



**CITY OF BOULDER
CITY COUNCIL AGENDA ITEM**

MEETING DATE: August 29, 2018

AGENDA TITLE

Request for a “Nod of Five” for staff to develop an ordinance addressing predatory towing.

PRESENTERS

Jane S. Brautigam, City Manager
Thomas A. Carr, City Attorney
Maureen Rait, Executive Director, Public Works
Trish Jimenez, Deputy Director of Public Works for Development Services
Sara Easton, Administrative Services Manager

EXECUTIVE SUMMARY

Council Member Young requested that the Council Agenda Committee schedule a “Nod of Five.” The purpose of the nod of five would be to direct staff to prepare an ordinance addressing predatory towing. The proposed ordinance would mirror existing state regulations. Having a municipal code provision would support more proactive enforcement in the city and allow the city’s municipal prosecutors and municipal court to address violations.

The purpose of this memorandum is to provide council with background to consider this request.

BACKGROUND

Predatory towing can impose a crushing financial burden on a family. Unscrupulous tow truck operators can charge high rates for towing and storage of vehicles. Storage fees can add up quickly and, in some cases exceed the value of a vehicle. Council member Young has asked staff to draft an ordinance that would provide members of the community with protection against such practices. She suggested the following potential provisions:

1. **One-Hour Rule:** A vehicle must be parked for one full hour before being towed unless it is parked in a manner that interferes with an entrance or exit, is within 15 feet of a fire hydrant, or in a fire lane. The curb of a fire lane must be painted red and be clearly labeled “No Parking Fire Lane.”
2. **Unconditional Release:** If a vehicle owner encounters a tower removing his or her vehicle but the truck is not yet on a public road, the owner may demand the immediate and unconditional release of the vehicle. The law does not require the owner to provide a driver’s license.
3. **Reasonable Release Fee:** If the tower releases a vehicle that has been illegally parked, the tower is entitled to no more than one-half his normal towing fee. Local law enforcement can tell you what the normal towing fee is for your area.
4. **Ten-Mile Limit:** A tower cannot take your vehicle to a storage lot that is more than ten miles from where it was parked.
5. **Clearly Posted Warning:** A tower must have written consent from the property owner or his agent, who must have waited one hour before calling for the tow. Also, a sign not less than 17 inches by 22 inches in size should be displayed in plain view at all entrances to the property. It should prohibit public parking and indicate that vehicles will be removed at the owner’s expense, and post the telephone number of the local traffic law enforcement agency and the name and telephone number of each towing company that is a party to a written general towing authorization agreement with the property owner.
6. **Valid Towing Permit (photos, records, no kick-backs):** The tower must have a valid motor carrier permit, shall make records and photographs of each tow available for law enforcement, and shall not share profits from towing with property owners who call for a vehicle removal.
7. **Credit Cards OK:** The tower must accept credit cards in payment for towing and storage fees, which must be reasonable.
8. **Compliance Within 24 Hours = One Day Maximum Storage Charge:** If the appropriate fees are paid within the initial 24 hours of storage and the storage facility fails to comply or is not open during normal business hours, then only one day’s storage fee may be charged.
9. **Reasonable Gate Fee:** The gate fee, or maximum hourly charge for releasing a vehicle after normal business hours, shall be one half the hourly tow rate charged for initially towing the vehicle, or less.

10. Penalty for Excessive Charges: A person who charges a vehicle owner a towing service or storage charge at an excessive rate is liable to the vehicle owner for four times the amount charged.

Current state law includes some, but not all of these protections. Attachment A is the current state rules regulating towing. Drafting the ordinance and enacting the ordinance is not expected to take a great deal of staff or council time.

The following is a very preliminary summary of areas in which there already is state regulation. In the areas in which there is state regulation, if council decides to add a city regulation, staff recommends that the city's provisions be identical to avoid any conflict with state law.

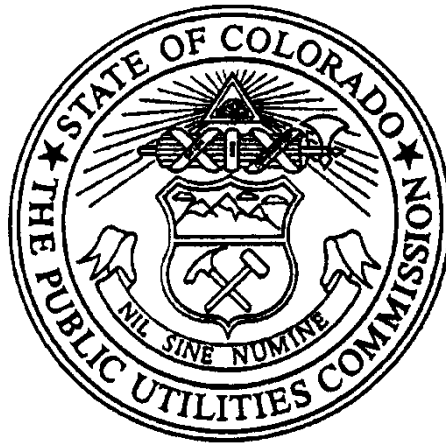
1. One-Hour Rule: There does not appear to be any state regulation in this area.
2. Unconditional Release: Municipalities are authorized to set drop charges.
3. Reasonable Release Fee: Municipalities are authorized to set drop charges.
4. Ten-Mile Limit: No state regulation.
5. Clearly Posted Warning: There are state rules regarding warning signs. The city code should incorporate or rely upon state law.
6. Valid Towing Permit: State law requires permits. There is no anti-kickback provision in state law.
7. Credit Cards OK: State law requires towing companies to accept credit cards.
8. Compliance Within 24 Hours = One Day Maximum Storage Charge: There is an entire state regulatory section dedicated to penalties regarding overcharges.
9. Reasonable Gate Fee: There is an entire state regulatory section dedicated to penalties regarding overcharges.
10. Penalty for Excessive Charges: There is an entire state regulatory section dedicated to penalties regarding overcharges.

ATTACHMENTS

Attachment A – State Towing Rules

TOWING CARRIER RULES
of the
RULES REGULATING TRANSPORTATION
BY MOTOR VEHICLE

723-6-6500.



