

Article 8
CHAPTER 2

**IMPOUNDMENT; ABANDONED, PUBLICLY KEPT, OR
JUNKED VEHICLES; SLEEPER VEHICLES**

SECTION:

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8-2-1 REMOVAL OF VEHICLES GENERALLY.

Authorized when:

- A.** Members of the police department are authorized to remove or have removed a vehicle to the nearest place of safety, or to a garage designated or maintained by the town, under the circumstances listed here:
 - 1.** When any vehicle is left upon any bridge, causeway, or underpass, where the vehicle is an obstruction to traffic;
 - 2.** When a vehicle upon a street is so disabled as to be an obstruction to traffic, or the person or persons in charge of the vehicle are, by reason of physical injury or otherwise, incapacitated to such an extent as to be unable to provide for its custody and removal;
 - 3.** When a vehicle is being driven upon the streets and is not in proper condition to be driven;
 - 4.** When a vehicle is left on a street and is parked illegally so as to be a hazard or obstruction to the normal movement of traffic, or proper street or highway maintenance, or the collection of trash or other items by any sanitation or recycling collection vehicle;
 - 5.** When a vehicle is in violation of this Code under section 8-2-4;

6. When the driver of the vehicle is taken into custody by the police department and the vehicle would be left unattended, except on private property with the property owner's permission;
 7. When removal is necessary in the interest of public safety because of fire, flood, storm or another emergency reason;
 8. When a vehicle is on public property and is in violation of this Code under section 8-2-6;
 9. When a vehicle is in violation of this Code under section 8-2-7;
 10. Any vehicle failing to display number plates or failing to display the proper number plate or plates assigned to the vehicle under the provision of C.R.S. title 42, as amended, or displaying number plates in a manner as to reasonably indicate a violation of any provision of C.R.S. title 42, or any other provision of state law with respect to motor vehicle number plates, while parked, attended or unattended, or traveling on the streets, highways or roadways of the town;
 11. When a vehicle is parked in a tow-away zone;
 12. When there is probable cause to believe that the driver of a vehicle has never obtained an operator's license;
 13. When there is probable cause to believe that the operator's license of the driver is suspended, revoked, denied or cancelled;
 14. When the officer has reason to believe that the driver is not in rightful possession of the vehicle and the officer cannot verify ownership through readily available methods;
 15. When the law otherwise requires impoundment.
- B.** Town parking enforcement officers, as authorized by the Chief of Police, and code enforcement inspectors can remove or order the removal of a vehicle to a garage designated or maintained by the town, under the circumstances set forth under subsections 8-1-4.A.5, 8 and 11 of this section.
- C.** Members of the police department, the chief building official, code enforcement inspectors, and others authorized by the Town Manager may remove or order the removal of a junked vehicle from private real property pursuant to the nuisance abatement procedures in article 8, chapter 1.
- D.** The Chief of Police or designee shall require the owner of any abandoned, publicly kept, or junk vehicle removed under the authority of this section to pay an

administrative fee of \$50.00 in addition to actual cost of removal as an offset of costs incurred by the police department associated with such removal before authorizing release of the vehicle.

8-2-2 STORAGE AND DISPOSAL.

Whenever an officer removes and impounds or stores a vehicle as authorized in section 8-2-1, such vehicle will be stored or disposed of in accordance with the provisions of C.R.S. §§ 42-4-1804 and 42-4-1805, as amended from time to time.

8-2-3 VEHICLES ABANDONED, KEPT ON PUBLIC PROPERTY, OR JUNKED.

