



Town of Avon, Colorado
Vehicle Impoundment License Application

Remit Application to Town Clerk's Office
 100 Mikaela Way, P.O. Box 975 Avon, CO 81620
 Telephone 970-748-4000 / Fax 970-949-9139

NEW LICENSE #:

Date of Application:

New License Fee (NonRefundable Fee): \$400
Annual Renewal Fee: \$150

(renewal fee due upon anniversary of the date of issuance)

Avon Municipal Code: Chapter 5.12- Vehicle Impoundment (towing and booting):
No wrecker shall respond to the scene of an accident or emergency for the purpose of towing a vehicle and no parking enforcement company may engage in booting operations without first having obtained a license from the Town Clerk's Office.

Business Type: (Please Circle One) Booting Towing Booting and Towing

Legal Name:
Please Print Clearly

D / B / A = Doing Business As:

Local Contact Person **Local Phone Number** **Local Fax Number**

Local contact information is required as it is very pertinent to the Avon Police Department,
 Eagle River Fire & Protection District & Dispatch when notifying the business in case of any emergency.

If applicable:

Corporate Contact Person **Corporate Phone Number** **Corporate Fax Number**

Location of Storage Lot:

Business Physical Location (include street name, number, building name, suite)

Local Mailing Address **Corporate Mailing Address (if applicable)**

**THE FEDERAL IDENTIFICATION NUMBER AND COLORADO PUBLIC UTILITIES COMMISSION PERMIT NUMBERS
 ARE REQUIRED BEFORE PROCESSING YOUR APPLICATION FOR TOWING**
 Your wrecker business must be registered with the Colorado Public Utilities Commission.

Federal ID Number

Permit No. from Colorado Public Utilities Commission
 (please provide a copy of the permit)

MUST SUBMIT CERTIFICATE OF INSURANCE COVERAGE WITH THIS APPLICATION / PROOF OF INSURANCE IS REQUIRED BEFORE PROCESSING YOUR APPLICATION

Wrecker companies must comply with the Colorado Public Utilities Commission required coverage of public liability and property damage insurance.

Parking Enforcement Companies are required to have public liability and property damage insurance providing coverage of at least \$1M per occurrence.

Insurance Company Name:

Insurance Policy Number:

VEHICLE IMPOUNDMENT EMPLOYEE BACKGROUND FORM

Section 5.12.030 outlines the investigation and criminal background check that is required for this applicant and employees. Within three (3) days of hiring a new operator the Licensee shall require the employee to appear at the Avon Police Dept. to complete a background check.

Number of Full Time Employees

Number of Part Time Employees

Please attach a list of the names of people who work for your company.



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EMERGENCY CONTACT INFORMATION

Local Person(s) to contact in case of Emergency (Include name of Alarm Company, if applicable)

Name Address Phone # (after hours)

This box must be completed in full or the issuance of this license may be delayed or denied.

Organization Type (Please Circle One)

Sole Proprietor Corporation Partnership LLC

List Partners, Officers of LLC or Corporation:

<u>Name</u>	<u>Address</u>	<u>Phone #</u>
1.		
2.		
3.		
4.		

Additional Questions

- | | | |
|---|-----|----|
| 1. Will this business be operated out of your home as a home office / home occupation? | Yes | No |
| 2. This business was formerly operated by: | | |
| 3. Do you have a branch outside the Town limits? | Yes | No |
| 4. List any additional locations within Town of Avon. | | |
| 5. Date this business started / will start operation in Avon? | | |
| 6. I have read and agree to abide with Chapter 5.12 & Rules of the Avon Municipal Code? | Yes | No |

I hereby certify that the statements made on this application are true and correct to the best of my knowledge.

Printed Name/Owner: _____ Date of Birth: _____

Signature of Owner: _____ Date: _____

Applications for License may be denied if this form is not complete.

For Town of Avon Use Only (Do not write in this box)

Date Application Received in Town Clerks Office _____

Fee Paid via cash or check number: _____

Date forwarded to APD for Background Check: _____

Date due back to Town Clerk's Office (within 15 days): _____

Date returned to Town Clerk's Office: _____

Recommendation for Approval or Denial From Avon Police Department:

Reasons for denial: _____

Please note: Final approval will be given when results from CBI background checks have been completed; this may take up to 60 days.

Attachments to this Application Form include the following:

- 1 Town of Avon Ordinance No. 09-10 Adopting Regulations for Vehicle Impoundment (12 pages)
If application is denied, appeal process can be found in Ordinance Section 5.12.040
- 2 Rules and Regulations Governing Towing Companies (3 pages)
- 3 Rules and Regulations Governing Parking Enforcement Companies (3 pages)
- 4 **Vehicle Impoundment Employee Background Form (1 page) submit this form w/ application**
- 5 Name of Parking Enforcement Company Form (1 page)
- 6 Name of Parking Enforcement Company Address Form: Vehicle Immobilization Log (1 page)
- 7 Parking Enforcement Guidelines

**TOWN OF AVON, COLORADO
ORDINANCE NO. 09-10
SERIES OF 2009**

**ADOPTING REGULATIONS FOR BOOTING VEHICLES ON PRIVATE PROPERTY
THROUGH THE REPEAL AND REEACTMENT OF CHAPTER 5.12 OF THE AVON
MUNICIPAL CODE AND ADOPTING PENALTIES FOR VIOLATIONS**

WHEREAS, private property owners within the Town desire to hire private parking enforcement companies to enforce their parking regulations; and

WHEREAS, such enforcement methods include, but are not limited to, the placement of an immobilizing device, commonly known as a “Denver Boot”, on the wheel of a vehicle (“booting”); and