EFFECTIVE JULY 15, 2017

COLORADO DEPARTMENT OF REGULATORY AGENCIES
PUBLIC UTILITIES COMMISSION

[PROCEEDING NO. 16R-0095TO](#)

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BASIS, PURPOSE, AND STATUTORY AUTHORITY

The basis for and purpose of these rules is to describe the manner of regulation over persons providing transportation services by motor vehicle in or through the state of Colorado. These rules address a wide variety of subject areas including, but not limited to, safety; civil penalties; the issuance, extension, transfer, and revocation of authority to operate as a motor carrier; insurance and permit requirements; tariff and time schedule requirements; the identification, condition, and leasing of motor vehicles; record keeping; and service standards. These rules cover an array of carriers, including common carriers, contract carriers, hazardous materials carriers, towing carriers, movers, limited regulation carriers (charter buses, children's activity buses, luxury limousines, off-road scenic charters, and fire crew transport), and transportation network companies. In addition, these rules cover persons required to register under the Unified Carrier Registration Agreement, pursuant to 49 U.S.C. § 14504a, including motor carriers, motor private carries, freight forwarders, brokers, leasing companies, and other persons.

The statutory authority for the promulgation of these rules can be found at §§ 40-2-108, 40-2-110.5(8), 40-3-101(1), 40-3-102, 40-3-103, 40-3-110, 40-4-101, 40-5-105, 40-7-113(2), 40-10.1-101 through 608; 42-4-235, 42-4-1809(2)(a), 42-4-2108(2)(a), and 42-20-202(1)(a), C.R.S.

TOWING CARRIER RULES

6500. Applicability of Towing Carrier Rules.

- (a) Rules 6500 through 6599 apply to all towing carriers, and to all Commission proceedings and operations concerning towing carriers, applicants, employees, and drivers.
- (b) For a tow and storage of a motor vehicle performed under a written agreement with a municipal, county, state, or federal agency, nothing in these towing carrier rules shall be construed to prohibit such agency, to the extent permitted by law, from adopting and enforcing additional or more stringent requirements relating to towing carrier operations with regard to rules 6506; 6507(a), (c), (d), and (e); 6508; 6509; 6510; and 6512(a), (b), (d), (e), and (f).
- (c) Until January 1, 2018, with regard to rules 6511 (a), (b), (c), (d), (e), and (f), any written agreement regarding a nonconsensual tow may set higher or lower maximum rates than are provided in such rules. On or after January 1, 2018, with regard to rules 6511(a), (b), (c), (d), (e), and (f), any written agreement regarding a nonconsensual tow may set lower maximum rates than are provided in such rules. In the event a written agreement does not set such rates, the Commission's rules will prevail. A written agreement does not include a tow authorization by a law enforcement official given to a towing carrier with which the law enforcement official's agency does not have a written agreement.

6501. Definitions.

In addition to the definitions in rule 6001, the following definitions apply to towing carriers:

- (a) "Abandoned motor vehicle" means an "abandoned motor vehicle" as defined by §§ 42-4-1802(1) and 42-4-2102(1), C.R.S.
- (b) "Authorized agent for the property owner" means a person acting as agent of a property owner.
- (c) "Authorized agent of motor vehicle" means a person, including a towing carrier, who has been given written or oral permission by the owner, lessee, lienholder, or insurance company of a motor vehicle to act as agent for the disposition of said motor vehicle.
- (d) "Authorized operator of a motor vehicle" means a person who has been given written or oral permission to drive a motor vehicle by the owner or lessee of said motor vehicle.
- (e) "Business hours" means 8:00 AM to 5:00 PM, Monday through Friday, excluding legal holidays, and any additional hours and days the towing carrier may designate.
- (f) "Gross vehicle weight rating" or "GVWR" is the maximum operating weight of a vehicle as specified by the manufacturer.
- (g) "Law enforcement officer" means any sheriff, police officer, Colorado state patrol officer, municipal code enforcement officer, or other such person acting in his or her official capacity for enforcement of motor vehicle laws.
- (h) "Legal disability" means the condition of a trailer or semi-trailer that, due to its weight, height, or other size characteristics, is unable to be transported when attached to the vehicle that was pulling it.
- (i) "Nonconsensual tow" means the transportation of a motor vehicle by tow truck if such transportation is performed without the prior consent or authorization of the owner or operator of the motor vehicle. Law enforcement-ordered tows are nonconsensual and subject to these rules,

even when the owner or operator of the vehicle consents to a law enforcement official ordering a tow.

