



**TOWN OF RED CLIFF, COLORADO  
ORDINANCE NO. 1, SERIES 2017**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF RED CLIFF,  
COLORADO, AMENDING TITLE 8 OF THE RED CLIFF MUNICIPAL CODE  
REGARDING PARKING ENFORCEMENT AND TOWING.**

WHEREAS, the Town of Red Cliff, Colorado (“Town”) is a municipal corporation and body politic organized under the laws of the State of Colorado and possessing the maximum powers, authority, and privileges to which it is entitled under Colorado law; and

WHEREAS, the Town, by virtue of its status as a statutory town, may adopt ordinances relative to local municipal matters as may be necessary to effectuate the purposes and intents of the powers granted to municipalities, including regulating parking and traffic within the Town; and

WHEREAS, the Town has seen a rise in parking violations and abandoned vehicles within the Town; and

WHEREAS, said parking violations and abandoned vehicles impair the Town’s ability to maintain Town streets in a safe, timely, and efficient manner; and

WHEREAS, the Town Board of Trustees (“Board”) now desires to amend Chapter 8 of the Red Cliff Municipal Code regarding the Town’s parking and abandoned vehicle regulations.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF RED CLIFF, COLORADO, AS FOLLOWS:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the Town Board.

2. Amendment. The following sections of the Red Cliff Municipal Code are hereby repealed in their entirety and reenacted as set forth below. All other sections of Chapter 8 not expressly amended herein shall remain unchanged and in full force and effect.

**Sec. 8-2-70. Violation; Penalty.**

(a) Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by Articles 1 or 2 of this Chapter, the officer or other designee authorized to enforce the provisions of said Articles shall take the vehicle’s registration number and any other information displayed on the vehicle which may identify its

user or owner and shall conspicuously affix to such vehicle a parking citation. Said parking citation shall include the following information:

- i. The name and address of the owner of the vehicle if known by the officer or designee at the time of issuance of the citation;
- ii. The vehicle's license plate number;
- iii. The nature of the offense, including a reference to the Code section violation;
- iv. The approximate location of the vehicle at the time of the violation;
- v. The amount of the penalty prescribed for the cited offense;
- vi. The time period within which the penalty must be paid, how payment of said penalty shall be made, and the consequences of failing to make said payment;
- vii. A statement that paying the penalty set forth in the parking citation constitutes an admission of liability for the violation;
- viii. The date and time the citation was issued; and
- ix. The name of the person issuing the citation.

(b) Any person receiving a parking citation described in (a), above, shall pay the assigned penalty within 30 days of the date of the citation or contact the Municipal Court clerk within said time to contest the parking citation.

(c) If a parking citation is not paid within 30 days of the issuance of said citation, the Municipal Court clerk, Town Clerk, or person who issued the citation shall mail a notice to the registered owner of the vehicle, setting forth the nature of the parking violation, the time and place where it occurred, directing the payment of the penalty assessment and any additional penalties within 30 days of the date of the notice, and the time, place, and location where such person shall appear in court in the event the penalty is not paid as provided in the notice.

(d) Any person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of this Article 2 shall be fined in the amount of \$50.00. Payment of said fine shall constitute an admission of liability for the violation.

(e) The amount of the fine set forth in (a) shall automatically increase by \$50.00 if not paid within 30 days of the date of issuance of a parking ticket or citation.

(f) A violation of the provisions of this Article 2 shall be deemed a noncriminal traffic offense.

(g) The provisions of this Section shall apply to any violation of Article 2, Chapter 8 that occur within the Town and shall supersede any penalty provisions for parking violations set forth in the Model Traffic Code.

#### **Sec. 8-2-60 Snow Removal and Road Maintenance.**

The Town will periodically post signs temporarily prohibiting parking in designated locations for the purposes of allowing the Town to remove snow from Town streets or perform road maintenance. It shall be a violation of this article for any person to stop or park a vehicle in any manner in contravention of any posted sign temporarily prohibiting parking in designated

**Sec. 8-3-10 Impoundment authorized.**

Whenever any police officer or person authorized by the Board of Trustees (“Authorized Designee”) finds a vehicle, attended or unattended, standing upon any portion of a street or upon any place within the Town in such a manner as to constitute a violation of any section of this Chapter, or left unattended for a period of 72 hours or more and presumed to be abandoned under the conditions prescribed by Section 42-4-1802, C.R.S., the officer or Authorized Designee shall require the vehicle to be removed or cause it to be removed and placed in storage in the garage or other place of safety designated or maintained by the Town, and the charges for towing and storage of such vehicle shall be charged to the owner of the vehicle in addition to an administration fee, the charges for which shall set by resolution of the Board of Trustees. (Ord. 89-3; Ord. 7 §1, 2010)

**Sec. 8-3-20 Impoundment Notice.**

(a) Whenever a police officer or Authorized Designee removes a vehicle and causes it to be impounded as authorized by law, said officer or Authorized Designee shall send written notice to the registered owner of the towed vehicle, any person who holds a lien against the vehicle, and any other person who claims an interest in said vehicle, provided that the Town has actual knowledge of said person’s claim and his or her address. Said notice shall include the following information:

- i. an explanation of the circumstances of the tow, including the reason for the tow, the location from which the vehicle was towed, and the place to which the vehicle was towed;
- ii. that each person receiving the notice has the opportunity to request a post-seizure hearing, in writing, within 10 days of the postmark date of the notice;
- iii. that the vehicle will be released upon satisfactory proof of ownership or entitlement to possession and payment of all towing, storage and administration fees;
- iv. that the vehicle may be sold if not claimed within 30 days; and
- v. the name, address, and phone number of the person to contact to recover the vehicle.