WHEREAS, the use of booting by private parking enforcement companies is not currently regulated by the State of Colorado and the District Attorney for the Fifth Judicial District in the State of Colorado has issued an advisory opinion that booting of a vehicle by a private party without the consent of the vehicle owner constitutes Second Degree Criminal Tampering pursuant to C.R.S. §18-4-506 and criminal motor vehicle tampering pursuant to C.R.S. §42-5-03; and

WHEREAS, pursuant to C.R.S. §31-15-103 and §31-15-104, and pursuant to the home rule powers of the Town of Avon (the “Town”), the Town Council has the power to adopt ordinances for promotion and preservation of public health, safety, and welfare, including the authority to regulate parking enforcement companies that immobilize and boot motor vehicles without the consent of the owner of the motor vehicle within the municipal limits of the Town; and

WHEREAS, booting companies perform a function similar to that of commercial towing companies and the Town desires to hold booting companies to standards similar to commercial towing companies; and

WHEREAS, the Town Council finds that enactment of regulations that license and permit parking enforcement companies and permit the limited use of immobilization and booting of motor vehicles will enhance the ability of private property owners to enforce parking regulations on their property, which will thereby improve the function of private parking areas and compliance with parking requirements for developed properties as approved and regulated by the Town under the Town’s land use regulations, and therefore the Town Council finds that passage of this Ordinance will promote and preserve the health, safety and welfare of the Avon community;

NOW THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF AVON, COLORADO the following:

SECTION 1. RECITALS INCORPORATED. The above and foregoing recitals are incorporated herein by reference and adopted as findings and determinations of the Town Council.

SECTION 2. ENACTED. Chapter 5.12 of the Town of Avon Municipal Code is hereby repealed in its entirety and re-enacted to read as follows:

**CHAPTER 5.12
Vehicle Impoundment**

5.12.010 Definitions.

As used in this Chapter, the following words and terms shall be defined as follows:

Boot or *Booting* means to place any immobilization device upon a motor vehicle not registered to the person or company placing the immobilization device, for purposes of parking violation enforcement.

Chief means the Chief of Police of the Town, or his or her designee or designees.

Operator means any person operating a towing vehicle or applying an immobilization device.

Normal business hours means 8:00 AM to 5:00 PM, Monday through Friday, excluding holidays recognized by the Town of Avon.

Parking enforcement company means any person, operator, property owner, property manager or company who immobilizes or boots a vehicle for the purpose of enforcing private property parking rules or otherwise protecting private property from trespass by a vehicle.

Towing list means a list maintained by the Police Department containing the names of those wreckers licensed by the Town who are to be requested by the Police Department to respond to the scene of accidents or emergencies involving vehicles.

Towing vehicle means any vehicle used by a wrecker for the towing or transporting of other vehicles (or other property) in the course of his or her business.

Town manager means the Town Manager of the Town of Avon and his or her designee or designees.

Wrecker means a person or company engaged in the business of, or offering the services of, a vehicle wrecker or towing service, whereby motor vehicles are or may be towed or otherwise removed from one place to another by the use of a motor vehicle adapted to and designed for that purpose.

5.12.020 License – application – fee.

(a) No wrecker shall have his or her name included on the towing list of the Town and be requested by the Police Department to respond to the scene of an accident or emergency for the purpose of towing a vehicle without first having obtained a license from the Town Clerk.

(b) No parking enforcement company desiring to boot vehicles within the Town of Avon may engage in booting operations without first having obtained a license from the Town Clerk.

(c) Any license application for a wrecker or parking enforcement company, other than a renewal thereof, shall be accompanied by a nonrefundable application fee in the amount of four hundred dollars (\$400.00). All applications for licenses, including renewal, shall be made upon forms provided by the Town Clerk. The wrecker or private enforcement company license application fee shall also serve as the business license fee for the Town of Avon. Any wrecker or parking enforcement company that has paid a business license fee and that has been issued a business license by the Town of Avon on or prior to May 1, 2009 which is in good standing and has not expired, shall not be required to submit a license application fee in order to obtain a license in accordance with the provisions of this Chapter 5.12 but shall be subject to the renewal provision set forth herein.

(d) An applicant for a parking enforcement company license that is a corporation, partnership, association, firm or other business entity shall include verification that the person designated on the application is authorized to represent such business entity and hold the wrecker or parking enforcement license on behalf of the business entity.

5.12.030 License – application – investigation.

Upon receipt of a license application and application fee under Section 5.12.020, the Town Clerk shall forward the application to the Chief, who shall conduct such investigation and criminal background check as is necessary to determine:

(a) That the applicant is a fit and proper person to conduct or work in the proposed business, and has not been convicted of theft or embezzlement, any offense involving the unlawful use, taking or conversion of a vehicle belonging to another person, or a felony, or if the applicant is a corporation, that its officers, directors and principal stockholders are of good character and of good business repute and have not been convicted of theft or embezzlement, any offense involving the unlawful use, taking or conversion of a vehicle belonging to another person, or a felony;

(b) That a wrecker applicant has received and has currently in force a permit to operate as a towing carrier from the Colorado Public Utilities Commission. The failure of a wrecker to maintain a valid permit from the Public Utilities Commission shall be grounds for denial of a license, or, if a license is in effect at

the time, shall be grounds for revocation or suspension of the license as provided in Section 5.12.090;

(c) That the wrecker or parking enforcement company has adequate, safe equipment and an adequate recordkeeping system and can otherwise comply with the rules and regulations promulgated by the Chief as provided in Section 5.12.080; and

(d) That the wrecker has currently in force public liability and property damage insurance or surety bond providing coverage sufficient to meet the requirements of the rules and regulations of the Colorado Public Utilities Commission governing towing carriers; that the parking enforcement company has public liability and property damage insurance or surety bond providing coverage of at least \$1,000,000.00 per occurrence.