- (j) "Parking lot" means any place, lot, parcel, yard, structure, building or enclosure used in whole or in part for storing or parking five or more motor vehicles.
- (k) "Private property" means any real property that is not public property.
- (l) "Private Property Impound" (or "PPI") means a nonconsensual tow from private property upon authorization of the property owner.
- (m) "Property owner" means:
 - (I) the owner or lessee of the private property or public property;
 - (II) a person who has been authorized in writing to act as an authorized agent for the property owner or lessee of the private property or public property; or
 - (III) a federal, state, county, municipal, or other government entity that is the owner or lessee of the private property or public property, or such entity's employees responsible for such property.
- (n) "Public property" means any real property having its title, ownership, use, or possession held by the federal government; this state; or any county, municipality, or other governmental entity of this state.
- (o) "Recovery" means winching, hoisting, up-righting, removing, or otherwise relocating a vehicle when the vehicle is found in such a location, state or position in which it could not be removed from the location, state or position using only the vehicle's own power, even if it were in complete operating condition. Waiting and site clean-up time are included in recovery services.
- (p) "Towing" is the act of transporting a motor vehicle or trailer on or behind a tow truck.
- (q) "Tow truck" means a motor vehicle specially designed or equipped for transporting another motor vehicle by means of winches, cables, pulleys, or other equipment for towing, pulling, or lifting such other motor vehicle from one place to another.
- (r) "Towing carrier" means a motor carrier that provides, as one of its primary functions, the towing of motor vehicles by use of a tow truck and may also provide storage of towed vehicles.
- (s) "Towing carrier permit" means the permit issued by the Commission to a towing carrier pursuant to § 40-10.1-401, C.R.S.
- (t) "Towing facility" means any place used for the storage of motor vehicles or records in conjunction with the operations of a towing carrier.
- (u) "Trailer" means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly, or in part, upon its own structure and that is generally and commonly used to carry and transport property over the public highways.

6502. [Reserved].

6503. Permit Application.

- (a) In addition to the Commission-prescribed application form, a person must :
 - (I) pay an application fee of \$150.00;
 - (II) cause to be filed the required proof of financial responsibility; and
 - (III) pay the required annual fees or, if applicable, shall be in compliance with the UCR Agreement.

6504. Criminal History Checks.

- (a) This rule applies to principals, including without limitation, directors and officers.
- (b) Qualification determination.
 - (I) Upon the Commission's receipt of results obtained from a criminal history record check, Commission staff shall make a qualification determination regarding the applicant's qualification status. In making this determination, Commission staff is authorized to request from the applicant, and the applicant shall provide, additional information that will assist Commission staff in making the determination. If an applicant either does not provide such additional information requested by Commission staff, or explain why it is unavailable, within 15 days of the request, Commission staff may deny the application.
 - (II) An application shall be denied, if the applicant has:
 - (A) a conviction in the state of Colorado, within the five years preceding the date the criminal history record check is completed, of any class 1, 2, or 3 felony under any Title of C.R.S.;
 - (B) a conviction in the state of Colorado, within the four years preceding the date the criminal history record check is completed, of any class 4, 5, or 6 felony under any Title of C.R.S.; or
 - (C) an offense in any other state or in the United States that is comparable to any offense listed in subparagraphs (A) through (B) within the same time periods as listed in subparagraphs (A) through (B).
 - (III) For purposes of this rule, a deferred judgment and sentence pursuant to § 18-1.3-102, C.R.S., shall be deemed to be a conviction during the period of the deferred judgment and sentence.
 - (IV) The Commission and Commission staff may consult and use any commercially or governmentally available information source in conducting criminal history record checks.
- (c) Commission staff shall not issue a permit to the applicant if a disqualifying criminal history record is found for a person subject to this rule.
- (d) If a disqualifying criminal history record is found for a person subject to this rule, the associated applicant may file a petition to qualify the applicant within 60 days of Commission staff's notification.
 - (I) Upon the filing of a petition for qualification, Commission staff shall be an indispensable party.

- (II) The applicant shall bear the burden of proving that disqualification is not supported by fact or law.
- (e) If the Commission qualifies an applicant upon petition, paragraph (b) shall be waived as to qualification determinations for future applications regarding the events upon which Commission staff's disqualification was based.

6505. [Reserved].

6506. Equipment and Accessories.

In addition to complying with all applicable safety regulations, all towing vehicles shall meet the following minimum requirements:

- (a) Basic towing vehicle requirements.
 - (I) A towing carrier shall equip its towing vehicles with engines, transmissions, differentials, driveline components, brake systems, frames, steering components, and suspensions of sufficiently heavy construction to safely winch, lift, tow, load, and transport the towed motor vehicle.
 - (II) A towing carrier shall maintain its towing vehicles in a manner ensuring the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle.
 - (III) A towing carrier shall ensure that all its towing vehicles have each of the following:
 - (A) a GVWR of at least 10,000 pounds;
 - (B) fender coverings for front and rear wheels;
 - (C) the following operational electric lights:
 - (i) one spotlight, mounted behind the cab, capable of lighting the scene of disability and the motor vehicle to be moved (reverse/back-up lights of the towing vehicle shall not be used in lieu of the spotlight); and
 - (ii) one portable, combination light system capable of being securely attached on the rear of the towed motor vehicle; consisting of (with an equal number on each side) two tail lamps, two stop lamps, and two turn signals; and operated in conjunction with analogous lights on the towing vehicle;
 - (D) one steering wheel tying device free from cracks, fraying, or deterioration; and
 - (E) the following accessories for any towing carrier that performs tows from accident scenes:
 - (i) one shovel; and
 - (ii) one broom.
- (b) Winching, lifting, towing, and carrying equipment shall be maintained in a manner to ensure the safe winching, lifting, towing, loading, and transporting of the towed motor vehicle, and shall include at least one of the following:

- (I) Winch and crane: A power-driven winch and crane with a capacity of not less than 6,000 pounds with a winch cable capable of withstanding a test of not less than 10,000 pounds at breaking point or hydraulic system vehicle lift and a cradle, with a tow plate or sling, equipped with safety chains and chains with J-hooks of sufficiently heavy construction to ensure the safe lifting of the motor vehicle;
 - (II) Wheel-lift system: A wheel-lift system with a stinger, L arm brackets, safety chains and tie-down straps, or a mechanical wheel retainer device forming an integral part of the L-arm bracket, of sufficiently heavy construction to secure the motor vehicle to the wheel-lift unit and to ensure the safe lifting and towing of the motor vehicle; or
 - (III) Rollback system: A rollback system with a winch and cable as described in subparagraph (I) of this paragraph, safety chains, tie-down equipment, and truck bed of sufficiently heavy construction to ensure the safe loading and transporting of the motor vehicle.
- (c) A towing carrier shall not tow a motor vehicle that is so extensively damaged as to be unmovable on its own wheels, unless the towing vehicle is equipped with dollies, a wheel-lift system, or a rollback system of sufficiently heavy construction to ensure the safe loading and towing of the damaged motor vehicle.
 - (d) A towing carrier shall not tow a motor vehicle without attaching required operational electric lights on the rear of the towed motor vehicle. This requirement does not apply to vehicles placed on a flatbed or trailer as long as the vehicle being towed does not extend four feet beyond the rear of the towing vehicle.

6507. Storage Facilities.

- (a) Disclosure of facility location. For nonconsensual tows of a motor vehicle, within 30 minutes of having possession, or such lesser time as may be required by law, a towing carrier shall disclose the location of the storage facility by notifying the responsible law enforcement agency having jurisdiction over the place from which the motor vehicle was towed. Compliance with this paragraph will be considered accomplished if the location of the storage facility was provided to the law enforcement agency in conjunction with obtaining authorization for the tow.
- (b) Disclosure for abandoned motor vehicles. A towing carrier which places an abandoned motor vehicle in a storage facility shall also disclose the location of the storage facility by complying with the procedure for abandoned motor vehicles in Parts 18 and 21 of Article 4 of Title 42, C.R.S.
- (c) Disclosure for all towed motor vehicles. Upon request of the owner, authorized agent, or authorized operator of motor vehicle, a towing carrier which places a motor vehicle in a storage facility shall also disclose the location of the storage facility, the total amount of the charges, and accepted forms of payment, as provided in rule 6512.
- (d) Signage.
 - (I) A towing carrier shall maintain a clearly visible sign at the entrance to any storage facility where a motor vehicle has been towed without the prior consent or authorization of the owner or operator of the motor vehicle. Such sign shall state the name of the business, telephone number, and hours of operation.
 - (II) All signs posted to provide notice pursuant to this rule shall comply with any applicable ordinance. To the extent not inconsistent with applicable ordinance, signs shall also at a minimum:

- (A) be no less than two square foot in size;
 - (B) have lettering not less than two inch in height;
 - (C) have lettering that contrasts sharply in color with the background on which the letters are placed; and
 - (D) be printed in English.
- (e) Lighting for release. A towing carrier shall maintain an area at each storage facility location on file with the Commission with illumination levels during all hours adequate to inspect a vehicle for damage prior to its release from storage.
- (f) Carrier responsibility. A towing carrier is responsible for the security and safety of a motor vehicle towed without the prior consent or authorization of the owner or operator of the motor vehicle until it is released in accordance with these rules.

6508. Authorization for Towing of Motor Vehicles.

- (a) Towing carrier acting as authorized agent for the property owner.
- (I) A towing carrier may act as the authorized agent for the property owner under a written agreement to that effect, provided the agreement is compliant with this paragraph (a). The contract shall contain at least the following information:
- (A) the name, physical address, telephone number, email address (if applicable), and PUC Towing Permit number of the towing carrier;
 - (B) the name, address, email address (if applicable), and telephone number of the property owner;
 - (C) the address of the property from which the tows will originate;
 - (D) the name of each individual person who is authorized to sign the tow authorization;
 - (E) the address and phone number of the storage facility where the vehicle owner may retrieve the vehicle;
 - (F) the beginning date and ending date of the contract;
 - (G) a statement that the maximum rates for a nonconsensual tow from private property, and the maximum drop charge if the vehicle is retrieved before removal from the private property, are set by rule of the Public Utilities Commission;
 - (H) the name, title, phone number, and signature of the person making the contract on behalf of the property owner and on behalf of the towing carrier; and
 - (I) the date the contract is signed.
- (II) Nothing in this paragraph (a) shall preclude a towing carrier, which towing carrier has been paid for the tow by the property owner at proper rates, from collecting the towing charges from the motor vehicle owner and reimbursing said charges to the property owner.

(III) No agency provided for in paragraph 6508(a) shall affect any obligation, liability, or responsibility of the property owner to any third party. Any provision attempting to affect such obligation, liability, or responsibility shall be void.

(b) Authorization to perform nonconsensual tow.

(I) A towing carrier shall not tow any motor vehicle unless one of the following conditions is met:

- (A) the towing carrier is directed to perform a tow by a law enforcement officer;
- (B) the towing carrier is requested to perform a tow by the owner, authorized operator, or authorized agent of the owner of a motor vehicle; or
- (C) the towing carrier is requested to perform a tow upon the authorization of the property owner.

(II) A towing carrier may not come in contact with, hook-up to, or tow a motor vehicle that is occupied, unless the towing carrier is performing rescue or recovery operations for said occupant(s).

(III) A towing carrier may not perform a nonconsensual tow of a motor vehicle, other than an abandoned motor vehicle, from a parking lot unless:

- (A) notice of parking limitations, regulations, restrictions or prohibitions was provided at the time the vehicle was parked; and
- (B) notice is provided that anyone parking in violation of limitations, regulations, restrictions or prohibitions is subject to being towed at the vehicle owner's expense.

