

**CITY OF WHITTIER
ORDINANCE #06-2016**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITTIER, ALASKA
AMENDING WHITTIER MUNICIPAL CODE 1.04.010, DEFINITIONS, AND
ENACTING WHITTIER MUNICIPAL CODE CHAPTER 10.24, STOPPING,
STANDING AND PARKING GENERALLY.**

Section 1. Classification. This Ordinance is a permanent code ordinance.

Section 2. Amendment of Section. Whittier Municipal Code 1.04.010, Definitions, is amended by adding definitions as follows:

“Business day” means a day other than a Saturday, Sunday, or day when City offices are authorized to be closed.

“Day” means a calendar day.

Section 3. Enactment of Chapter. Whittier Municipal Code Chapter 10.24.020, Stopping, Standing and Parking Generally, is enacted to read as follows:

Chapter 10.24 - Stopping, Standing and Parking Generally

Sections:

- 10.24.010 - Stopping, standing or parking outside business or residence districts.
- 10.24.020 - Officers authorized to remove vehicles.
- 10.24.030 - Stopping, standing or parking prohibited in specified places.
- 10.24.040 - Parking not to obstruct traffic.
- 10.24.050 - Parking for certain purposes prohibited.
- 10.24.060 - Parking adjacent to schools.
- 10.24.070 – Regulation of parking.
- 10.24.080 - Parking during street cleaning and snow removal.
- 10.24.090 - Parking for longer than 72 hours.
- 10.24.100 - Vehicle license plates and registration.
- 10.24.110 - Regulations not exclusive.
- 10.24.120 - Applicability of chapter.
- 10.24.130 - Parking method.
- 10.24.140 - Parking of trailers, travel trailers, motor homes or campers.
- 10.24.150 - Parking vehicle with studded tires out of season.
- 10.24.160 - Parking reserved for persons with disabilities.
- 10.24.170 - Enforcement authority.
- 10.24.180 - Notice of violation.
- 10.24.190 - Impoundment of improperly parked vehicle as public nuisance
- 10.24.200 - Impound Procedure
- 10.24.210 - Interference with impoundment.
- 10.24.220 - Conditions for release from impoundment.

10.24.230 - Civil penalties for parking violations.

10.24.240 - Appeals.

10.24.250 - Owner of vehicle presumed responsible for violations.

10.24.010 - Stopping, standing or parking outside business or residence districts.

- A. No person may stop, stand or park a vehicle, whether attended or unattended, on the paved or main-traveled part of street outside of a business or residence district when it is practicable to stop, stand or park the vehicle off the paved or main-traveled part of the street, but whether stopped, standing or parked on or off the paved or main-traveled part of the street, the vehicle shall be positioned so that an unobstructed width of street remains for the free passage of other vehicles, and the stopped, standing or parked vehicle shall be clearly visible from the street for a distance of 200 feet in each direction.
- B. This section shall not apply to the driver of a vehicle which is disabled in a manner and to an extent that it is impossible to avoid stopping and temporarily leaving the vehicle on the paved or main-traveled part of the street.

10.24.020 Officers authorized to remove vehicles.

- A. If an officer finds a vehicle standing on a street in violation of WMC 10.24.010, the officer may move the vehicle, or require the driver or other person in charge of the vehicle to move the vehicle, to a position off the paved or main-traveled part of the street.
- B. An officer may remove or cause to be removed to a place of safety any unattended vehicle illegally left standing on a street, bridge or causeway, or in a tunnel, in a position or under circumstances that it obstructs the normal movement of traffic.
- C. An officer may remove or cause to be removed to a place of safety any vehicle when:
 - 1. A report has been made that the vehicle has been stolen or taken without the consent of its owner;
 - 2. The vehicle is found upon a street or other City owned or controlled property and the person in charge of the vehicle is unable to provide for its custody or removal;
 - 3. The person driving or in control of the vehicle is arrested for an offense for which the officer is required by law to take the person before a judge or magistrate without unnecessary delay;
 - 4. The vehicle is parked in violation of a provision of this chapter; or
 - 5. The vehicle is parked in a manner that creates a danger to the safety of persons or property.

10.24.030 Stopping, standing or parking prohibited in specified places.

Except when necessary to avoid conflict with other traffic, or in compliance with law, the directions of a police officer or an official traffic control device, no person may:

- A. Stop, stand or park a vehicle:
 - 1. On the roadway side of any vehicle stopped or parked at the edge or curb of a street.
 - 2. On a sidewalk.
 - 3. Within an intersection.
 - 4. On a crosswalk.
 - 5. Within 50 feet of a marked crosswalk in a designated school zone.
 - 6. Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic.

or create a hazardous situation. No person may park a vehicle in violation of such an official traffic control device.