5.12.040 License – application – decision - appeal.

The Chief shall return the application form to the Town Clerk within fifteen (15) days together with his or her recommendation for the grant or denial of the license. The Chief shall state the reasons for a recommendation of denial. The Town Clerk shall then grant or deny the license as the circumstances warrant. The applicant for a wrecker or parking enforcement company license may appeal a decision by the Town Clerk to deny a license to the Town Council. A request for appeal shall be provided in writing to the Town Clerk within ten (10) days of the date of denial of the license application. The Town Council shall consider an appeal of the Town Clerk's decision to deny a wrecker or parking enforcement company application within thirty five (35) days of receipt of a proper and timely written request to appeal a denial decision. The decision of the Town Council shall be final.

5.12.050 License – grounds for denial, suspension or revocation.

It shall be grounds for denial, suspension or revocation of a wrecker or parking enforcement company license for any person to knowingly provide false information to the Town Clerk or to the Chief in or in conjunction with an application for a license.

5.12.060 License – annual renewal fee.

The annual license renewal fee for a wrecker or parking enforcement company shall be one hundred fifty dollars (\$150.00) due upon the anniversary of the date of issuance of the business license for such wrecker or parking enforcement company.

5.12.070 License may not be required – emergencies.

The Chief may permit wreckers not licensed by the Town to be called by the Police Department to the scene of disasters, accidents or other emergencies when, in the opinion of the Chief, the public health, safety and welfare require that such action be taken.

5.12.080 Rules and regulations.

The Chief shall, within seven (7) days after the enactment of the ordinance codified in this Chapter, set forth in writing such rules and regulations governing the conduct of wreckers or parking enforcement company as are deemed necessary to ensure the inhabitants of and other persons within the Town safe, efficient and dependable towing or parking enforcement service. These rules shall include, but not be limited to, the following:

(a) Equipment. The Chief shall specify equipment at least the equivalent of that required by the rules and regulations of the Colorado Public Utilities Commission governing towing carriers for wreckers and such other necessary equipment as determined by the Chief. Parking enforcement company vehicles are required to be clearly marked with the business name and Avon license number and must have a blinking amber light on the top of or above the vehicle when engaged in booting operations and the operators are required to wear reflective traffic safety vests.

(b) Records. The Chief shall require sufficient record keeping to ensure compliance with the terms of this Chapter and the rules and regulations as promulgated.

(c) Personnel. The rules shall specify such steps as are necessary to determine that the operators and employees of the wrecker or parking enforcement company are of good character and otherwise fit to participate in towing or booting operations within the Town, which shall be determined according to the same standards for applicants set forth in 5.12.030 above. Employees engaged in parking enforcement shall display a picture identification card containing: the employee's picture, the employee's name, the employer's name, and the Avon business license number.

(d) Rates. Rates shall be determined by the following procedures and requirements:

(1) A schedule of reasonable rates to be charged by wreckers operating on the Town's towing list shall be established by the Town Manager and it is unlawful for any wrecker to charge rates other than as set forth in said schedule whenever such wrecker provides towing service in response to a call from the Police Department. The schedule of rates shall be set forth as a part of the rules and regulations governing wreckers provided that such rates shall not be less than the permissible rates published by the Public Utilities Commission as may be

amended from time to time. The Town Manager shall annually review the rate schedule to determine its adequacy and appropriateness and shall make such changes as he or she deems necessary. In setting or revising rates, the Town Manager shall give consideration to the rates charged for similar services in the County. The rate schedule as set forth in the rules and regulations shall not apply to towing services conducted by a wrecker when his or her services are not rendered as a result of a request by the Police Department.

(2) A wrecker shall not charge rates higher than what is allowed by the Colorado Public Utilities Commission for non-consensual tows. A parking enforcement company shall not charge a boot removal fee higher than seventy-five percent (75%) of the rate allowed by the Colorado Public Utilities Commission for the non-consensual tow of a motor vehicle with a GVWR of less than 10,000 pounds when requested to remove the boot.

(3) If the owner, authorized operator, or authorized agent of the owner of a motor vehicle that is parked without the authorization of the property owner attempts to retrieve the motor vehicle while the wrecker or booting operator is still with the vehicle, a "drop charge" shall not be higher than what is established by the Colorado Public Utilities Commission.

(4) There shall not be any boot removal fee assessed if the boot cannot be removed within ninety (90) minutes from the time of the request for removal by the vehicle owner or vehicle owner's designee. Any dispute regarding the time frame proscribed herein may be refuted based on the phone records for the parking enforcement company. A boot applied at the direction of a Town of Avon police officer shall be released at the direction of a Town of Avon police officer.

(e) Authority of Chief. The Chief shall from time to time formulate, publish and promulgate such other rules and regulations as are reasonably necessary to effectuate the purpose of this Chapter, including, but not limited to the type of security required at the vehicle storage location, the hours during which the vehicle storage location will be open for the redemption of vehicles by their owners, the persons to whom towed vehicles may be released and the procedures to be followed in connection with the release of towed vehicles and the payment of fines, towing fees and storage charges. Any rules and regulations promulgated by the Chief shall not conflict with or materially change any provision of this Chapter 5.12. The Chief may initiate a request for proposal and select a designated wrecker service or parking enforcement company to provide service for police requested impounds. The Chief shall post notice of any proposed rules in the official places of posting notices adopted by the Town, shall post notice on the Town's website, and shall mail notice to all licensed wrecking and parking enforcement companies at least twenty (20) days prior to adoption of such proposed rule or regulation by the Chief and the Chief shall consider all comments received on the proposed rules and regulations prior to taking any

action to adopt the proposed rules and regulations. The Chief shall provide written notice of adoption of any rules and regulations to all persons who provide comments in writing along with a copy of the adopted rules or regulations and a statement that persons with standing (defined as residents, property owners or business owners in Avon) may appeal the decision to adopt the rule or regulation to the Town Council. Any person with standing may appeal the decision of the Chief to adopt a rule or regulation by providing a request to appeal the decision in writing to the Town Clerk within ten (10) days of the date of adoption of the rule or regulation by the Chief. Failure to provide a request (defined as received by the Town) to appeal a rule or regulation adopted by the Chief within ten (10) days shall be deemed a forfeiture and waiver of all rights to appeal such decision to the Town Council. The Town Council shall consider all appeals of the decision of the Chief to adopt a rule or regulation which are properly and timely provided to the Town and Town Council's action shall be final. During the pendency of an appeal, the proposed rule or regulation shall not take effect.

