.

E. Order To Stay Execution Of Temporary Restraining Order: In addition to a motion to vacate or modify orders pursuant to subsections B and C of this section, a defendant may file a written motion for stay of execution of a temporary restraining order. Whenever a motion for stay of execution is filed, the provisions of this subsection shall apply and control.

1. Within fourteen (14) days of the date that the temporary restraining order is mailed, the moving party must:
  - a. File a written motion to stay enforcement of the temporary restraining order; and
  - b. Set the motion for a hearing to be held within twenty-one (21) days but not less than fourteen (14) days from the date of the filing of the motion; and
  - c. Personally serve the motion and notice of the hearing on the Office of the City Attorney—Prosecution Division.
2. At the hearing, the moving party shall have the burden of proving by a preponderance of the evidence that the defendant is using all reasonable efforts to abate the vehicular nuisance activities, and that those efforts are likely to abate the vehicular nuisance activities.
3. If the court finds:
  - a. The defendant is using all reasonable efforts to abate the nuisance activities; and

b. These efforts are likely to abate the activities giving rise to the public nuisance; and

c. The public health, safety and welfare would not be impaired by granting a stay of execution of the temporary restraining order, the court may grant a stay of execution of the temporary restraining order not to exceed forty five (45) days except where a longer period of time is required by law.

4. Any order granting a stay of execution of the temporary restraining order pursuant to subsection E3 of this section shall be reviewed by the court at least seven (7) days prior to expiration of the stay.

#### **10.29.108: REMEDIES FOR PUBLIC NUISANCES:**

Where the existence of a public nuisance is established in a civil action under this part by a preponderance of the evidence, the court shall enter permanent prohibitory and mandatory injunctions requiring the parties defendant to abate the public nuisance and take specific steps to prevent the same and other public nuisances from occurring on the real property. The court shall also order the following remedies:

A. Detention and Closure of Motor Vehicle: That the motor vehicle be detained and closed by impoundment of a period of not less than 30 days and not more than one (1) year from the date of the final judgment, plus any extension of that period caused by a failure to comply with the reasonably necessary conditions for release of the motor vehicle. The issuance and execution of the closure order shall not be deemed a bailment of property.

B. At the end of the closure period, the motor vehicle shall be released to the owner only upon:

1. Payment of all towing fees, storage fees and all actual expenses incurred by the City and payment of all civil judgments under section 10.29.109 of this part; and

2. Execution by the owners and lienors of a complete and unconditional release of the City and all of its employees and agents for the closure and any and all damages to said vehicle.

C. Upon a showing of good cause the court may reduce the impoundment and storage fees owed pursuant to paragraph (B) of this subsection, but in no event shall the storage fees be reduced to amount lower than the fair market value of the vehicle.

1. For the purposes of this paragraph (C), “good cause” may be established by a preponderance of the evidence that the storage fees exceed the fair market value of the vehicle.

2. The court must make written findings of fact and conclusions of law that the moving party has established, by a preponderance of the evidence that good cause exists to support any decision to reduce the amount of impoundment and storage fees owed.

D. In the event that the owners and lienors, or any of them, fail, neglect or refuse to pay the fees, expenses, and judgments, within sixty (60) days of receiving notice of the final judgment of the court, the motor vehicle shall be declared to be abandoned and shall be disposed of in compliance with this Code.

E. At any time after the commencement of an action pursuant to this part the City, through the City Attorney's Office—Prosecution Division, and any party defendant to an action under this part may, in writing, voluntarily stipulate to orders and remedies that are different from and may be less stringent than the remedies provided in this part. The voluntary abatement agreement entered pursuant to this part is designed to voluntarily abate the vehicular public nuisance activity occurring and provide reasonable measures to prevent vehicular public nuisances activities from recurring. The voluntary abatement agreement shall address all vehicular public nuisance activity occurring at the time of its execution.

F. The court shall make the written stipulations and voluntary abatement agreements an order of the court and enforce the same. The remedies provided in this part shall be applicable in the event of noncompliance with the voluntary abatement agreement.

**10.29.109: CIVIL JUDGMENT:**

A. Judgment for Costs: In any case in which a vehicular public nuisance is established, in addition to the remedies provided above, the court shall impose a separate civil judgment on every person who committed, conducted, promoted, facilitated or aided the commission of any vehicular public nuisance or who held any legal or equitable interest or right of possession in any motor vehicle used in the vehicular public nuisance activity. This civil judgment shall be for the purpose of compensating the City for the costs of pursuing the remedies under this part.

B. The civil judgment shall be in the liquidated sum of five hundred dollars (\$500.00) and shall be imposed as a judgment against each defendant independently, separately and severally.

C. In the event that the owners and lienors of a subject motor vehicle, or any of them, fail to file responsive pleadings within twenty-eight (28) days from when

the temporary restraining order is mailed, and set the matter for hearing or trial on the merits, the court shall enter a default judgment and an order deeming the vehicle abandoned. In the event a default judgment and order of abandonment are entered, the civil judgment provided in subsection (b) of this section shall not be imposed and the vehicle shall be disposed of pursuant to the provisions of section 10.25.106 of this Code.