(IV) Notice required by this rule is presumed to be met if:

- (A) a permanent sign is conspicuously posted near each entrance to the parking lot; and
- (B) if the parking lot is not provided for residential parking and has more than ten free-standing lampposts on the property, a number of signs equal to the number of lampposts must be posted. Such signs must be posted on each lamppost or posted upright in conspicuous locations which are evenly distributed across the parking lot.

(V) All signs posted to provide notice pursuant to this rule shall comply with any applicable ordinance. To the extent not inconsistent with applicable ordinance, signs shall also at a minimum:

- (A) be no less than one square foot in size;
- (B) have lettering not less than one inch in height;
- (C) have lettering that contrasts sharply in color with the background on which the letters are placed;
- (D) state the restrictions enforced;

- (E) include the name and telephone number of towing carrier; and
 - (F) be printed in English.
- (VI) Property owner authorization. The authorization from the property owner, or authorized agent of the property owner, shall be in writing; shall identify, by make and license plate number (or in lieu thereof, by vehicle identification number), the motor vehicle to be towed; and shall include the date, time, and place of removal.
- (A) The authorization shall be filled out in full, signed by the property owner, and given to the towing carrier before the motor vehicle is removed from the property. The property owner may sign using a verifiable employee identification number or code name in lieu of the person's proper name. If the authorization is signed by the towing carrier as agent for the property owner, then a verifiable employee identification number or code name shall not be used. Documentation of such authority must be carried in the towing truck. At a minimum, such documentation shall contain:
 - (i) the name, address, email address (if applicable), and telephone number of the property owner;
 - (ii) the address of the property from which the tows will originate; and
 - (iii) the name of each individual person who is authorized to sign the tow authorization.
 - (B) A towing carrier shall not have in his or her possession, accept, or use blank authorizations pre-signed by the property owner.
 - (C) The written authorization may be incorporated into the tow record/invoice required by rule 6509 or on any other document.
 - (D) With the exception of law enforcement-ordered tows, a towing carrier that is requested to perform a tow upon the authorization of a property owner or agent of the property owner must immediately deliver the vehicle that is being removed from the property to a storage facility location on file with the Commission without delay. No vehicle may be relocated off of the private property from which it is towed to a location other than to such a storage facility.

6509. Tow Record/Invoice, Charge Notification, and Warning Signage.

- (a) Towing carriers shall use and complete all applicable portions of a tow record/invoice form for all nonconsensual tows whether the vehicle is removed from private property or retrieved before removal (commonly known as a drop). The tow record/invoice form shall contain the following information:
 - (I) the serial number of the tow record/invoice;
 - (II) the name, address, permit number, and telephone number of towing carrier;
 - (III) the address of the storage facility used by the towing carrier, including the telephone number for that storage facility if the number is different than the telephone number of the towing carrier;

- (IV) the date and time of the drop, the date and time the towed motor vehicle is placed in storage, and the date and time the towed motor vehicle is released from storage, as applicable;
 - (V) the make, model, year, vehicle identification number, and, if available, license plate number of the motor vehicle towed;
 - (VI) the origin address of the tow, the destination address of the tow, and the one-way mileage between such addresses;
 - (VII) unless incorporated into the authorization in subparagraph 6508(b)(VI),
 - (A) the name, address, and telephone number of the person authorizing the tow; and
 - (B) the signature of the property owner authorizing a tow;
 - (VIII) if the towed motor vehicle is unlocked, a list of its contents;
 - (IX) the unit number or license number of the towing vehicle;
 - (X) the signature of the towing vehicle operator;
 - (XI) an itemized invoice of all towing charges assessed;
 - (XII) the signature of the owner, authorized operator, or other authorized person to whom the motor vehicle is released; and
 - (XIII) on at least the customer's copy, the following notice in a font size of at least ten: "Report problems to the Public Utilities Commission at (303) 894-2070."
- (b) The towing carrier shall retain the copy of the tow record/invoice bearing all required original signatures for authorization and release, without regard to whether it is maintained in electronic or multi-copy paper form.
 - (c) The towing carrier shall deliver a copy of the tow record/invoice to the owner, authorized operator, or authorized agent of the owner of the motor vehicle at the time of the release of the towed motor vehicle from a storage facility or where dropped for a drop fee, whether payment of towing charge, payment for release, payment for drop charge, or no charge occurred.
 - (d) Towing carriers shall provide a charge notification card to the owner, authorized operator, or authorized agent of the owner of the motor vehicle to be towed if such person is on the property prior to or after commencement of the tow of the vehicle but before the vehicle has been towed off the property. The charge notification card shall contain the Commission-prescribed form and content as available on the Commission's website.
 - (e) A towing carrier may place a warning sign on the driver-side window of a vehicle to be towed or, if window placement is impracticable, in another location on the driver-side of the vehicle prior to the commencement of the tow. The tow-truck warning sign shall be at least eight inches by eight inches, is yellow or orange in color and states the following: "WARNING: This vehicle is in tow. Attempting to operate or operating this vehicle may result in criminal prosecution and may lead to injury or death to you or another person."