5.12.090 Suspension or revocation – procedure.

Upon a showing that a wrecker or parking enforcement company has violated the provisions of this Chapter, a Hearing Officer's order or the rules and regulations provided for in Section 5.12.080, the Town Council may suspend for a period of up to six (6) months or revoke the license of any wrecker or parking enforcement company. Prior to taking any action to suspend or revoke a wrecker or parking enforcement company license, the Town shall provide at least ten (10) days prior written notice to the licensee stating the grounds and allegations for any action to suspend or revoke a license and the Town Council shall conduct a hearing thereon. Service of the notice shall be by personal service upon the wrecker or parking enforcement company or his or her agent or by registered mail, return receipt requested, sent to the business address of the operator as shown on his or her license. The decision of the Town Council shall be final.

5.12.100 Written authorization to tow/immobilize – required – exceptions.

No wrecker or parking enforcement company licensed by the Town and no operator shall commence or originate the towing or immobilization of a vehicle within the Town without the written consent of the registered owner, legal owner, person in control, driver or the authorized agent of any of them, or other person having a legal right to possession of the vehicle, or from a police officer, save and except under the following circumstances:

(a) A tow which is otherwise lawful may be commenced or originated by a person engaged in the business of towing vehicles provided that such person notifies the Police Department of the Town within thirty (30) minutes of the tow. Such notification shall include a description of the vehicle to be towed, the license plate and VIN number if legible, the time of the tow, the destination of the tow and the reason for which the vehicle is being towed.

(b) The owner or person in lawful possession of private property, or the agent or employee of either of them, may give written consent to have a parked vehicle towed from such property when the vehicle is parked or obstructing a private driveway or is on private property, without the express or implied consent of the owner or person in lawful control of such a vehicle and shall comply with the requirements of Subsection (a) of this Section 5.12.100 relating to notification of the Police Department when the vehicle is towed.

(c) The owner or person in lawful possession of private property, or the agent or employee of either of them, shall give written consent to a parking enforcement company to immobilize vehicles for the purpose of parking violation enforcement without the express or implied consent of the owner or person in lawful control of such vehicle. The consent shall list the specific enforcement that is required and the procedure to determine that a violation has occurred. A copy of the written consent shall be given to the police department. Parking enforcement companies and owners or persons in lawful possession of private property shall not boot or immobilize vehicles on the basis of expired license plates. The parking enforcement company operator shall maintain a daily log of the cars that are booted by license plate, VIN number if legible, location, date and time and provide that log to the Avon Police Department before the end of the business day following immobilization of a vehicle during normal business hours.

(d) Private parking lots which contain one (1) or more parking spaces and for which the property owner or designee use booting or towing of vehicles for parking enforcement shall post a conspicuous sign on the property. Such sign will provide notice, with reflective background, that unauthorized vehicles will be booted or towed, and shall comply with the adopted rules and regulations for signage.

5.12.110 Written notice of tow/immobilize – rates and hours.

(a) Notwithstanding any other provision of this Chapter, a licensed wrecker shall receive a written authorization from the person authorizing a tow, prior to the commencement of a tow originating within the Town, which authorization shall list the services offered and the rates and charges required therefore. A copy of such authorization shall be furnished to the person authorizing the tow. Such copy shall list the name, address and telephone number of the wrecker's business and the days and hours the business is open for the release of vehicles. Such copy shall also be signed by the towing vehicle operator performing the authorized service.

(b) After a boot is placed on any vehicle, the parking enforcement company shall:

(1) Provide a notice affixed to the vehicle in a conspicuous and obvious manner containing the name, address, telephone number, and license number of the

parking enforcement company that placed the boot on the vehicle, the amount of the boot removal fee, the right to have the boot removed within ninety (90) minutes of contacting the parking enforcement company, the name of the property owner or manager authorizing the boot, the signature of the parking enforcement company operator or designee, and a description of the right to request a post-seizure hearing under this Chapter 5.12;

(2) Maintain personnel authorized to remove any boot and release any vehicle to its owner or driver upon the payment of any boot removal fee during such times as required in this Chapter; and,

(3) Provide a receipt upon payment to the individual making the payment for removal of the boot or release of the vehicle, listing the fees and advisement of the right to request a post-seizure hearing for vehicle immobilization per 5.12.120.

(c) A parking enforcement company or wrecker shall not charge fees in excess of the fees as listed in the fee schedule for booting or towing a vehicle.

(d) A parking enforcement company or wrecker shall not charge any fee related to the impoundment of a vehicle that is not listed in the fee schedule.

(e) Charges for damages to booting equipment shall not be governed by this section and shall not prevent the vehicle's release if scheduled fees are satisfied. Damages or loss to parking enforcement equipment will be investigated using other municipal and state statutes related to theft or criminal injury to property.

(f) The Town is authorized to audit the fees charged by a parking enforcement company or wrecker licensed to do business in the Town of Avon upon reasonable notice and at reasonable times for the purpose of verifying compliance with this Chapter 5.12.

5.12.120 Postseizure hearing.

(a) The owner of a vehicle that has been immobilized pursuant to this article has a right to a "post-seizure" administrative hearing in accordance with this Section 5.12.120 to determine whether there was probable cause to impound the vehicle.

