



Ordinance No. 22-05

BEFORE THE BOARD OF COUNTY COMMISSIONERS' COUNTY OF GILPIN

AN ORDINANCE REGULATING PARKING ON GILPIN COUNTY PUBLIC RIGHTS OF WAY IN THE UNINCORPORATED PORTIONS OF THE COUNTY OF GILPIN

WHEREAS, pursuant to C.R.S. §30-11-107(1)(h) and C.R.S. §43-2-108 *et seq.*, the Board of County Commissioners of the County of Gilpin ("Board") have full jurisdiction and authority over County roads within the unincorporated portions of the County of Gilpin; and

WHEREAS, pursuant to C.R.S. §30-11-107(1)(a), the Board has the power to make such orders concerning property belonging to the County as it may deem expedient, and to perform such duties respecting County roads as may be required by law; and

WHEREAS, pursuant to C.R.S. §30-15-401(1)(h), the Board has the power to regulate the movement and parking of vehicles on public property; and

WHEREAS, the Gilpin County Sheriff and Deputy Sheriff have authority to remove by towing any unattended motor vehicles obstructing traffic or county road maintenance, pursuant to C.R.S. §42-4-1803; and

WHEREAS, the Board has the power to prohibit parking and impose fines for parking in violation of County ordinances pursuant to C.R.S. §30-15-402; and

WHEREAS, the Board seeks to strongly discourage and prevent illegal parking on County roads with the imposition of monetary fines for parking on County road rights of way; and

WHEREAS, it is the desire of the County to set forth an orderly procedure to regulate parking of properly licensed vehicles on County road rights of way; and

WHEREAS, this Ordinance 22-05 replaces Ordinance 21-01 in its entirety which will have no further force or effect.

NOW THEREFORE BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF THE COUNTY OF GILPIN, AS FOLLOWS:

PARKING PROHIBITED ON OR WITHIN ALL COUNTY ROADWAYS

1. Definitions.

1.1. "County Roadway" is defined as follows:

- 1.1.1.** County maintained road surface plus any County maintained ditches or berm area;
- 1.1.2.** Other adjacent County property necessary for maintaining the road surface or any portion of the road right-of-way;
- 1.1.3.** Any platted right-of-way;
- 1.1.4.** All area within a cul-de-sac;

- 1.1.5. All area in a permitted snow plow turn-around;
- 1.1.6. All area in a school bus turn-around;
- 1.1.7. All area in an emergency turn-around;
- 1.1.8. Any other County maintained road or area within a road right-of-way

1.2. Disabled Vehicle. A "Disabled Vehicle" is a vehicle or object that will not move under its own power due to mechanical failure, snow, or other circumstances. This includes without limitation a vehicle parked on a County Roadway that is mechanically operative, but that may be ill equipped to move off of the County Roadway, including by way of example and not limitation, vehicles with inadequate tires, no chains, or two-wheel drive.

1.3. Illegal Parking. Vehicles or other objects parked, stored, abandoned, or disabled (generally referred to as "parked") in whole or in part on a County Roadway shall be considered "Illegal Parking" unless one of the following conditions exist:

1.3.1. Removal of Disabled Vehicle Actively Underway. The Sheriff's Department has been notified of the Disabled Vehicle and that efforts by the owner or operator of the Vehicle are actively underway to have the Vehicle removed.

1.3.2. No Parking Is Allowed Unless County Posts Signs Allowing Parking. No parking is allowed within a County Roadway unless the County has posted signs specifically designating an area or areas for parking. In that instance, vehicles may park in the posted area but must be outside of the traveled portion of a County Roadway and at least ten (10) feet from the centerline of the traveled portion of a County Roadway. Such parking shall not be within the county road drainage ditch, culverts, or on top of any county road improvements and shall not be on private property. Such parking shall not be overnight and no vehicles shall be parked in such a manner as to interfere with traffic flow, snow removal, or County road maintenance operations.

