



Vehicular Public Nuisances City Code §10.29.101– 10.29.118

Presenters:

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Vehicular Public Nuisances- Purpose

Purpose:

- The purpose of this article is not to punish, but to remedy and abate vehicular public nuisances.
- The abatement of vehicular public nuisances for the protection of public health, safety and welfare is a matter of local concern and is a direct part of the Strategic Plan:
 - Strategic Plan § 1.10.1 states police should: “Affect positive change in driver behavior through crash data”
 - Strategic Plan § 1.10.4 states police should: “Collaborate with the City Attorney’s Office to evaluate ordinances that address illegal street racing.”
- The intention of the original ordinance, and the changes proposed today, are to address this purpose and goal.



Vehicular Public Nuisances

History:

- Traffic fatalities set a record in 2020 with 51 total and 2022 is on pace to break that record. While specific driving behavior cannot be directly attributed to some of these, we do know speed was a factor in at least 18 of the 51 fatalities in 2020 along with many of the 2021 and 2022 fatalities. This does not include over 100 additional felony traffic crashes where there was not a fatality.

Fatalities	2016	2017	2018	2019	2020	2021	2022
Total	34	39	48	42	51	50	51*
Auto	18	20	23	19	20	18	19
Pedestrian	7	10	13 (11)	9 (9)	13 (12)	15	6
Motorcycle	9	6	8	11	15	15	22
Bicycle	0	3	4 (3)	3 (0)	3 (2)	2	3
Alcohol/drugs present	21	18	25	22	TBD	TBD	TBD

* 2022 YTD (1 Additional Fatality (CSFD) not shown)

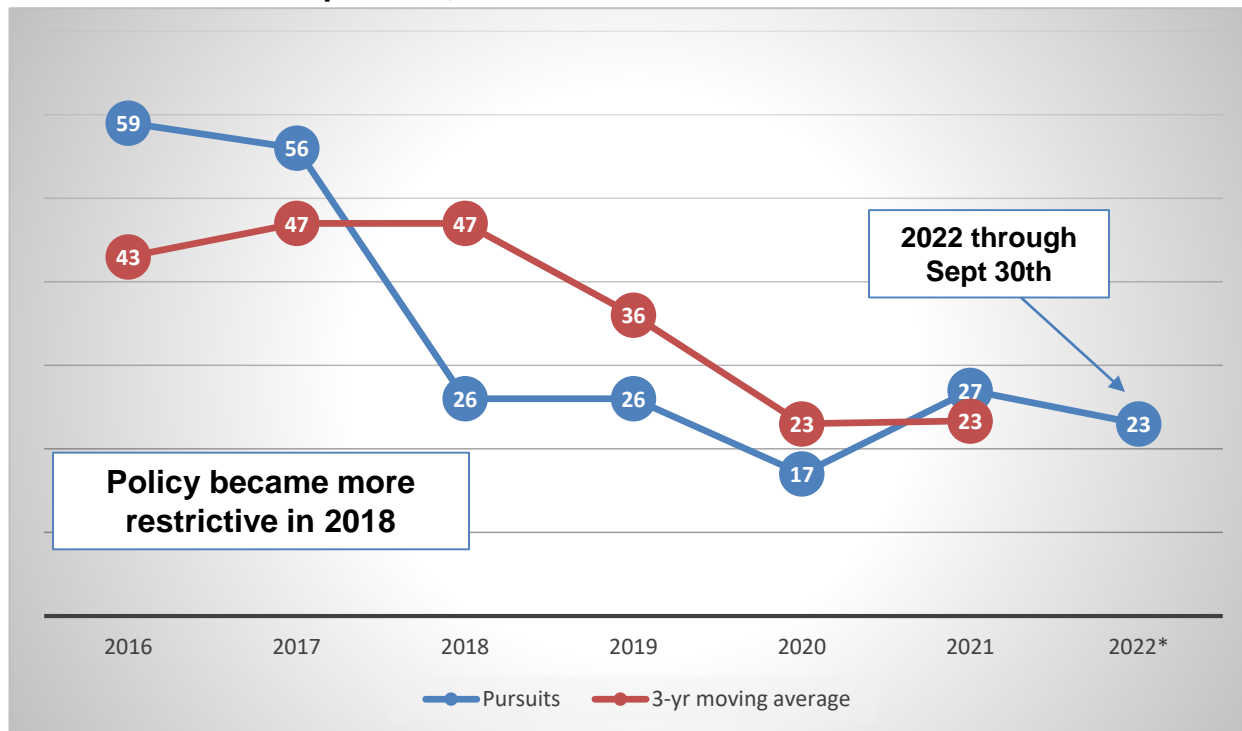


Vehicular Public Nuisances

Vehicle Pursuits:

- A more restrictive pursuit policy early in 2018 resulted in a 54% reduction in pursuits in 2018 compared to 2017. Pursuits in 2019-2022 remain at consistent levels.