(1) The hearing shall be petitioned and conducted in the same manner as outlined in Title 10 of the Avon Municipal Code.

(2) The parking enforcement company shall have the burden to establish that there was probable cause to impound or immobilize the vehicle.

(3) The losing party shall be assessed a minimum hearing cost of one hundred dollars (\$100.00) and shall be required to pay for translation services, if used during the hearing. The Hearing Officer has the discretion to waive court costs.

(b) When a vehicle is immobilized by a parking enforcement company the vehicle owner or driver shall be informed of their right to a post-seizure hearing with the following written statement:

The vehicle was booted by the property owner for a private property parking violation as outlined in Avon Municipal Code, Title 5. The Town of Avon was not involved in the action. The owner or operator of the vehicle may request a hearing by one of the following methods:

(1) by providing a written request to the Municipal Court Clerk for a post-seizure hearing to contest the booting within ten (10) days of the date the vehicle was booted; or

(2) by appearing in person at the Municipal Court within a ten (10) calendar day period from the date on which the boot was placed on the vehicle and requesting an initial appearance before a Hearing Officer.

5.12.130 Expired License Plate

It shall be unlawful for a parking enforcement company to boot or immobilize a vehicle on the basis of an expired license plate.

5.12.140 Compliance required.

It shall be unlawful for any private property owner or designee to immobilize any motor vehicle that is trespassing or infringing upon the real property rights of that property owner without complying with this Chapter 5.12 and upon conviction thereof shall be guilty of a misdemeanor and shall be punished in accordance with the provisions of Section 1.08.010 of this Code.

SECTION 3. CODIFICATION AMENDMENTS. The codifier of the Town's Municipal Code, Colorado Code Publishing, is hereby authorized to make such numerical and formatting changes as may be necessary to incorporate the provisions of this Ordinance within the Avon Municipal Code. The Town Clerk is authorized to correct, or approve the correction by the codifier, of any typographical error in the enacted regulations provided that such correction shall not substantively change any provision of the regulations adopted in this Ordinance, such corrections may include spelling, reference, citation, enumeration, and grammatical errors.

SECTION 4. SEVERABILITY. If any provision of this Ordinance, or the application of such provision to any person or circumstance, is for any reason held to be invalid, such invalidity shall not affect other provisions or applications of this Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable. The Town Council hereby declares that it would have passed this Ordinance and each provision thereof, even though any one of the provisions might be declared unconstitutional or invalid. As used in this Section, the term "provision" means and includes any part, division,

subdivision, section, subsection, sentence, clause or phrase; the term “application” means and includes an application of an ordinance or any part thereof, whether considered or construed alone or together with another ordinance or ordinances, or part thereof, of the Town.

SECTION 5. EFFECTIVE DATE. This Ordinance shall take effect seven days after public notice following final passage in accordance with Section 6.4 of the Avon Home Rule Charter.

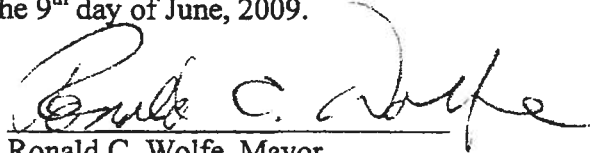
SECTION 6. SAFETY CLAUSE. The Town Council hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town of Avon, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Town Council further determines that the Ordinance bears a rational relation to the proper legislative object sought to be obtained.

SECTION 7. NO EXISTING VIOLATION AFFECTED. Nothing in this Ordinance shall be construed to release, extinguish, alter, modify, or change in whole or in part any penalty, liability or right or affect any audit, suit or proceeding pending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing which may have been incurred or obtained under any ordinance or provision hereby repealed or amended by this Ordinance. Any such ordinance or provision thereof so amended, repealed or superseded by this Ordinance shall be treated and held as remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions, for the enforcement of such penalty, liability, or right and for the enforcement of such penalty, liability, or right and for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits or proceedings, or prosecutions imposing, inflicting or declaring such penalty or liability or enforcing such right, and shall be treated and held as remaining in force for the purpose of sustaining any and all proceedings, actions, hearings and appeals pending before any court or administrative tribunal.

SECTION 8. PUBLICATION BY POSTING. The Town Clerk is ordered to publish this Ordinance by posting notice of adoption of this Ordinance on final reading by title in at least three public places within the Town and posting at the office of the Town Clerk, which notice shall contain a statement that a copy of the ordinance in full is available for public inspection in the office of the Town Clerk during normal business hours.

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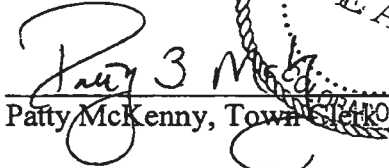
INTRODUCED, APPROVED, PASSED ON FIRST READING, ORDERED POSTED AND REFERRED TO PUBLIC HEARING and setting such public hearing for 5:30 p.m. on the 23rd day of June, 2009, at the Council Chambers of the Avon Municipal Building, located at 400 Benchmark Road, Avon, Colorado, on the 9th day of June, 2009.



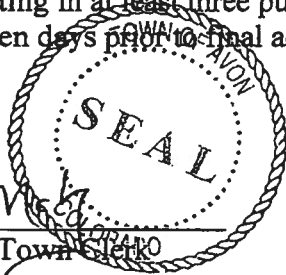
Ronald C. Wolfe, Mayor

Published by posting in at least three public places in Town and posting at the office of the Town Clerk at least seven days prior to final action by the Town Council.

