

TOWN OF BUENA VISTA, COLORADO

**ORDINANCE NO. 8
(SERIES OF 2016)**

AN ORDINANCE OF THE TOWN OF BUENA VISTA, COLORADO, REPEALING AND REINSTATING ARTICLES III AND IV, CHAPTER 8 AND AMENDING SECTIONS 7-39, 16-4, 16-161, AND 16-243 OF THE BUENA VISTA MUNICIPAL CODE REGARDING ABANDONED AND INOPERABLE VEHICLES ON PUBLIC AND PRIVATE PROPERTY.

WHEREAS, the Town has encountered issues with enforcing its current regulations regarding inoperable and abandoned vehicles on both private and public property;

WHEREAS, the Board of Trustees recognizes the need to update to the Town's regulations to prevent the nuisance caused by inoperable and abandoned vehicles; and

WHEREAS, the Board of Trustees finds that updating the Town's inoperable and abandoned regulations is in the best interests of the Town and its residents.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF BUENA VISTA, COLORADO:

Section 1. Sec. 7-39 of the Buena Vista Municipal Code is hereby repealed.

Section 2. Article III, Chapter 8 of the Buena Vista Municipal Code is hereby repealed and reinstated as follows:

ARTICLE III PARKING OF VEHICLES

Sec. 8-41. - Definitions.

As used in this Article, unless the context otherwise requires:

- (a) Abandoned vehicle means:
- (1) Any motor vehicle left unattended on private property without the consent of the owner or lessee of such property;
 - (2) Any motor vehicle left unattended on public property, including any portion of a highway right-of-way, within the corporate limits of the Town, for a period of seventy-two (72) hours;
 - (3) Any vehicle that meets the definition of inoperable vehicle pursuant to Sec. 8-41(b); or
 - (4) Any motor vehicle stored in an impound lot at the request of its owner, the owner's agent or a law enforcement agency and not removed within

seventy-two (72) hours from the time the law enforcement agency notifies the owner that the vehicle is available for release upon payment of the applicable charges or fees.

- (b) Inoperable vehicle means any vehicle that is mechanically or legally inoperable or requires repairs in order to be operable, or is unable to move under its own power. A presumption shall exist that vehicles are inoperable when:
 - (1) One (1) or more tires are flat or wheels missing;
 - (2) Components of the vehicle which are essential for its operation or control are missing, damaged or deteriorated; or
 - (3) Any vehicle that is not licensed and registered as required by Article 3, Title 42, C.R.S., for a period greater than thirty-one (31) days.
- (c) Improved parking surface means concrete, asphalt, pavers, gravel, crushed rock or similar composite. The parking surface must be constructed to control dust, drainage and prevent spillage on to adjacent properties or public right of ways.
- (d) Off highway vehicle shall have the same meaning as C.R.S. § 33-14.5-101.
- (e) Public property means any real property having its title, ownership, use or possession held by the federal government, the State, County, Town or any other governmental entity of the State.
- (f) Private property means any real property which is not public property.
- (g) Screened means not visible by someone standing at ground level from outside of the property on which a subject vehicle is located. The placing, draping or securing of a tarpaulin or other non-rigid cover over or around an inoperable vehicle shall not be sufficient to comply with the requirements of this Article.
- (h) 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.
- (i) Vehicle means a device that is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks. Vehicle includes, without limitation, a bicycle, electrical assisted bicycle, or EPAMD (electric personal assisted mobility device), but does not include a wheelchair, off-highway vehicle, snowmobile, farm tractor, or implement of husbandry designed primarily or exclusively for use and used in agricultural operations or any device moved exclusively over stationary rails or tracks or designed to move primarily through the air.

Sec. 8-42. - Parking on Private Property

The purpose of this Section is to limit and restrict the parking of vehicles within the Town on private property to provide restrictions to avoid injury and hazards to children and other attracted to such vehicles, devaluation of property values upon adjoining residents and property owners.

- (a) Vehicles in a front yard must be on an improved parking surface or designated driveway. Vehicles parked in a side or rear yard shall be parked on an improved parking surface.
- (b) It is unlawful and declared a nuisance to do any of the following:
 - (1) To park on landscaped surface or grass yard areas;
 - (2) To park, store, or accumulate or to permit the parking, storage or accumulation of inoperable vehicle(s) on private property within Town, except as otherwise permitted in this Article; or
 - (3) To park or store an abandoned vehicle, except as expressly allowed herein.
- (c) Up to two (2) inoperable vehicles may be located on a residential property if they are parked in an enclosed building or in a side or rear yard and effectively screened from public view or adjacent properties.
- (d) One motor vehicle which is a collector's item or parts car as defined in C.R.S. § 42-12-401 and which is licensed and stored in compliance with the provisions of state law, in particular C.R.S. § 42-12-401, is allowed. No more than one collector's vehicle shall be kept outside of a building on any one property. Any inoperable collector's item or parts car shall be stored in a manner so that it is screened from the view of any adjacent street, alley or neighboring property.
- (e) This Section shall not apply to a vehicle or part thereof that is stored or parked in a lawful manner on private property in connection with the business of a licensed towing service facility, in a licensed vehicle repair garage yard, in a licensed vehicle body repair shop, in a licensed fuel station yard, or in a licensed vehicle dealership yard, or any other lawful vehicle related business area.