A. DEFINITIONS:

As used in this chapter:

Abandoned or publicly kept vehicle means:

1. Any vehicle left on private property for 48 hours without the consent of the owner or lessee of such property or his or her legally authorized agent;
2. Any vehicle left on private property without the consent of the owner or lessee of the property or his or her legally authorized agent when such private property has been posted to give notice that any vehicles left on the private property without permission may be towed at the owner's expense. Such notice shall be posted with signs visible to ordinarily observant persons on the property;
3. Any vehicle, left on public property, including any portion of a highway, street, or other right-of-way for 48 hours or longer;
4. Any sleeper vehicle or trailer parked on public property, including any portion of a highway, street, or other right-of-way, for a period longer than 48 hours, except as follows:
 - a. Trailers owned by bona fide contractors for the purpose of storing or moving materials, tools, or equipment necessary to make repairs or alterations on private property may be left for a limited time, not to exceed 180 days, on the block face and the block face on the opposite side of the street of a particular parcel of private property where such repairs or alterations are actively occurring, if the owner of such trailer or trailers posts a conspicuous dated notice, including the address of the job site and contact information, or a copy of their building permit, on the street side of each such trailer.

5. Any vehicle parked in an alley within the Town because parking in alleys is strictly prohibited.

Junked means any vehicle which:

1. Does not bear valid, unexpired license plates, unless of a type specifically exempted from motor vehicle licensing by the laws of the State of Colorado; or
2. Is wrecked, damaged or substantially dismantled to the extent that such vehicle is inoperable; or
3. If designed to be capable of moving itself when in proper repair, is incapable of being moved under its own power in its existing condition, or does not have all tires inflated.

Property means any real property within the town which is not a street, alley, or highway.

Sleeper vehicle means a vehicle that is designed, intended and used for purposes of temporary living accommodation for recreation, camping and travel, including but not limited to, a camper coach, camper trailer, motor home, multi-purpose trailer, trailer coach, fifth wheel trailer, pop-up trailer, camper van, travel trailer, truck camper, and bus camper. For the purposes of this definition, a truck topper accessory (also known as a camper shell) that is not higher than eight (8) inches above the truck cab when installed shall not be considered a recreational vehicle.

Street or highway means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

Trailer means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle to carry its cargo load wholly upon its own structure and that is generally and commonly used to carry and transport property over the public highways.

Vehicle means a machine propelled by power other than human power, and includes sleeper vehicles, trailers and other equipment designed to be carried upon or towed behind such powered vehicle, designed to travel along the ground by use of wheels, treads, runners or slides, or upon such vehicle, and transport persons or property or pull machinery, and shall include, without limitation, automobile, airplane, truck, trailer, camper, motorcycle, motor scooter, recreational vehicle, tractor, buggy and wagon.

8-2-4 ABANDONMENT AND PUBLIC KEEPING PROHIBITED.

- A. It is unlawful to abandon or publicly keep any vehicle in the town.
- B. Savings. This chapter shall not render lawful any act or omission prohibited under any other section of the Municipal Code or any other applicable law.
- C. Exceptions. This prohibition shall not apply to vehicles used by on-duty public safety personnel in performance of their official duties; or by state or town staff or contractors, or utility company staff or contractors, performing construction or maintenance activities under state or town authorization.

8-2-5 JUNKED VEHICLES PROHIBITED—EXCEPTIONS.

It is unlawful for any person to permit any junked vehicle to be left upon any street, highway, public property or, being the owner or tenant in possession of any real property in the town, to cause or permit any junked vehicle to be put upon or kept upon any real property in the town, except that this section shall not apply to the following conditions, which shall constitute an affirmative defense:

- A. The vehicle is located upon the premises of a lawfully zoned vehicle repair or vehicle storage business; or
- B. The vehicle is stored within a completely enclosed structure; or
- C. In nonresidential areas, the vehicle is screened by a concealing fence not less than six feet in height and otherwise complying with town ordinances applicable to such fence, rendering the vehicle not visible to persons on adjacent private or public property to the extent concealment can be reasonably obtained under the conditions of topography and other attendant circumstances; or
- D. A maximum of one vehicle per lot or parcel of real property is permitted if the vehicle is currently undergoing repair or is awaiting the settlement of an insurance claim, provided the vehicle is removed or brought into compliance within 90 days; or
- E. A vehicle which is determined to be a motor vehicle collector's item as defined and regulated by Colorado Revised Statutes 42-12-101, as amended, so long as the keeping and storage of such motor vehicle is in compliance with said statute.