ATTEST:



Patty McKenny, Town Clerk



APPROVED AS TO FORM:

Eric Heil, Town Attorney

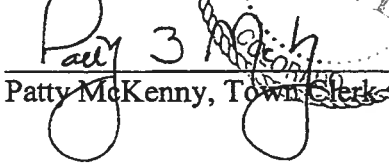
INTRODUCED, FINALLY APPROVED, AND PASSED ON SECOND READING, AND ORDERED PUBLISHED BY POSTING on the 23rd day of June, 2009.



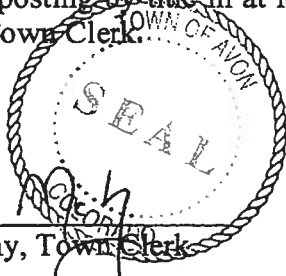
Ronald C. Wolfe, Mayor

Published by posting by title in at least three public places in Town and posting by title at the office of the Town Clerk.

ATTEST:



Patty McKenny, Town Clerk



**Rules and Regulations Governing Towing Companies
Town of Avon Municipal Code, Chapter 5.12**

PERSONNEL:

1. The Licensee and any employees, who will tow/impound vehicles at the direction of the Avon Police Department shall read Chapter 5.12 of the Avon Municipal Code and associated rules and agree to abide by the ordinance. These employees will be referred to as “operators”.
2. Operators shall provide good treatment to the public and prompt response to calls for service.
3. Within Three (3) days of hiring a new operator the Licensee shall require the employee to appear at the Avon Police Department to complete the Vehicle Impoundment Employee Background Form.
 - a. The employee shall provide a valid U.S. government or state issued identification card with a picture.
 - b. A valid Colorado driver’s license of the proper class shall be required if the operator will be required to drive a tow truck.
 - c. The employee will pay for this service in the following manner:
 - i. Total of \$50 in cash or money order made out to the Town of Avon for fingerprinting and background investigation.
 - ii. \$18 money order made out to the Treasury of the United States (fee subject to change).
 - iii. \$16.50 money order made out to the Colorado Bureau of Investigations (fee subject to change).
 - d. The Avon Police will complete the preliminary background check and forward a copy of the form to the Licensee within five (5) days. The form will either approve or deny the employee as an operator. The complete fingerprint results will be completed within sixty (60) days and the Licensee will be notified if a change is required, based on the fingerprint results.
 - e. The licensee may appeal the decision in the same manner as outlined in Section 5.12.040 of the Municipal Code.
4. If the Licensee has knowledge that an operator has been convicted of a felony, theft, embezzlement or any offense involving the unlawful use, taking or conversion of a vehicle belonging to another person, the person shall immediately be removed from operator duties.
5. The Licensee shall notify the Avon Police Department within five (5) days the name of the operator, who is no longer acting in that capacity.
6. The licensee and operators shall report to the Avon Police Department within thirty (30) days of their one year anniversary date as listed on the Vehicle Impoundment Employee Background Form or last CBI Public Request for Arrest Information Form to complete a new CBI Public Request for Arrest Information Form.
 - b. The employee shall bring a money order for \$13.00 made out to the Colorado Bureau of Investigations (fee subject to change).

RECORDS:

1. The Tow Company shall maintain a copy of the Avon Police Vehicle Impound/Recovery Report for a period of one year.
 - a. The name, address and phone number of the person who the vehicle was released to will be documented on the form.
 - i. The company shall verify that the person is entitled to the vehicle.

- ii. The person should have a current registration, driver's license and certificate of insurance prior to release.
 - 1. If the vehicle is towed from the premises a current registration and certificate of insurance is not required.
 - iii. The Company will ensure all holds placed on the impounded vehicle are cancelled by the Avon Police Department prior to release of the vehicle.
 - b. If the vehicle was entered into CCIC, the Police Department shall be notified when the vehicle was released so it may be removed from CCIC.
- 2. A receipt shall be given to the individual making payment for the release of the vehicle. The receipt shall list the fees collected. The company shall keep a copy of the receipt for one year (this only fulfills the requirement of these rules. Other laws may require maintenance of records for a longer period).
- 3. A list of fees for towing service will be provided to the Town of Avon at the time of application or renewal or upon request.
- 4. Fees shall not be higher than what is allowed by the Colorado Public Utilities Commission.
- 5. The Licensee shall maintain an employee file for each operator for the term of employment or until one year has passed from separation for the purpose of verifying compliance with these rules and shall contain a copy of the background investigation form.

EQUIPMENT:

- 1. Trucks shall have equipment specified by the Public Utilities Commission, which shall include:
 - a. Broom, shovel and bucket to removed Debris from the roadway at a crash scene
 - b. Oil absorbing materials
 - c. Properly working emergency lights
 - d. Spot light behind the cab
 - e. Electric flashlight
 - f. Fire extinguisher
 - g. Portable tail/stop and turn lights
 - h. Wheel chocks/dead-man blocks
 - i. Flares and safety triangles
 - j. Webbing and strapping
- 2. Trucks are subject to police inspection at a vehicle crash scene once the scene is safe.
- 3. Operators shall wear reflective traffic safety vests.

OPERATIONS:

- 1. Operators shall follow the reasonable directions of a police officer or firefighter at the scene of a crash.
- 2. Operators may request police assistance for traffic control if required to be in the roadway.
- 3. As outlined in Colorado Revised Statutes, the operator will remove debris from the roadway.
- 4. Operators shall verify the inventory/damage listed on the Avon Police Department Vehicle Impound/Recovery Report when taking possession of the vehicle.
 - a. The same information shall be verified when releasing the vehicle.
- 4. The company assumes full responsibility and liability for all property entrusted to it, including all property and equipment thereof.