**10.29.110: AFFIRMATIVE DEFENSES:**

A. It shall be an affirmative defense to an action brought pursuant to this part that the owner of the motor vehicle was not involved in the public nuisance or public nuisance activity and that the owner did not know and was not wilfully blind towards the vehicular public nuisance or vehicular public nuisance activity.

B. It shall be an affirmative defense to an action brought pursuant to this part that the owner has acted diligently and with good faith to correct the nuisance. In addition to any other facts the court considers relevant, the court shall consider the following in determining whether the owner has acted diligently and with good faith:

1. Whether the owner has taken all reasonable steps to abate the vehicular public nuisance activity and restrain and prevent future nuisance activity;
2. Whether the steps taken by the owner have been effective, the nuisance no longer exists, and recurrence of the nuisance activity does not appear likely; and
3. Whether the owner or any agent, employee or assign was involved in activity which created or encouraged the vehicular public nuisance condition.

**10.29.111: SUPPLEMENTARY REMEDIES FOR PUBLIC NUISANCES:**

In any action in which probable cause for the existence of a vehicular public nuisance is established, in the event that the parties defendant, or any one of them, fails, neglects, or refuses to comply with the court's temporary restraining orders, closure and other orders, the court may, upon the written motion of the City, in addition to or in the alternative to the remedy of contempt, permit the City to enter, detain and abate by impoundment the vehicular public nuisance and / or perform other acts required of the defendants in the court's temporary restraining orders and other orders.

**10.29.112: OTHER SEIZURES, CLOSURES, FORFEITURES, CONFISCATIONS AND REMEDIES:**

Nothing in this part shall be construed to limit or forbid the seizure, confiscation, closure, destruction, forfeiture of property or use of other remedies, now or later required, authorized or permitted by any other provision of law. Nothing in this part shall be construed as requiring that evidence and property seized, confiscated, closed, forfeited or destroyed under other provisions of law be subjected to the special remedies and procedures provided in this part.

**10.29.113: VOLUNTARY ABATEMENT AGREEMENT; STIPULATED ALTERNATIVE REMEDIES:**

A. The goal of a voluntary abatement agreement, and other stipulated alternative remedies is to abate the vehicular public nuisance, prevent vehicular public nuisances from recurring, deter vehicular public nuisance activity and protect public interest. The City, through the City Attorney's Office—Prosecution Division, and any party defendant to an action under this part may, in writing, voluntarily stipulate to orders and remedies that are different from and may be less stringent than the remedies provided in this part. The voluntary abatement agreement entered pursuant to this part is designed to voluntarily abate the vehicular public nuisance activity occurring and provide reasonable measures to prevent vehicular public nuisances activities from recurring. The voluntary abatement agreement shall address all vehicular public nuisance activity occurring at the time of its execution.

B. The Colorado Springs Police Department shall render reasonable assistance to effectuate the voluntary abatement agreement.

C. The court shall make the written stipulations and voluntary abatement agreements an order of the court and enforce the same. The remedies provided in this part shall be applicable in the event of noncompliance with the voluntary abatement agreement.

D. Compliance and completion of a voluntary abatement agreement shall preclude a civil action from being filed pursuant to this part for the vehicular public nuisance activity, which was the subject of the voluntary abatement agreement. Nothing herein shall preclude the filing of a civil action pursuant to this part for new vehicular public nuisance activity occurring after completion of the voluntary abatement agreement, or activity not addressed in the voluntary abatement agreement.

**10.29.114: LIMITATION ON ACTION:**

Actions under this part shall be filed no later than one year after the vehicular public nuisance or the last in a series of acts constituting the vehicular public nuisance occurs. This limitation shall not be construed to limit the introduction of evidence of vehicular public nuisances that occurred more than one year before the filing of the complaint when relevant for any purpose.

**10.29.115: SEVERABILITY:**

In the event that any provision of this part is declared to be unconstitutional or invalid for any reason, the remaining provisions shall be upheld and enforced unless the remaining provisions would create an unreasonable or unjust result.

Section 2. This ordinance shall be in full force and effect from and after its final adoption and publication as provided by Charter.

Section 3. Council deems it appropriate that this ordinance be published by title and summary prepared by the City Clerk and that this ordinance be available for inspection and acquisition in the office of the City Clerk.

Introduced, read, passed on first reading and ordered published this \_\_\_\_ day of \_\_\_\_\_, 2021.

**Finally passed:** \_\_\_\_\_

\_\_\_\_\_  
Council President

**Mayor's Action:**

- Approved on \_\_\_\_\_.
- Disapproved on \_\_\_\_\_, based on the following objections:

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\_\_\_\_\_  
Mayor

**Council Action After Disapproval:**

- Council did not act to override the Mayor's veto.
- Finally adopted on a vote of \_\_\_\_\_, on \_\_\_\_\_.
- Council action on \_\_\_\_\_ failed to override the Mayor's veto.

\_\_\_\_\_  
Council President

ATTEST:

\_\_\_\_\_  
Sarah B. Johnson, City Clerk