Sec. 8-43. - Parking on Public Property

- (a) It shall be unlawful to park or store an abandoned vehicle on any public property or public right of way, except as permitted by Sec. 8-43(b).
- (b) It shall be unlawful to park or store any vehicle undergoing repair or work upon any public property or public right of way for a period in excess of twenty four (24) hours.
- (c) The public right of way shall include the full width of the right of way which may be beyond the visible road surface.

Section 3. Article IV, Chapter 8 of the Buena Vista Municipal Code is hereby repealed and reinstated as follows:

ARTICLE IV TOWING AND IMPOUNDMENT OF VEHICLES

Sec. 8-71. - Definitions.

The terms in this Article shall have the same meanings as found in Article IV, Chapter 8 of this Code unless designated otherwise.

Sec. 8-72. - Applicability.

The provisions of this Article shall apply to the towing, impoundment and sale of abandoned motor vehicles within the Town. Except as expressly modified hereby, the provisions of C.R.S. § 42-4-1801 *et seq.*, as amended, shall apply to the towing, impoundment and sale of abandoned motor vehicles found on public property within the Town and the provisions of C.R.S. § 42-4-2101 *et seq.*, as amended, shall apply to the towing, impoundment and sale of abandoned motor vehicles found on private property.

Sec. 8-73. - Authority to tow and impound vehicles.

- (a) Interference with traffic or street maintenance. Whenever any police officer finds a vehicle, attended or unattended, standing upon an portion of a street, alley or highway right-of-way within the Town in such a manner or under such conditions as to interfere with free movement of traffic or proper street, alley or highway maintenance, such officer is authorized to cause such vehicle to be removed and placed in storage in the Town's designated storage facility. The Town, the officer or anyone acting under the officer's direction shall not be liable for any damage to any such vehicle occasioned by such removal.
- (b) Abandoned vehicles on public property. Whenever any police officer finds a motor vehicle which he or she has reasonable grounds to believe has been abandoned standing upon any public property within the Town, such officer shall make a reasonable effort to locate the owner or lawful custodian of such vehicle and require such person to remove the vehicle. If the owner or lawful custodian fails to remove such vehicle within one (1) hour after receiving directions to do so, or if the owner or lawful custodian cannot reasonably be located, the officer shall require such vehicle to be removed and placed in storage in the Town's designated storage facility.
- (c) Abandoned vehicles on private property. In the event of the abandonment of a vehicle on private property of another, the owner of such property shall notify the Police Department. The Police Department shall follow the procedures in C.R.S. § 42-4-2101 *et seq.*, as amended.

Sec. 8-74. - Post-impoundment procedures.

The Town shall follow the post-impoundment procedures in C.R.S. § 42-4-1801 *et seq.*,

and C.R.S. § 42-4-2101 *et seq.*, as applicable and amended, including the procedures for any hearing requested by the owner of the towed vehicle. The hearing shall be conducted by the Municipal Judge.

Section 4. Sec. 16-4 of the Buena Vista Municipal Code is hereby amended by the deletion of the definitions of Antique Vehicle and Junked Vehicle and the addition of the following definition:

Inoperable Vehicle shall have the same meaning as Sec. 8-41 of this Code.

Section 5. Sec. 16-4 of the Buena Vista Municipal Code is hereby amended by the revision to the following definition:

Open sales lot or yard means an accessory use consisting of a defined area or site used exclusively for the retail display and sale of new or used motor vehicles, trailers, agricultural or other mechanized equipment or machinery, boats and recreational vehicles or equipment utilized in association with a principal retail commercial use, but excluding the display, stockpiling or keeping of junk or inoperable vehicles.

Section 6. Sec. 16-161(10) of the Buena Vista Municipal Code is hereby amended to read as follows:

Open sales yards for the retail sale of automobiles, trucks, boats, trailers, recreational vehicles, farm machinery and equipment, but excluding the unenclosed storage of inoperable vehicles or inoperable equipment or materials.

Section 7. Sec. 16-243 of the Buena Vista Municipal Code is hereby amended to read as follows:

Junkyards are prohibited in all zone districts within the Town. This prohibition shall apply to private as well as commercial lots and uses, and shall encompass the unenclosed storage of inoperable vehicles.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 24th day of May, 2016.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: 

Mayor, Joel B. AOC

ATTEST:



Janell Sciacca, Town Clerk