10.24.070 Regulation of parking.

- A. The City of Whittier may by placing official traffic control devices designate parking time limits, restrict hours during which stopping, standing or parking vehicles is permitted, or prohibit stopping, standing or parking of vehicles, on those parts of a street where the City of Whittier has determined that demand for parking, traffic congestion or public safety warrants the designation, restriction or prohibition. No person may stop, stand, or park a vehicle in violation of such an official traffic control device; provided that a person may stop, stand, or park a vehicle that displays a valid handicapped parking permit for a time not longer than one and one-half times a parking time limit that is designated by an official traffic control device.
- B. The City of Whittier may by placing official traffic control devices establish parking by permit only on those parts of a street where the City of Whittier has determined that demand for parking warrants the designation. No person may stop, stand, or park a vehicle in violation of such an official traffic control device.
- C. Notwithstanding subsections (A) and (B) of this section, the City of Whittier may issue permits to occupy parking spaces on a street for a duration that the applicant demonstrates is necessary to accommodate a temporary activity such as a special event, construction project, or loading or unloading.

10.24.080 Parking during street cleaning and snow removal.

The City of Whittier may by placing official traffic control devices prohibit stopping, standing or parking of vehicles during hours required for the removal of snow, ice, rocks, gravel, dirt, debris, litter or other accumulation from a street or other City owned or controlled property. No person may stop, stand, or park a vehicle in violation of such an official traffic control device.

10.24.090 Parking for longer than 72 hours.

No person may park a vehicle on a street or other City owned or controlled property for a period exceeding 72 hours.

10.24.100 Vehicle license plates and registration.

- A. No person may stop, stand or park a vehicle on a street or other City owned or controlled property, if:
 - 1. Valid, clearly legible license plates are not securely fastened to the outside of the vehicle in compliance with the law of the state in which the vehicle is required to be registered;
 - 2. The vehicle bears a license plate that is painted or otherwise altered, or a license plate other than those permitted or required under the law of the state in which the vehicle is required to be registered;
 - 3. A license plate on the vehicle bears stickers, labels or emblems other than those permitted or required under the law of the state in which the vehicle is required to be registered; or
 - 4. Currently valid registration month and year stickers are not affixed to the license plate on the motor vehicle in accordance with the law of the state in which the vehicle is required to be registered.
- B. Reduced penalty for motor vehicle with current registration.

7. On a bridge or other elevated street structure.
 8. On or within 20 feet of a railroad track.
 9. At any place where an official traffic control device prohibits stopping.
 10. On a street immediately adjacent to a red painted curb.
 11. Within 15 feet of a fire hydrant or within 15 feet of a fire safety sprinkler, standpipe or other fire protection system control valve, whether such valve is mounted on a building or the ground.
 12. Within a fire lane designated as such by posted signs.
 13. In the middle of a cul-de-sac.
 14. In a designated bicycle lane.
- B. Park a vehicle, whether occupied or not, except temporarily for the purpose of and while actually engaged in loading or unloading merchandise or passengers:
1. In front of a public or private driveway.
 2. Within 20 feet of a marked crosswalk not located within a designated school zone.
 3. Within 20 feet from the point of tangent of curb return at any intersection.
 4. Within 50 feet of the nearest rail of a railroad crossing.
 5. At any place where an official traffic control device prohibits parking, with the exception of fire lanes and handicapped parking areas.
 6. On a street immediately adjacent to a yellow painted curb.
- C. No person may park a vehicle on a street or public property in a place that is not marked, designated or otherwise provided for parking, or park a vehicle in a position other than the indicated or conventional position for vehicle parking in an area where parking is permitted.

10.24.040 Parking not to obstruct traffic.

No person may park a vehicle on a street in a manner or under conditions that leave less than 20 feet of roadway available for the free movement of vehicular traffic.

10.24.050 Parking for certain purposes prohibited.

- A. No person may park a vehicle on a street, roadway, alley or City parking lot for the purpose of:
1. Washing the vehicle when the person parking the vehicle is a dealer, garage, filling station, carwash or other motor vehicle business or its agent or employee.
 2. Greasing, repairing or performing any work on the vehicle, except repairs necessitated by an emergency.
 3. Displaying the vehicle for sale or hire in the regular course of the person's business as a dealer for sale or hire of vehicles.
 4. Storing or parking, without being attended by an operator, a vehicle to be used by the person for hire to another person.
 5. Commercial advertising.
- B. Subsections (A)(3) and (A)(5) of this section shall not apply to a motor bus, sightseeing vehicle, airline service vehicle or taxicab.