8-2-6 RESTRICTIONS ON STORAGE OF VEHICLES—OWNERSHIP REQUIREMENTS.

The storage of junked vehicles as authorized by subsections 8-2-5.C and E shall be permitted only as to vehicles owned by the occupant of the premises upon which such vehicle is located, or by members of the immediate family of the occupant.

8-2-7 SLEEPER VEHICLE REGULATIONS

- A.** Except as provided in subsection C of this section, no person shall use any sleeper vehicle for temporary or permanent living, sleeping, housekeeping or preparation of food while parked or stopped on any public right-of-way or on private property within the Town.
- B.** Up to two (2) sleeper vehicles may be parked on private property for which the principal use is either single-family or two-family residential if such sleeper vehicles are registered to or owned by the owner or occupant of such private property and are located at least three (3) feet back from the sidewalk or the front property line where no sidewalk exists.
- C.** The owner or occupant of any property located in a zone district for which the principal use is residential may allow guests traveling in a sleeper vehicle to park their sleeper vehicle on such owner or occupant's property for a maximum period of seven (7) consecutive days if the sleeper vehicle is parked at least three (3) feet back from the sidewalk or the front property line where no sidewalk exists. Guest sleeper vehicle parking shall be limited to one (1) seven-day period per vehicle in twelve (12) consecutive months; provided, however, that the Town Manager or his/her designee may grant an extension for not more than seven (7) additional days upon written request by the owner or occupant of the property where the sleeper vehicle is parked.

8-2-8 ENTRY OF PRIVATE PROPERTY.

The chief of police of the police department, any police officer, or any designee appointed by the chief of police for the purpose of enforcing this chapter, is authorized to go on private property for the purpose of making an investigation of any violation of this chapter and for the purpose of determining ownership and condition of any motor vehicle reasonably appearing to be in violation of any of the provisions of this chapter.

8-2-9 WAIVER OF LIABILITY.

Neither the chief of police, the town manager, any police officer, their designees, or any person acting under their direction or control shall be liable or responsible in any manner to the owner of the vehicle, the person claiming to be the owner of a motor vehicle, or any other person, for or on account of any damage to the motor vehicle or other property, or the loss or damage of or to any property which may be contained within the motor vehicle as a result of towing, storing or disposing of the motor vehicle pursuant to the provisions of this chapter.

8-2-10 OWNER'S OPPORTUNITY TO REQUEST HEARING—PUBLIC TOW.

- A.** When any vehicle is towed or removed pursuant to this chapter, the police department shall, in addition to other notification requirements applicable to motor

vehicles under the laws of the state, within ten regular business days after receipt of the report from the Colorado Department of Revenue, or ascertainment of ownership of vehicles not subject to the Colorado reporting procedures, notify by certified mail or personal service the owner of record, if ascertained, of the owner's opportunity to request a hearing concerning the legality of the towing or removal of the abandoned, publicly kept, or junked vehicle, and that the request for hearing shall be submitted to the Wiggins Municipal Court. Such request shall be made in writing within 20 days of the mailing of such notice.

- B.** The court shall schedule a hearing on the matter within 30 days of the date of the request, and the hearing shall be conducted according to due process standards applicable to administrative hearings.
- C.** If it is determined at the hearing that the vehicle was illegally towed or removed following the direction and authority of the police department in disregard of the standards for junked and abandoned or publicly kept vehicles stated in this chapter, all towing and removal charges and storage fees assessed against the vehicles shall be forgiven or paid by the town; however, nothing shall relieve the owner of the obligation to mitigate the costs involved by prompt retrieval or disposal of the property.
- D.** If the court sustains the legality of the towing or removal, an administrative hearing fee of \$25.00 shall be assessed against the owner requesting the hearing.
- E.** All appeals of the decision of the court shall be in accordance with Rule 106(a)(4) of the Colorado Rules of Civil Procedure.