Number of Pursuits per Year, 2016-2022





Vehicular Public Nuisances

Pursuits have decreased, and eluding incidents have increased:

Calls for service containing at least one of the keyword/phrases “not pursued”, “not pursuing”, “eluded” or “eluding”.



The most common call type was TSTOP (79%), followed by SUSP VEHICLE (16%)



Vehicular Public Nuisances- History of Ordinance

Original Ordinance:

- Previous version (Ord. 21-33) was passed in 2021 with a vote from City Council of 9-0.
- City Code §10.29.101 et seq. was signed into law by Mayor Suthers on March 25, 2021 and became effective April 3, 2021.

Attempted Implementation:

- After the ordinance became effective, the Prosecution Division of the City Attorney's Office met with CSPD to discuss creating the necessary documents and processes to file a case under this article.
- There were concerns with the language of the ordinance and processes in filing and pursuing a successful case.



City Code §10.29.101: Vehicular Public Nuisance Implementation Questions

🔗 Questions or Concerns with Implementation:

1. Scheduling

- What happens if the Court cannot accommodate a court date under the required timelines? When are continuances allowed?

2. Personal Property Inside Vehicle

- How can a party get items from inside the vehicle during the pendency of the case?

3. Motions Hearings:

- What topics are admissible at a motions hearing? What rules of evidence govern? What impact do motions have on other court orders? What types of orders are the Judges permitted to issue?

4. Other:

- Is there a bond provision?
- What happens if a party violates a court order or agreement?
- What can an owner/lienor who is not an active participant in the public nuisance activity do to quickly navigate this process?



Decision to Amend and Process of Amending

The decision was made to amend the ordinance to address the issues and concerns that had been discovered through the implementation process. In order to ensure the amendment process would be fruitful, stakeholders were consulted and given an opportunity to provide input, and time was taken to ensure the process was thought through completely.

🔗 Stakeholders Consulted:

1. Municipal Court:
 - Chief Judge and Clerk of Court
2. City Attorney's Office
 - Prosecution Division
 - Corporate Attorney for CSPD
 - Litigation Attorney for the City of Colorado Springs
3. Colorado Springs Police Department
 - Major Crash Unit
 - Crime Prevention Officers
 - Other law enforcement agencies from around the state
 - Administrative Department Heads
 - Impound Lot representatives



Major Changes

1. Organization

- Changed to chronological order with additional subsections for clarity.

2. Scheduling

- Changed to accommodate Court dockets and potential illness of parties or witnesses; specifies when continuances are granted; defines what occurs if a party fails to appear.

3. Due Process Additions

- Bond provision added
- Expiration and time limits added
- Increased methods to exercise due process rights pre and post-deprivation
- Quick Release to Non-Involved Owner

4. Details on Process

- Addition of rules regarding process and procedure for filing motions, effect and impact of motions, trial procedure, issues that are relevant at hearings, rules of evidence, potential orders from the Court, etc.
- Detailed process for default judgment, release of personal items in the vehicle, types of orders required and permitted by the Court, etc.

5. Clarity in Language and Applicable Rules

- Instead of referencing outside rules of procedure, these rules are incorporated into the relevant sections.



Vehicular Public Nuisances- New Definition

Definition:

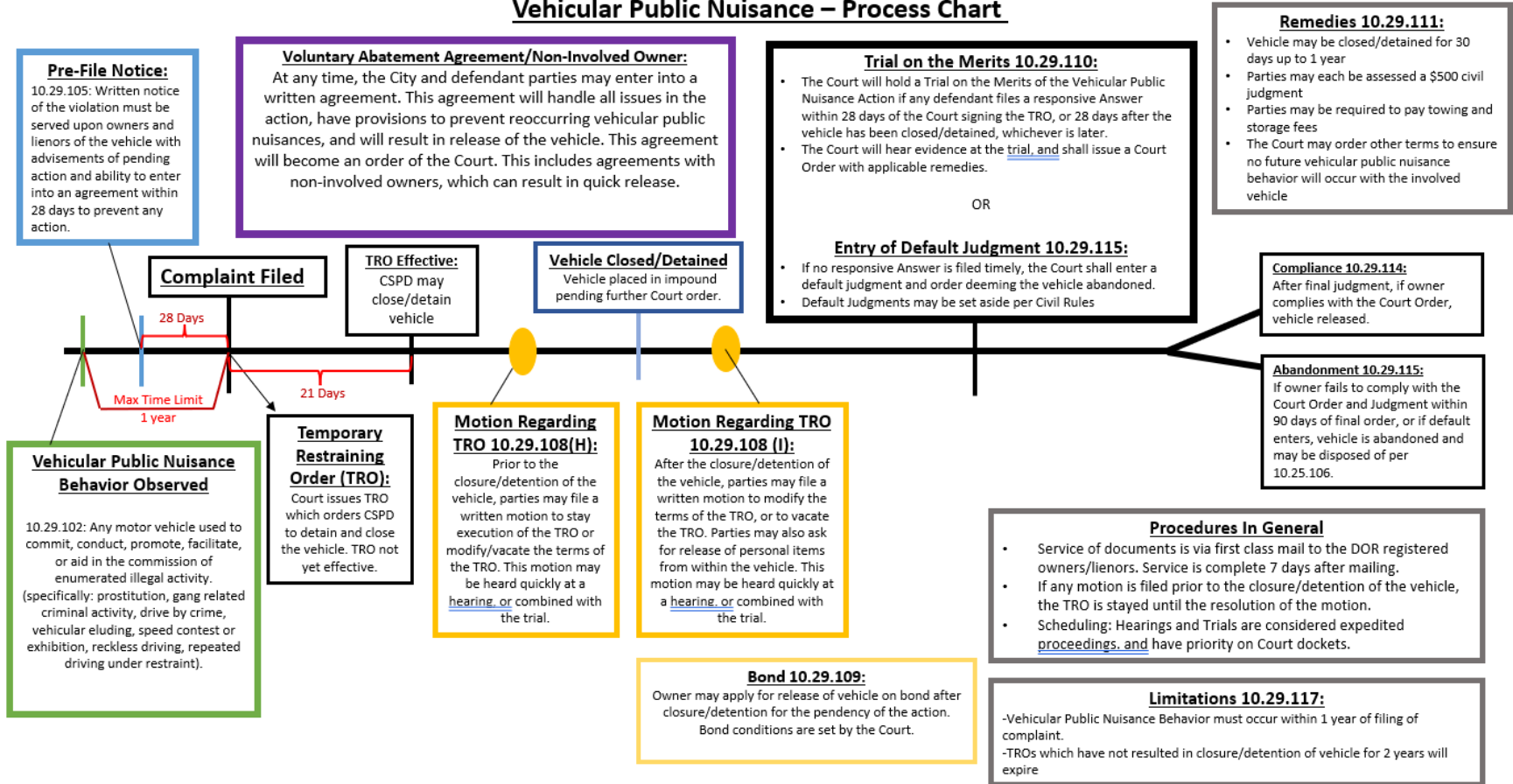
A motor vehicle shall be deemed a vehicular public nuisance when it is used to commit, conduct, promote, facilitate, or aid the commission of the below enumerated illegal activity. ... Evidence of the existence of a vehicular public nuisance shall include evidence that the motor vehicle was used in one (1) or more of the following enumerated illegal activities:

- A. Prostitution, soliciting for prostitution, pandering, and pimping as prohibited by C.R.S. Title 18, Article 7, Parts 2 and 4 and/or City Code §9.4.102;
- 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 §10.24.109;
- F. Speed contests and speed exhibitions, or aiding and facilitating a speed contest or exhibition as prohibited in C.R.S. §42-4-1105 and/or City Code §10.5.107;
- G. Reckless Driving as prohibited in C.R.S. §42-4-1401 and/or City Code §10.6.101. (New)**
- H. Repeated (at least three (3) or more occasions within a five (5) year period) violations of Driving Under Restraint as prohibited in C.R.S. §42-2-138, Driving After Revocation Prohibited as provided in C.R.S. §42-2-206, or Driving Without a License as prohibited in C.R.S. §42-2-101. (New)**



Vehicular Public Nuisances- Process Chart

Vehicular Public Nuisance – Process Chart



NOTE: This document is merely a timeline summary of the process. Additional details and requirements are contained in the ordinance: City Code 10.29.101 et seq.



Thank you for your time.