10.24.060 Parking adjacent to schools.

The City of Whittier may place official traffic control devices prohibiting parking on either or both sides of a street adjacent to a school property when such parking would interfere with traffic

A violation of subsection (A) of this section shall be reduced to a violation of this subsection if an officer can determine that a vehicle violating subsection (A) of this section is currently registered, or a person who has been cited for violating subsection (A) of this section presents reliable evidence to the City of Whittier within 30 days after the date the citation was issued that currently valid registration month and year stickers had been obtained for the vehicle prior to the date the citation was issued. This reduction shall not apply to any late penalties or collection charges.

- C. Notices of violation of subsection (A)(4) of this section are subject to the following limitations:
1. A notice of violation of subsection (A)(4) of this section may not be issued because a motor vehicle bears expired registration month and year stickers, unless the violation occurs after the fifteenth day of the month following the month in which the registration month and year stickers expired. The City of Whittier shall cancel any notice of violation issued contrary to this subsection.
 2. A notice of violation of subsection (A)(4) of this section may not be issued because a motor vehicle bears expired registration month and year stickers, if a notice of violation for the same violation has been issued for the same motor vehicle either (a) twice within the preceding 30 days, or (b) once within the preceding three days. The City of Whittier shall cancel any notice of violation issued contrary to this subsection that is presented for cancellation within 30 days after the date of its issuance.
- D. An officer may immediately impound a motor vehicle parked, stopped or standing on a street or within any area of the City used for public parking if the motor vehicle (1) has no license plates displayed, (2) has no registration month and year stickers displayed, or (3) bears registration month and year stickers that have been expired for more than 12 months.

10.24.110 Regulations not exclusive.

The provisions of this chapter imposing a time limit on parking shall not relieve any person from the duty to observe other and more restrictive provisions prohibiting or limiting the stopping, standing or parking of vehicles in specified places or at specified times.

10.24.120 Applicability of chapter.

The provisions of this chapter prohibiting the standing or parking of a vehicle shall apply at all times, or at those times specified in this chapter or as indicated on an official traffic control device, except when it is necessary to stop a vehicle to avoid conflict with other traffic or in compliance with the directions of a police officer or official traffic control device.

10.24.130 Parking method.

Every vehicle stopped or parked upon any roadway shall be stopped or parked facing in the direction of vehicle travel in the adjacent lane, with the curbside wheels parallel to and within 18 inches of the curb or edge of the roadway.

10.24.140 Parking of trailers, travel trailers, motor homes or campers.

- A. No person may park a trailer, truck/trailer or tractor/trailer combination on any City owned or controlled property for a period longer than two hours at any one time, except as may be seasonally allowed in the Harbor parking area or other designated areas.

10.24.190 Impoundment of vehicles.

- A. A vehicle that has been the subject of four or more unresolved citations for stopping standing or parking in violation of this title is a public nuisance subject to abatement by immediate impoundment by an officer. This section shall not affect the independent authority of an officer to impound a vehicle as provided in WMC 10.24.020.
- B. An officer may immediately impound a vehicle stopped, standing or parked in violation of any section of this title, when the officer determines such a violation poses an imminent threat to the public health, safety or welfare.

10.24.200 Impound procedure.

- A. An impoundment authorized by WMC 10.24.190 may be accomplished either by seizing the vehicle and removing it to a place of safety, or by immobilizing the vehicle in place by use of an impoundment boot or similar mechanical device approved by the Police Department.
- B. A vehicle initially impounded by immobilization in place may be impounded by removal to a place of safety if not released from in-place impoundment by 3:00 p.m. of the day the vehicle was initially impounded in place.
- C. Upon impoundment, a notice of impoundment shall be placed on the vehicle, and within two business days a copy shall be personally delivered or placed in the U.S. mail addressed to the registered owner of the vehicle. The notice shall identify the vehicle, state the reasons for impoundment and the date of impoundment, and describe the post-impoundment procedure substantially as follows:

ATTENTION: Your vehicle has been impounded by the City of Whittier. As the owner of an impounded vehicle, you have the following options:

- 1. You may recover possession of the vehicle by paying to the person having custody of the vehicle the towing and storage fees that have accrued.
- 2. If you take issue with the impoundment of your vehicle, you may:
 - a. Recover possession of the vehicle by paying to the person having custody of the vehicle the towing and storage fees that have accrued and claim a refund by filing an appeal (on a form provided by the city) of the impoundment; or
 - b. File an appeal (on a form provided by the city) of the impoundment.