2. Parking Policy. Parking on or within County Roadways is prohibited. Gilpin County may impose fines and/or cause the removal or towing of vehicles or other objects for Illegal Parking on or within County Roadways as set forth herein including pursuant to C.R.S. §30-11-107(1)(a) and (h), C.R.S. §30-15-401(1)(h), C.R.S. §30-15-402, C.R.S. §42-4-1803(2) and C.R.S. §43-2-108 *et seq.*

VEHICLE REMOVAL AND TOWING

3. Traffic Hazard/Snow Removal – Immediate Removal. Notwithstanding the parking policy or any other terms set forth in this Ordinance, in the event a parked vehicle creates an obstruction to traffic, or if it impedes snow removal or scheduled road repair, or if it impedes emergency vehicles, the vehicle shall be removed immediately under the direction of the Sheriff, pursuant to C.R.S. §42-4-1803(2).

4. Red Tag Issuance. Either an employee of the Gilpin County Road and Bridge Department or a Deputy Sheriff shall place a red tag on a vehicle parked on a County roadway in violation of this Ordinance, unless the vehicle is to be removed in accordance with Paragraph 3. The red tag shall require the owner to remove the vehicle within 24 hours. After expiration of 24 hours, "red tagged" vehicles shall be deemed "abandoned" motor vehicles" as defined in C.R.S. §42-4-1802(1)(b).

5. Time Limits. The time for compliance with the red tag shall be no more than 24 hours; except that the



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Sheriff may in his discretion allow more time for owner compliance in the event the owner notifies the Sheriff of a verifiable emergency that prevents the owner from timely removing the vehicle. Owner shall in any event cause removal of the vehicle within 72 hours.

- 6. **Courtesy Call.** The person placing the red tag may request the Sheriff's Dispatcher to telephone, if possible, the vehicle owner as a courtesy to request the owner's cooperation.
- 7. **Follow-Up.** The person placing a red tag shall follow-up or arrange for follow-up at the time of red tag expiration. If the tagged vehicle remains in violation at the expiration of the red tag, it shall be towed in accordance with established procedures.
- 8. **Sheriff Action.** Should a tow be required, the tow shall be carried out under the direction of the Sheriff's Department in accordance with C.R.S. §42-4-1803.
- 9. **Repeat Violations.** If a vehicle has been red tagged once, at a second occurrence it may be towed immediately.
- 10. **Costs and Towing Fees.** Costs of removal and any towing fees shall be the responsibility of the vehicle owner. Gilpin County is not obligated to pay the costs or fees for towing. If Gilpin County incurs any costs or towing fees in the removal or towing process, Gilpin County is entitled to payment and collection of those costs and fees. Such costs and fees shall be paid within 30 days of notice sent to the vehicle owner of the costs and fees, if any, incurred by Gilpin County. Gilpin County is entitled to recover any costs or restitution as may be allowed by law. Private towing companies may be used to remove or tow illegally parked vehicles. The County has no control over, and does not regulate, the rates charged by any tow company.

FINES

11. **Violations of this Ordinance – Fines.** Pursuant to C.R.S. §30-15-402, any person who violates any provision of this Ordinance shall be guilty of a class B traffic infraction. Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state, or local law, order or regulation. Pursuant to C.R.S. §42-4-1701(4)(a)(I)(M) and C.R.S. §30-15-402(2)(a) for each separate offense, the penalty for any person found to violate this Ordinance shall be subject to a graduated fine schedule and punished by fines and surcharges of:

- 11.1. First Violation: Thirty Dollars (\$30.00) with a surcharge of ten dollars (\$10.00)
- 11.2. Second Violation: Fifty-Five dollars (\$55.00) with a surcharge of ten dollars (\$10.00)
- 11.3. Subsequent Violations: One hundred five dollars (\$105.00) with a surcharge of ten dollars (\$10.00)

12. **Continuing Violation.** Each day after the issuance of an order of the Gilpin County Court during which the illegally parked vehicle remains shall be deemed a separate violation subject to continuing fine penalties.

13. Each violation of this Ordinance shall be deemed separate and distinct from any other violation of this Ordinance or of any other federal, state, or local law, order or regulation.

14. **Signage.** Signage shall be installed indicating the locations of no parking under this Ordinance.



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Signage shall be appropriately worded and placed within or adjacent to County Roadways to provide notice to the public of this Ordinance.