6510. Disclosure of Rates and Charges.

- (a) Prior to performing any tow, a towing carrier shall disclose to the owner, authorized operator, or authorized agent of the owner of the motor vehicle all rates and charges to be assessed. This rule does not apply to a nonconsensual tow authorized by the property owner, authorized agent for the property owner, or a tow ordered by a law enforcement officer.
- (b) This disclosure may either be written or oral and shall include, but is not limited to, the following information:
 - (I) any extra charges made necessary because, at the time of the tow, the towing carrier would be unable to deliver the motor vehicle to a repair or body shop during the normal working hours of such repair or body shop;
 - (II) any extra charges made necessary because, at the time of the tow, the towing carrier would be unable to deliver the motor vehicle to a location and at a time agreed upon by the owner, authorized operator, or authorized agent of the owner to take delivery of the vehicle and pay the tow charges; and
 - (III) estimated charges for mileage and storage.

6511. Rates and Charges.

- (a) Drop Charge.
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 appears in person to retrieve the motor vehicle after a tow truck is present and either backed up in alignment with such motor vehicle or tow equipment has come into contact with such motor vehicle, but before its removal from the property:
 - (I) the maximum drop charge (whether motor vehicle is hooked up or not) is:
 - (A) \$70 for a motor vehicle with a GVWR less than or equal to 10,000 pounds;
 - (B) \$90 for a motor vehicle with a GVWR greater than 10,000 pounds and less than or equal to 19,000 pounds;
 - (C) \$120 for a motor vehicle with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds; and
 - (D) \$140 for a motor vehicle with a GVWR greater than 33,000 pounds.
 - (E) Maximum drop charges may be less per municipal ordinance or agreement with the property owner.
 - (II) The minimum drop charge is \$0.00.
 - (III) The towing carrier shall halt any tow in progress, including preparation therefor, prior to removal from the private property, advise the owner, authorized operator, or authorized agent of the owner of a motor vehicle that he or she may offer payment of the towing carrier's drop charge. The towing carrier shall concurrently advise the owner, authorized operator, or authorized agent of the owner of a motor vehicle of acceptable forms of payment under rule 6512. Such advisements shall be provided via delivery of a charge notification card, in addition to any other means desired by the towing carrier.
 - (IV) If the towing carrier does not advise the owner, authorized operator, or authorized agent of the owner of a motor vehicle of acceptable forms of payment under rule 6512 or

accept such forms of payment, the towing carrier shall not charge or retain any fees or charges for the services it performs. Any money collected must be returned to the owner, authorized operator, or authorized agent of the owner of a motor vehicle.

- (b) Maximum towing rates for PPI tows consist of up to four elements: a base rate for the tow; a mileage charge, including any applicable fuel surcharge; a charge for vehicle storage; and a charge for release from storage pursuant to paragraph 6511(f) if applicable.
 - (I) The maximum base rates are as follows:
 - (A) motor vehicles with a GVWR less than or equal to 10,000 pounds is \$180.00;
 - (B) motor vehicles with a GVWR greater than 10,001 pounds and less than or equal to 19,000 pounds is \$210.00;
 - (C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds is \$275.00; and
 - (D) motor vehicles with a GVWR greater than 33,000 pounds is \$325.00.
 - (II) (II) The maximum mileage charge a towing carrier may assess for a PPI tow of a motor vehicle is \$3.80 per mile for each mile that the motor vehicle is towed, subject to the following limits: The maximum mileage that may be charged for a PPI tow is 12 miles for tows within ten miles of either side of U.S. Interstate Highway 25, and 16.5 miles for mountain areas and eastern plains communities that lie farther than ten miles from U.S. Interstate Highway 25.
 - (III) An additional fuel surcharge may be assessed when the price per gallon of diesel fuel exceeds a base rate of \$2.60. The Public Utilities Commission shall, each month, adjust the maximum mileage charge when the price per gallon of diesel fuel exceeds the base rate. The surcharge shall be based on the United States Department of Energy "weekly retail on-highway diesel prices" for the Rocky Mountain region (DOE's Weekly Diesel Price). The fuel surcharge adjustment shall provide a one-percent increase in the mileage rate for every ten-cent increase in the DOE's Weekly Diesel Price, or a one-percent decrease in the mileage rate for every ten-cent decrease in the DOE's Weekly Diesel Price, but in no event decreasing below the base rate.
 - (IV) A towing carrier shall not charge or retain any additional fees for the nonconsensual tow of a motor vehicle from private property.
- (c) Maximum towing rates for law enforcement ordered tows and recovery operations are to be calculated on an hourly basis, per required towing or recovery vehicle, as follows, with no additional fees, charges, or surcharges permitted, except as identified below:
 - (I) Maximum hourly rates for tow truck and driver, billable in ¼ hour increments after the first hour, for the towing or recovery of:
 - (A) motor vehicles with a GVWR less than or equal to 10,000 pounds is \$205.00 per tow truck;
 - (B) motor vehicles with a GVWR greater than 10,000 pounds and less than or equal to 19,000 pounds is \$245.00 per tow truck;
 - (C) motor vehicles with a GVWR greater than 19,001 pounds and less than or equal to 33,000 pounds is \$320.00 per tow truck; and