To be entitled to such a hearing, your written appeal must be filed with the City Manager or his designee within the earlier of (i) five business days after you learned that your vehicle was impounded or was missing; or (ii) 15 business days after the city mailed notice to the vehicle's registered owner that the vehicle had been impounded. If you fail to file a timely appeal you will lose all right to challenge the sufficiency of the basis for impoundment.

If timely requested, the hearing must be held within 20 business days after the filing of your appeal. A determination that there was an insufficient factual or legal basis for impounding your vehicle will require the release of the vehicle to you without your having to pay the towing and storage fees, or will entitle you to a refund if you have already paid the fees.

- B. No person may park a travel trailer, motor home or camper upon any City owned or controlled property for the purpose of residing therein, whether temporarily or not, except in areas that are designated for that purpose.
- C. A vehicle parked upon a designated parking space on City owned or controlled property must be parked entirely within the boundaries of the designated parking space.

10.24.150 Parking vehicle with studded tires out of season.

No person may stop, stand, or park a vehicle on a street a street or other City owned or controlled property May 1st through September 15th, if equipped with any studded tire or with any material other than rubber projecting beyond the tread of the traction surface of the tire, except during an extension of the season for use of studded tires by emergency order of the State.

10.24.160 Parking reserved for persons with disabilities.

- A. No person may stop, stand or park a vehicle in a parking space reserved for persons with disabilities, whether the parking space is on public or private property, unless:
 - 1. The person operating the vehicle has a special permit issued or approved for that person by the State Division of Motor Vehicles;
 - 2. The person operating the vehicle has parked the vehicle for the purpose of transporting a person who has a special permit issued or approved by the State Division of Motor Vehicles and the person who has the special permit actually exits or enters the vehicle;
 - 3. The vehicle displays a valid special license plate or permit issued to a person by the State Division of Motor Vehicles for disabled parking privileges and is operated by or used for the purpose of transporting the disabled person; or
 - 4. The motor vehicle displays a valid special license plate or permit issued by another State, province, territory or country to a person for disabled parking privileges and is operated by or used for the purpose of transporting the disabled person.
- B. An officer may enforce this section within any public or private parking area by issuing a citation pursuant to WMC 10.24.180, or within any public parking area by causing the vehicle to be immediately removed as provided by WMC 10.24.020(C)(4).

10.24.170 Enforcement authority.

The provisions of this chapter may be enforced by, and the term "officer" in this chapter shall mean, any police officer or other person to whom the city manager has delegated parking enforcement authority.

10.24.180 Notice of violation.

- A. A vehicle stopped, standing or parked in violation of a provision of this chapter is a public nuisance. An officer may issue a notice of violation for a vehicle stopped, standing or parked in violation of a provision of this chapter, and either deliver it to the operator of the vehicle or affix it to the vehicle if it is unattended at the time of issuance. The notice of violation shall identify the vehicle, the nature of the violation and the means of resolving it.
- B. If the violation is not resolved within 30 days after the date of the notice required by subsection (A) of this section, the City of Whittier shall cause an additional notice of the violation to be issued and mailed to the registered owner of the vehicle at the address listed in the State Division of Motor Vehicle records, and the additional penalty prescribed by WMC 10.24.230(C) shall apply.

10.24.210 Interference with impoundment.

Unless authorized by the Police Department, no person may:

- A. Remove an impoundment notice posted on a vehicle;
- B. Move a vehicle after it is posted with an impoundment notice; or
- C. Tamper with, damage, attempt to remove, or remove an impoundment boot or similar mechanical device approved by the Police Department placed on a vehicle to impound the vehicle under WMC 10.24.200.

10.24.220 Conditions for release from impoundment.

A vehicle impounded under this title shall be released from impoundment only to the registered owner or a person that the registered owner has authorized in writing to receive possession of the vehicle:

- A. Upon a successful appeal of the impoundment under WMC 10.24.240; or
- B. Upon payment of each of the following:
 - 1. The civil penalty for each violation that was a cause of the impoundment, and that has not been successfully appealed under WMC 10.24.240;
 - 2. Each unpaid civil penalty for a violation by the registered owner of the vehicle of a provision of this title, where the violation is not subject to an appeal filed prior to the impoundment; and
 - 3. The impoundment administrative fee, and any towing and storage charges arising from the impoundment.