IMPOUND:

1. The storage area shall be fenced with security precautions sufficient to protect any vehicles or property contained therein.
 - a. Person claiming their vehicles should be able to do so during reasonable hours in compliance with PUC rules, and the hours of operation shall be posted at the designated storage area.
 - b. The company's designated storage area shall have signs clearly identifying the Company including a twenty-four hour contact number.
2. The Police Department shall be contacted if any items of illegal contraband are found in an impounded vehicle or if there is an allegation of property loss or damage.
3. Non-consensual impounds shall follow PUC rules and vehicle information shall be reported to the Vail Police Dispatch within 30 minutes of the seizure.

**Rules and Regulations Governing Parking Enforcement Companies
Town of Avon Municipal Code, Chapter 5.12**

PERSONNEL:

1. The Licensee and any employees of the parking enforcement company, who will immobilize vehicles or collect impound fees shall read Chapter 5.12 of the Avon Municipal Code and associated rules and agree to abide by the ordinance. These employees will be referred to as “operators”.
2. Within Three (3) days of hiring a new operator the Licensee shall require the employee to appear at the Avon Police Department to complete the Vehicle Impoundment Employee Background Form.
 - a. The employee shall provide a valid U.S. government or state issued identification card with a picture.
 - b. A valid Colorado driver’s license shall be required if the operator will be required to drive a vehicle.
 - c. The employee will pay for this service in the following manner:
 - i. Total of \$50 in cash or money order made out to the Town of Avon for fingerprinting and background investigation.
 - ii. \$18 money order made out to the Treasury of the United States (fee subject to change).
 - iii. \$16.50 money order made out to the Colorado Bureau of Investigations (fee subject to change).
 - d. The Avon Police will complete the preliminary background check and forward a copy of the form to the Licensee within five (5) days. The form will either approve or deny the employee as an operator. The complete fingerprint results will be completed within sixty (60) days and the Licensee will be notified if a change is required, based on the fingerprint results.
 - e. The licensee may appeal the decision in the same manner as outlined in Section 5.12.040 of the Municipal Code.
3. If the Licensee has knowledge that an operator has been convicted of a felony, theft, embezzlement or any offense involving the unlawful use, taking or conversion of a vehicle belonging to another person, the person shall immediately be removed from operator duties.
4. The Licensee shall notify the Avon Police Department within five (5) days the name of the operator, who is no longer acting in that capacity.
5. Operators, engaged in parking enforcement, shall display a picture identification card containing: the employee’s picture, the employee name, the employer’s name, and the Avon business license number.
6. Operators shall not use or display dogs or weapons in a threatening or intimidating manner.
7. Before the operator is allowed to engage in solo parking enforcement he or she must complete “basic” training by the Licensee that includes (Licensees shall be familiar with these issues):
 - a. Review of ordinance and rules associated with Chapter 5.12
 - b. Discussion of other legal and civil issues related to use of force.
 - c. Methods to defuse hostile confrontations, which may include walking away from the situation and calling the police.
 - d. Court hearing process and rights of the vehicle owner or property owner.

- e. Copy of written consent from property managers outlining the allowable enforcement on their property.
8. The licensee and operators shall report to the Avon Police Department within thirty (30) days of their one year anniversary date as listed on the Vehicle Impoundment Employee Background Form or last CBI Public Request for Arrest Information Form to complete a new CBI Public Request for Arrest Information Form.
 - a. The employee shall bring a money order for \$13.00 made out to the Colorado Bureau of Investigations (fee subject to change).

RECORDS:

1. The parking enforcement company shall affix a notice to a vehicle that has been immobilized as specified in Section 5.12.110. The notice shall contain the name, address, telephone number and license number of the company. It shall also contain the removal fee and right to request a post-seizure hearing and have the boot removed within ninety (90) minutes of contacting the company. The notice shall also list the owner or manager authorizing the boot and signature of the operator.
2. A receipt shall be given to the individual making payment for the boot removal. The receipt shall list the fees collected and advisement of the right to request a post-seizure hearing.
3. The parking enforcement company shall keep a copy of the receipt for one year (this only fulfills the requirement of these rules. Other laws may require maintenance of records for a longer period).
 - a. The company may use a triplicate form to meet the above rules. An example of an acceptable form is attached and may be requested in an electronic format.
4. The operator shall maintain a daily log of the vehicles that are booted and provide that log to the Avon Police Department before the end of the business day following immobilization of a vehicle. The company shall maintain a copy of the logs for one year. An example of an acceptable form is attached and may be requested in an electronic format.
5. The Licensee shall maintain an employee file for each operator for the term of employment or until one year has passed from separation for the purpose of verifying compliance with these rules (other laws may require employee files to be maintained longer). The file shall contain:
 - a. Copy of the Vehicle Impoundment Employee Background Form.
 - b. Proof of "basic" training completed by the licensee.
 - c. Court subpoenas related to vehicle impoundment cases.
6. The owner or person in lawful possession of private property, or the agent or employee of either of them, shall give written consent to the parking enforcement company to immobilize vehicles for the purpose of parking violation enforcement and this shall be maintained by the Licensee. The consent shall include:
 - a. List the specific violations the operator is permitted to immobilize a vehicle for.
 - b. The method to verify and confirm that a violation took place.
 - c. Hours of the day that enforcement is permitted.
 - d. Example of valid permits (if used).
 - e. Method to contact the property manager 24 hours a day to confirm enforcement during disputes.

EQUIPMENT:

1. Vehicles shall be clearly marked with the business name and Avon license number and must have a blinking amber light on the top of or above the vehicle when engaged in booting operations and operators are required to wear reflective traffic safety vests.
2. The Licensee shall maintain an inventory of boots with their serial numbers.
3. The boots shall be marked with the business name.

OPERATIONS:

1. Vehicles may not be immobilized for license plate violations.
2. Government or emergency vehicles shall not be immobilized. If an undercover police vehicle is immobilized it shall be released once identified as such.
3. Vehicles shall only be immobilized in accordance with the consent authorization as specified by the property manger.