- (D) motor vehicles with a GVWR greater than 33,000 pounds is \$370.00 per tow truck.
- (E) The recovery of a motor vehicle requiring the use of a Heavy Rotator (60+ tons) shall not exceed \$585 per hour.
- (II) Mileage and fuel surcharges authorized elsewhere in rule 6511 do not apply to law enforcement ordered tows or recovery operations.
- (III) Any towing carrier billing greater than one hour for any tow truck and driver for a given tow shall:
 - (A) include, in addition to requirements of rule 6509, the following information on the tow record/invoice form, recorded at the time of occurrence: the time of dispatch; the time the truck leaves the yard or other staging location; the time the tow truck arrives on scene; the time the truck leaves the scene, and the time the vehicle towed is unhooked;
 - (B) include an advisement on the invoice that documentation of costs billed in excess of one hour for any tow truck and driver for such tow are available upon request from the towing carrier;
 - (C) only begin billing from a time not earlier than the towing carrier leaves their yard or staging area en route to the scene of the requested tow until the vehicle towed is unhooked;
 - (D) not bill more than the reasonable time necessary to perform the tow at hourly rates for one tow truck and driver, plus the towing carrier's actual and reasonable cost of recovery equipment and labor in excess of one tow truck and driver, plus an additional twenty-five percent of those actual and reasonable costs;
 - (E) provide an owner, authorized operator, or authorized agent of the owner of a motor vehicle documentation of actual and reasonable costs billed in excess of one hour for any tow truck and driver for such tow upon request; and
 - (F) not, under any circumstances, bill rates and charges provided in paragraph (b) for a PPI tow.
 - (G)
 - (H) Except as provided in § 42-4-1809(2)(a) regarding abandoned motor vehicles, this paragraph shall apply to the recovery of any size vehicle.
- (d) The maximum rates for a tow from a storage facility, when directed by a law enforcement officer who is performing an accident reconstruction or stolen vehicle investigation are as follows:
 - (I) \$91.00 for one additional hookup;
 - (II) \$91.00 per hour waiting time; and
 - (III) mileage charges as provided in paragraph (b).
- (e) Storage for nonconsensual tows.

- (I) Storage charges may accrue from the time a vehicle is placed in storage and shall not exceed the following rates based on a 24-hour period or any portion of a 24-hour period:
 - (A) \$30.00 for motor vehicles having a GVWR of less than 10,000 pounds;
 - (B) \$37.00 for motor vehicles having a GVWR of 10,000 pounds or more; or
 - (C) in lieu of subparagraphs (A) and (B), and at the option of the towing carrier, storage may be charged according to the motor vehicle's length, including the tongue of a trailer, at \$1.50 per foot or portion thereof.
- (II) Storage charges shall not be charged, collected, or retained for any time during which garage keeper's liability insurance coverage is not kept in force.
- (III) Maximum storage charges for abandoned motor vehicles. Unless a hold order has been placed on the motor vehicle by a court, district attorney, or law enforcement agency, or unless extenuating circumstances have prevented a towing carrier from complying with the notice requirements of § 42-4-2103, C.R.S., storage charges after the tow and storage of an abandoned motor vehicle subject to part 21 of title 42, C.R.S. shall not be accumulated beyond 120 days after the mailing date of the report required by § 42-4-2103(4), C.R.S.
- (f) For a nonconsensual tow, the maximum additional charge for release of a motor vehicle from storage or access to a motor vehicle in storage at any time other than the carrier's business hours is \$66.00.
- (g) Noncompliance. If a tow is performed, or storage is provided, in violation of state statute or Commission rules, the towing carrier shall not charge or retain any fees or charges for the services it performs. Any motor vehicle that is held in storage and that was towed without proper authorization shall be released to the owner, lienholder, or agent of the owner or lienholder without charge. Any money collected must be returned to the owner, authorized operator, or authorized agent of the owner of a motor vehicle.
- (h) Abandoned motor vehicles.
 - (I) Notifications. The charges for notification(s) to the owner and the lien holder(s) of the motor vehicle held in storage shall be in accordance with §§ 42-4-1804 and 42-4-2103, C.R.S., and the rules of the Colorado Department of Revenue.
 - (II) Consequences of failure to notify. A towing carrier holding a motor vehicle in storage who cannot demonstrate that it has made a good faith effort, as set forth in §§ 42-4-1804 and 42-4-2103, C.R.S., to comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S., shall not charge, collect, or retain storage fees.
 - (III) Sale of an abandoned motor vehicle to cover the outstanding towing and storage charges must be done in accordance with the notice and procedural requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S.
 - (IV) Additional costs that may be charged when a stored motor vehicle is sold.
 - (A) When a stored motor vehicle is sold, a towing carrier may charge the costs of maintaining that motor vehicle while in storage in accordance with § 38-20-109, C.R.S.

- (B) When a stored motor vehicle that does not come within the provisions of § 38-20-109, C.R.S., is sold, a towing carrier may charge the costs of maintaining that motor vehicle, to a maximum of \$90.00.
 - (C) "Cost of maintaining a motor vehicle" means a documented cost that is incurred by the towing carrier and that keeps a motor vehicle in safe or operable condition.
 - (D) Certified VIN verification procedure. When an abandoned motor vehicle that is less than five model years old and that the Colorado Department of Revenue cannot find in its records must be sold, the maximum rates that may be charged for a certified vehicle identification number (VIN) verification are as follows:
 - (i) rates as provided in paragraph (d); and
 - (ii) in addition, the towing carrier may charge for all other documented expenses of obtaining the VIN verification.
- (i) Trailers.
- (I) No additional fees may be charged for the towing of a power unit and trailer in combination as a single motor vehicle.
 - (II) A vehicle in or on a trailer is cargo.
 - (III) No additional fees may be charged for the towing of cargo in combination; however, additional fees may be charged for towing a trailer when reasonably and actually conducted a separate tow from a power unit.