10.24.230 Civil penalties for parking violations.

- A. A person who violates a provision of this chapter pertaining to standing stopping or parking shall be subject to a civil penalty in an amount set forth in this section.
- B. In addition to any other penalty provided by law, a person who violates any of the following provisions shall be subject to the applicable civil penalties stated below:

Code Provision	Civil Penalty
10.24.030(A)(11), (A)(12)	\$200.00
10.24.060	50.00
10.24.150, per tire	30.00
10.24.210	1,000.00
10.24.160	
First violation	250.00
Second violation	350.00
Third and subsequent violation	500.00
10.24.100(A)	90.00
10.24.100(B)	45.00
All other provisions of Chapter 10.24 not addressed above	50.00

- C. A person who fails to resolve a notice of violation of a provision of this chapter within the time stated on the face of the notice shall be subject to a civil penalty in the amount of \$15.00, in addition to any other penalty provided by law. Failure to resolve a notice of violation within 30 days after the time stated on the face of the notice may result in imposition of an additional collection fee equal to up to 40 percent of the amount that then is due. A notice of violation is resolved by payment of the amount due under this section on the earlier of:
1. The date the payment is received by the City of Whittier; or
 2. The legible postmark date on a payment the City of Whittier receives by mail.

10.24.240 Appeals.

- A. A person who has been issued a notice of violation for vehicle stopping, standing or parking in violation of this title, or the owner or the person entitled to possession of a vehicle impounded by the City under this chapter may appeal that action to a hearing officer designated by the city manager by completing an appeal form and delivering the form to the city manager no later than:
1. For an appeal of a notice of violation, 15 business days after the date of the notice of violation.
 2. For an appeal of the impounding of a vehicle, within the earlier of (i) five business days after learning that the vehicle was impounded or was missing; or (ii) 15 business days after the city mailed notice to the vehicle's registered owner that the vehicle had been impounded.
- B. The hearing officer shall schedule an appeal hearing no more than 20 business days after the date of delivery of the violation appeal form; provided that the time for the hearing may be extended for an additional 10 days at the request of the City.
- C. The appeal hearing shall be conducted informally and may be governed by such rules and procedures as the hearing officer may establish, provided that:
1. Each party may appear in person or by telephone.
 2. Each party may present witnesses and evidence.
 3. Each party or the party's counsel may cross examine opposing witnesses on matters relevant to the issues, impeach witnesses regardless of which party first called the witness to testify, and rebut evidence against the party.
 4. Relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of a common law or statutory rule which makes improper the admission of the evidence over objection in a civil action. Hearsay evidence may be considered provided there are guarantees of its trustworthiness and that it is more probative on the point for which it is offered than any other evidence which the proponent can procure by reasonable efforts.
 5. The hearing shall be open to the public.
 6. An electronic recording shall be made of the hearing.
- D. The hearing officer may exercise independent judgment as to the weight of evidence supporting or refuting the notice of violation or impoundment, and may exercise independent judgment on legal issues raised by the parties.
- E. No later than fifteen days following the hearing the hearing officer shall issue a written decision based on findings and conclusions adopted by the hearing officer. Such findings

must be in writing and must be reasonably specific so as to provide interested persons and, where appropriate, reviewing authorities, a clear and precise understanding of the reasons for the decision entered. The decision, findings of fact and conclusions of law shall be forwarded to all parties to the appeal. The decision shall state that it is a final order and that a party disputing the decision has thirty days to appeal.

- F. If the hearing officer determines there was an insufficient factual or legal basis for impounding a vehicle, the vehicle shall be released to the registered owner or a person that the registered owner has authorized in writing to receive possession of the vehicle and to a refund from the City of any towing and storage fees that were paid.
- G. A final decision issued under subsection E of this section may be appealed to the superior court within thirty days after the date upon which the decision was mailed or delivered to the parties.

10.24.250 Owner of vehicle presumed responsible for violations.

It shall be presumed that a vehicle that is stopped, standing or parked in violation of this chapter has been so operated by its registered owner or a person acting with the consent of the registered owner, the vehicle to which a citation pertains being a public nuisance for which the registered owner holds legal responsibility. That presumption may be rebutted by evidence that the vehicle was being operated at the time of the violation without the consent and beyond the control of the registered owner.

Section 4. Effective date. This ordinance shall be effective immediately upon adoption.

ENACTED this 21st day of June 2016.

ATTEST:



Jennifer Rogers
Acting City Clerk



Daniel Blair, Mayor

Ayes: 7
Nays: 0
Absent: 0
Abstain: 0