

**ORDINANCE NO.13
SERIES 2022**

**AN ORDINANCE AMENDING CHAPTER 3A OF TITLE 7 OF THE VAIL
TOWN CODE, CONCERNING TOWING AND IMPOUNDMENT OF
VEHICLES**

WHEREAS, the Town Council wishes to amend the Vail Town Code to incorporate the procedures set out in Title 42, C.R.S., concerning the towing and impoundment of abandoned motor vehicles.

**NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE
TOWN OF VAIL, COLORADO, THAT:**

Section 1. Section 7-3A-3 of the Vail Town Code is hereby repealed in its entirety and reenacted as follows:

7-3A-3: IMPOUNDMENT:

Any vehicle presumed to be abandoned under C.R.S. § 42-4-1802, as amended, shall be subject to removal and storage by an operator designated by the Town. Removal of the vehicle shall comply with the procedure provided by C.R.S. § 42-4-1803, as amended. The operator may determine the charges for towing and storage of the vehicle to the extent that those charges comply with C.R.S. § 40-10.1-405, as amended.

Section 2. Section 7-3A-4 of the Vail Town Code is hereby repealed in its entirety and reenacted as follows:

7-3A-4: NOTICE; HEARING:

A. Notice: When a vehicle is impounded as authorized by law, and the officer, agent, or other employee responsible for the impoundment knows or is able to ascertain the name and address of the owner, the officer, agent, or employee shall immediately give notice or arrange for notice to be given in writing to the owner of the fact of the removal, the reason for it and the place to which the vehicle has been removed.

B. Post-seizure Hearing:

1. A person with legal entitlement to possession of an impounded vehicle has the right to a post-seizure administrative hearing to determine whether there was probable cause to impound the vehicle. The request for a hearing shall be in writing, and sent within ten (10) days after the notice of impoundment.

2. A hearing shall be conducted before a hearing officer designated by the Town within forty eight (48) hours of receipt of a written

demand from the person seeking the hearing. The sole question before the hearing officer shall be whether there was probable cause to impound the vehicle.

3. "Probable cause to impound" means a state of facts that would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to authorize the removal of the vehicle.

4. The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person had the right to possession of the vehicle. The police department shall have the burden of establishing that there was probable cause to impound the vehicle in question. Failure to attend a scheduled hearing shall be deemed a waiver of the right to such hearing.

5. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing and the registered owner of the vehicle (if not the person requesting the hearing). The decision of the hearing officer is final.

6. If the hearing officer determines that there was no probable cause, the hearing officer shall prepare and date a certificate of no probable cause, copies of which shall be given to the possessor of the vehicle and the police department. Upon receipt of the certificate, the garage or impound lot having custody of the vehicle shall release the vehicle to its possessor. Towing and storage fees shall be paid by the Town in accordance with the arrangements made between the Town and the garage or impound lot. If the possessor fails to present such certificate to the garage or impound lot within twenty four (24) hours of receipt, excluding such days when the garage or impound lot is closed, the possessor shall assume liability for all subsequent storage charges. The certificate shall advise the possessor of such requirement.

Section 3. Section 7-3A-5 of the Vail Town Code is hereby repealed in its entirety and reenacted as follows:

7-3A-5: UNKNOWN OWNER; NOTICE TO STATE

If an officer, agent, or employee of the Town removes a vehicle from a public way and is not able to ascertain the name of the owner thereof, or for any other reason is unable to give the notice to the owner as provided in Section 7-3A-4, and the vehicle is not returned to the owner within a period of three (3) days, the Town Manager shall immediately send a notice to the Colorado Department of Motor Vehicles. The notice shall include a complete

description of the vehicle, the date, time and place of removal, the reason for removal, and the name of the place where the vehicle is stored, with a request that the owner of the vehicle be notified immediately.

Section 4. If any part, section, subsection, sentence, clause or phrase of this ordinance is for any reason held to be invalid, such decision shall not effect the validity of the remaining portions of this ordinance; and the Council hereby declares it would have passed this ordinance, and each part, section, subsection, sentence, clause or phrase thereof, regardless of the fact that any one or more parts, sections, subsections, sentences, clauses or phrases be declared invalid.

Section 5. The Council hereby finds, determines and declares that this ordinance is necessary and proper for the health, safety and welfare of the Town and the inhabitants thereof.

Section 6. The amendment of any provision of the Town Code as provided in this ordinance shall not affect any right which has accrued, any duty imposed, any violation that occurred prior to the effective date hereof, any prosecution commenced, nor any other action or proceeding as commenced under or by virtue of the provision amended. The amendment of any provision hereby shall not revive any provision or any ordinance previously repealed or superseded unless expressly stated herein.

Section 7. All bylaws, orders, resolutions and ordinances, or parts thereof, inconsistent herewith are repealed to the extent only of such inconsistency. This repealer shall not be construed to revise any bylaw, order, resolution or ordinance, or part thereof, theretofore repealed.

INTRODUCED, READ ON FIRST READING, APPROVED, AND ORDERED PUBLISHED ONCE IN FULL ON FIRST READING this 19th day of July, 2022 and a public hearing for second reading of this Ordinance set for the 2nd day of August, 2022, in the Council Chambers of the Vail Municipal Building, Vail, Colorado.

Kim Langmaid, Mayor

ATTEST:

Tammy Nagel, Town Clerk

READ AND APPROVED ON SECOND READING AND ORDERED PUBLISHED
this 2nd day of August, 2022.

Kim Langmaid, Mayor

ATTEST:

Tammy Nagel, Town Clerk