SIGNAGE:

1. The attached rules governing the use of signs as approved by the Community Development Department shall be adhered to.
2. Damaged or faded signs shall be replaced in a reasonable time period.

Town of Avon Vehicle Impoundment Employee Background Form

Within three (3) days of hiring a new operator the Licensee shall require the employee to appear at the Avon Police Department to complete a background check. The employee shall provide:

1. A valid U.S. government or state issued identification card with a picture.
2. A valid Colorado driver's license, if the employee will be required to drive.
3. Total of \$50 in cash or money order made out to the Town of Avon
4. \$18 money order made out to the Treasury of the United States
5. \$16.50 money order made out to the Colorado Bureau of Investigations

Employee Last Name:	First Name:	Middle Name:
Date of Birth:	I.D. Type/Number:	
Social Security Number:	DL Number:	
Address:	PO Box:	
City/Zip:	Phone #:	
Company Name:		

I authorize the Avon Police Department to complete my background check for the purpose of verifying compliance with Chapter 5.12 of the Municipal Code. I have not been convicted of a felony, theft, embezzlement or any offense involving the unlawful use, taking or conversion of a vehicle belonging to another person.

Employee Signature: _____ Date: _____

APD Use

- | | | |
|---|-----|-------|
| <input type="checkbox"/> Local Records Check Completed | By: | Date: |
| <input type="checkbox"/> FBI fingerprint results Obtained | By: | Date: |
| <input type="checkbox"/> CBI Fingerprint Results Obtained | By: | Date: |

The employee has been approved to operate in accordance with the provisions of Chapter 5.12 of the Municipal Code. However, this status may change if further information, such as fingerprint results, is received at a later date that would cause a denial.

The employee has been denied authorization to immobilize or tow vehicles within Avon. The employee may come to Avon PD to request the reason and appeal the decision.

APD Vehicle Impoundment Coordinator: _____ Date (Anniversary): _____

(Employee is required to appear at Avon PD within 30 days of one year from the anniversary date to complete an annual records clearance to assure compliance with Chapter 5.12)

Name of Parking Enforcement Company
Address
24 Hour Phone Number:
Avon Business License #:

Vehicle Type/Description:	Vehicle License Plate/State:
Property Name/Location:	Property Owner/Agent Authorizing:
Date/Time of Immobilization:	Signature of Booting Operator:
Violation Type:	Boot #:

This vehicle was immobilized (booted) by the property owner for a private property parking violation as outlined in Avon Municipal Code, Title 5. The Town of Avon was **not** involved in the action. The owner or operator of the vehicle may request a hearing by one of the following methods:

- (1) by providing a written request to the Avon Municipal Court Clerk for a post-seizure hearing to contest the booting within ten (10) calendar days of the date the vehicle was booted; or
- (2) by appearing in person at the Avon Municipal Court within a ten (10) calendar day period from the date on which the boot was placed on the vehicle and requesting an initial appearance before a Hearing Officer.

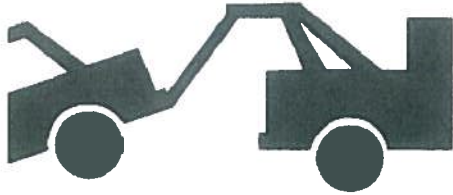
If a hearing is requested, the losing party shall be assessed a minimum hearing cost of one hundred dollars (\$100.00) and shall be required to pay for translation services, if used during the hearing. The Hearing Officer has the discretion to waive court costs.

The Boot may be removed by calling the 24 hour phone number above. Do not attempt to move this vehicle or remove the tire lock. Doing so will cause damage and the violator is liable for damage.

The boot removal fee of \$ _____ shall be paid in cash at the time of boot removal. The boot shall be removed within ninety (90) minutes of contacting the parking enforcement company.

Date/Time of Boot Removal:	Removal Fee Collected:
Signature of Vehicle Owner/Operator (NOT REQUIRED):	Signature of Booting Operator:

Booting Operator Notes:



Town of Avon Parking Sign Guidelines

Property Owners' Rights

According to Avon Municipal Code (10.04.060) (5.12) private property managers have the right to enforce parking restrictions on their property, provided that the property is properly signed.

Type of Signs Allowed

The minimum information must be included in all posted parking signs:

- Parking restriction must be listed on the sign (such as, 2 hour parking or permit only)
- Sign must warn that the vehicle will be impounded.
- Sign must include the phone number of Vail Dispatch (970-479-2200) if towing is used.
- Signs must be approved by the Community Development Department prior to posting.
- All signs should be reflective and 12" x 18" in size.

EXAMPLES

<p>Parking Permit Required</p> <p>↔</p> <p>Violator Vehicles Impounded</p> <p>If Towed call 970-479- 2200</p> <p>Avon Code 5.12</p>	<p>2 Hour Limit</p> <p>↔</p> <p>Violator Vehicles Impounded</p> <p>If Towed call 970-479- 2200</p> <p>Avon Code 5.12</p>	<p>Visitor Only</p> <p>3 Hour Limit</p> <p>↔</p> <p>Violator Vehicles Impounded</p> <p>If Towed call 970-479- 2200</p> <p>Avon Code 5.12</p>
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Posting Signs

- Signs must be posted within the line of sight of the parked vehicle.
- Signs must clearly show, either by placement or use of arrows, the area where parking restrictions are being enforced.
- Signs may not be attached to movable posts or interfere with traffic control devices. In addition, signs shall not list the name of a private business; however, may list the name of the property.

Towing & Booting Instructions

1. Those engaged in towing or booting operations shall be licensed with the Town of Avon.
2. Towed vehicles shall be reported to the Vail Communications within 30 minutes of impound.
3. Vehicles may be booted in accordance with Municipal Code 5.12