Said notice shall be sent within 3 days of the tow if the necessary name and address information is known or ascertained within that time or, if it is not, then within 10 days of receiving such information from the state Department of Revenue pursuant to Section 8-3-30.

(b) As to any vehicle impounded pursuant to this Chapter by or at the request of a police officer or Authorized Designee, a person who is legally entitled to possess the vehicle has right to a post-seizure administrative hearing to determine whether there was probable cause to impound the vehicle. If such person files a written demand with the Town within 10 days of the mailing date of the notice described in (a), above, the Town will schedule a post-seizure hearing. Said hearing shall be conducted before the Board of Trustees or a hearing officer designated by the Board within 48 hours of receipt of a written demand therefor from the person seeking the hearing, unless such person waives the right to a speedy hearing. Saturdays, Sundays, and holidays are to be excluded from the calculation of the 48-hour period. The Board of Trustees or hearing officer shall be someone other than the person who directed the impounding and storage of the vehicle. The sole question before the hearing Board of Trustees or hearing officer shall be whether there was probable cause to impound the vehicle in question. Probable cause to impound shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to grant legal authority for the removal of the vehicle.

person waives the right to a speedy hearing. Saturdays, Sundays, and holidays are to be excluded from the calculation of the 48-hour period. The Board of Trustees or hearing officer shall be someone other than the person who directed the impounding and storage of the vehicle. The sole question before the hearing Board of Trustees or hearing officer shall be whether there was probable cause to impound the vehicle in question. Probable cause to impound shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to grant legal authority for the removal of the vehicle.

(c) The Board of Trustees or 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 has the right to possession of the vehicle. The Police Department or Authorized Designee shall have the burden of establishing that there was probable cause to impound the vehicle in question. At the conclusion of the hearing, the Board of Trustees or 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 different). The decision of the Board of Trustees or hearing officer in no way affects any criminal proceeding in connection with the impounding question or any criminal charges involved in such proceeding which may only be challenged in the appropriate court. The decision of the Board of Trustees or hearing officer is final. Failure of the registered or legal owner or his or her agent to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

(d) The Board of Trustees or hearing officer shall only determine that, as to the vehicle in issue, either: (1) there was probable cause to impound the vehicle; or (2) there was no such probable cause. In the event that the Board of Trustees or hearing officer determines that there was no probable cause, the Board of Trustees or 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 possessor's copy of such certificate, the official authorized garage or impound lot having custody of the vehicle shall release the vehicle to its possessor. Upon the finding of no probable cause, towing and storage fees shall be paid by the Town in accordance with the arrangements made between the Town and the authorized garage or impound lot. If the possessor fails to present such certificate to the impound lot having custody of the vehicle within 24 hours of its receipt, excluding such days when the impound lot is not open for business, the possessor shall assume liability for all subsequent storage charges. Such certificate shall advise the possessor of such requirement. (Ord. 89-3; Ord. 7 §1, 2010).

### **Sec. 8-3-30 Impoundment Notice to the State.**

Whenever an officer or Authorized Designee removes a vehicle from a public way and does not know or is not able to ascertain the name of the owner and/or lienholder thereof, or for any other reason is unable to give the notice to the owner as provided in Section 8-3-20 above, and in the event the vehicle is not returned to the owner within a period of 3 days, the Town shall immediately send or cause to be sent a written report of the removal by mail to the state Department of Revenue whose duty it is to register motor vehicles. The notice shall include a complete description of the vehicle, the date, time and place of removal, the reason for the removal, the name and location of the garage or other place where the vehicle is stored, and a request that the Department provide ownership and lienholder information for said vehicle to the Town. (Ord. 89-3; Ord. 7 §1, 2010)

3. Repeal. Any ordinance of the Town of Red Cliff or part thereof whose provisions are in conflict with this Ordinance is hereby repealed.

4. Severability. Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof, and the remainder of this Ordinance shall continue in full force and effect.

5. Effective Date. Pursuant to C.R.S. § 31-16-105, this Ordinance shall become effective thirty (30) days after publication following final passage hereof.

INTRODUCED, TITLE READ IN FULL, APPROVED ON FIRST READING AND ORDERED POSTED IN FULL THIS 21<sup>ST</sup> DAY OF FEBRUARY, 2017. A public hearing on the SECOND READING of this Ordinance No. 1, Series 2017, will be held at the regular meeting of the Board of Trustees of the Town of Red Cliff on the 7<sup>th</sup> day of March, 2017, at 7:00 p.m. in the Town Hall of the Town of Red Cliff.

BOARD OF TRUSTEES OF TOWN OF  
RED CLIFF, COLORADO


  
\_\_\_\_\_  
Anuschka Bales, Mayor

ATTEST:

  
\_\_\_\_\_  
Barb Smith, Town Administrator/Clerk

ADOPTED AND ORDERED PUBLISHED by a vote of \_\_\_ to \_\_\_ at a duly noticed public meeting held by the Town of Red Cliff Board of Trustees on this 7<sup>th</sup> day of March, 2017.

BOARD OF TRUSTEES OF THE TOWN  
OF RED CLIFF, COLORADO

  
\_\_\_\_\_  
Anuschka Bales, Mayor

ATTEST:

  
\_\_\_\_\_  
Barb Smith, Town Administrator/Clerk