6512. Release of Motor Vehicle and Personal Property.

- (a) The towing carrier shall immediately accept payment of the drop charge, towing, storage, and release charges if payment is offered in cash or valid major credit card. The towing carrier may accept other forms of payment, but must accept payment by both MasterCard and Visa. The towing carrier shall release the motor vehicle to:
 - (I) the motor vehicle owner, authorized operator, or authorized agent of the owner of the motor vehicle;
 - (II) the lienholder or agent of the lienholder of the motor vehicle; or
 - (III) the insurance company or agent of the insurance company providing coverage on the motor vehicle, if released to the insurance company by the owner.
- (b) A towing carrier that accepts for storage a motor vehicle that has been towed as a nonconsensual tow shall be available to provide access to or release of the motor vehicle as provided in paragraph (a) to the owner, authorized operator, or authorized agent of the owner of the motor vehicle either:
 - (I) with one hour's notice during all times other than the carrier's business hours that occur within the first 24 hours of storage; or
 - (II) upon demand during the carrier's business hours.

- (c) Failure to notify. A towing carrier holding a motor vehicle in storage who cannot demonstrate that it has made a good faith effort, as set forth in §§ 42-4-1804 and 42-4-2103, C.R.S., to comply with the notification requirements of Parts 18 and 21 of Article 4 of Title 42, C.R.S., and § 42-5-109, C.R.S., shall release the motor vehicle to the owner, lien holder, or their agents.
- (d) The towing carrier, at its discretion, need not comply with paragraph (a), (b), or (c) if:
 - (I) the towing carrier is reasonably certain that, at the time the motor vehicle is to be released from storage, the driver of the motor vehicle is not capable of safely driving the motor vehicle due to the influence of drugs or alcohol;
 - (II) the towing carrier that is to remove the motor vehicle from storage does not have a valid towing carrier permit;
 - (III) a hold order is in place on the motor vehicle by a court, district attorney, law enforcement agency, or law enforcement officer;
 - (IV) the release of the motor vehicle does not comply with the release procedures agreed to, in writing, between the towing carrier and the applicable law enforcement agency; or
 - (V) the towing carrier, upon notification for the release of or access to a motor vehicle at other than the carrier's business hours, has immediately contacted an appropriate law enforcement agency and, in the interest of public order, has requested a law enforcement officer's presence during the release of the motor vehicle. This exception is applicable when the towing carrier has reason to believe that the motor vehicle's owner, authorized operator, or authorized agent of the owner of the motor vehicle may disrupt the public order.
- (e) A towing carrier shall release a motor vehicle held in storage to a person presenting a current driver's license who attests to being the authorized operator of the vehicle and produces two of the following: keys to the vehicle; proof of insurance; vehicle registration, VIN number; or knowledge of the location from where the vehicle was towed. Such attestation must be in the form available from the Commission or its website.
- (f) Whether on the private property where the tow originates or at the towing carrier's storage lot, a towing carrier shall not refuse to relinquish, prescription medicines, medical equipment, medical devices, or any child restraint system. The towing carrier shall immediately relinquish such items upon demand, without requiring payment and without additional charge.
- (g) Whether on the private property where the tow originates or at the towing carrier's storage lot, a towing carrier shall not refuse to relinquish credit cards and cash for immediate payment of the amount due to the towing carrier. The towing carrier shall immediately relinquish such items upon demand during business hours or within one hour's notice during all other times and without additional charge.
- (h) Whether on the private property where the tow originates or at the towing carrier's storage lot, a towing carrier shall not refuse to relinquish state or federal issued identification to the owner of the identification or to persons to whom the motor vehicle is released. The towing carrier shall immediately relinquish such items upon demand during business hours or within one hour's notice during all other times. Access shall be without additional charge during business hours.
- (i) On the private property where the tow originates, a towing carrier shall not refuse to relinquish a cellular telephone to persons to whom the motor vehicle can be released. The towing carrier shall immediately relinquish such item upon demand and without additional charge.

6513. [Reserved].

6514. Towing Violations and Civil Penalty Assessments.

- (a) A violation of any of the following provisions may result in the assessment of a civil penalty of up to \$1,100.00 for each violation:
 - (I) § 40-10.1-401(1)(a), C.R.S.;
 - (II) subparagraph (b)(I), (b)(II), (b)(IV)(B), or (b)(VI)(D) of rule 6508;
 - (III) paragraph (g) of rule 6511.
- (b) A violation of paragraph (a), (b), (c), (d), (e), (f), (h), or (i) of rule 6511 may result in the assessment of a civil penalty as follows for each violation:
 - (I) up to \$275.00 for an overcharge \$25.00 or less;
 - (II) up to \$550.00 for an overcharge greater than \$25.00 but less than or equal to \$50.00; and
 - (III) up to \$1,100.00 for an overcharge greater than \$50.00.
- (c) A violation of any of the following provisions may result in the assessment of a civil penalty of up to \$550.00 for each violation:
 - (I) rule 6507; or
 - (II) paragraph (a) of rule 6510; or
 - (III) paragraph (e) of rule 6512.
- (d) A violation of rule 6506 may result in the assessment of a civil penalty of up to \$100.00 for each violation.
- (e) Except as provided in paragraph (a) through (d) of this rule, a violation of any provision of Title 40, § 42-3-235.5, C.R.S., pertaining to towing carriers, or any provision of rules 6500 through 6513, may result in the assessment of a civil penalty of up to \$275.00 for each violation.
- (f) Civil penalty assessments are in addition to any other penalties provided by law.

6515. - 6599. [Reserved].