15. Penalty – Fine Assessment Procedure.

15.1. The penalty assessment procedure provided for in C.R.S. §16-2-201 shall be followed for any violation of this Ordinance. Any person who violates any provision of this Ordinance shall be given a penalty assessment notice by the apprehending peace officer or by the designated County enforcement personnel. The penalty assessment notice shall be a summons and complaint which contains: (i) the identity of the alleged offender by name and address, (ii) specifies the offense with which the person is charged; (iii) states the fine which may be paid directly or by mail to the Gilpin County Treasurer at their office or P.O. Box in Central City, CO, or if available electronically online through a Gilpin County online payment portal or via some other online electronic process and (iv) states the requirement that the alleged offender either pay the fine to the Gilpin County Treasurer in person or by mail, at the address specified in the penalty assessment notice within fourteen (14) days of such penalty assessment notice, or else be required to appear to answer the charge before the Gilpin County Combined Court, 2960 Dory Hill Road, at the date and time specified in the penalty assessment notice.

15.2. Any person who chooses to acknowledge that they are guilty of the charge specified in the penalty assessment notice may, within fourteen (14) days of the date of issuance of the penalty assessment notice, pay a fine to the Gilpin County Treasurer in person at the Gilpin County Courthouse in Central City, CO, by mail to the County Treasurer's address as specified on the penalty assessment notice, or if available, electronically online through a Gilpin County payment portal or other online electronic process. Any such payment of the fine specified in the penalty assessment notice shall be accompanied by a copy of the penalty assessment notice signed by the person acknowledging their guilt. Timely payment of the fine specified in the penalty assessment notice shall relieve the person receiving such notice of any further obligation to appear in the Gilpin County Court, at the date and time specified in such notice, to answer the offense charged in the notice.

GENERAL PROVISIONS

16. Enforcement Personnel. The penalty assessment procedure provided in this Ordinance is authorized to be followed by any arresting law enforcement officer for the Sheriff's Office who are hereby granted such authorization pursuant to C.R.S. §30-15-402.5 for enforcement of any violation of this Ordinance.

17. Payment to County Treasurer. All fines, penalties, or forfeitures for the violation of this Ordinance, but not any surcharge imposed by the Court upon conviction pursuant to C.R.S. §30-15-402, shall be paid to the County Treasurer of Gilpin County, CO, within thirty (30) days of the Court's receipt of any such fines, penalties, and/or forfeitures.

18. Gilpin County Court Jurisdiction. Pursuant to C.R.S. §30-15-410, the Gilpin County Court shall have jurisdiction in prosecutions of violations of this Ordinance. The simplified county court procedures set forth in Part 1 of Article 2 of Title 16, C.R.S., and the penalty assessment procedures set forth in Part 2 of said Article shall be applicable to the prosecutions of alleged violations of this Ordinance. Any summons and complaint brought in the Gilpin County Court for the alleged violation of this Ordinance, shall be filed in the name of Gilpin County, by and on behalf of the people of the state of Colorado, and any process issued by the Gilpin County Court in such proceedings shall be likewise so denominated.



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- 19. Time Limitations on Enforcement of Ordinance Violations.** All suits for the recovery of any fine and prosecutions for the commission of any offense made punishable under this Ordinance shall be barred if not commenced within one (1) year after the commission of the alleged Ordinance offense pursuant to C.R.S.§30-15-409.
- 20. Applicability.** This Ordinance shall apply to all County Roadways as defined in Paragraphs 1 of this Ordinance.
- 21. Additional Remedy.** In addition to any other remedy, legal or equitable, which may be available under the terms of this Ordinance, the County may institute an action for mandatory injunctive relief, abatement, or other appropriate action, to compel any responsible party to remove the vehicle and abate or repair any condition to the Impacted Roads resulting from the illegal parking on an Impacted Road or cited as contrary to the provisions of this Ordinance or otherwise recovery any costs or fees owed to Gilpin County if not otherwise recoverable otherwise.
- 22. Severability.** In the event any portion of this Ordinance shall be declared null and void or unenforceable by any court of competent jurisdiction, such offending portion shall be deemed to be deleted from this Ordinance, provided however that the remaining portions of this Ordinance shall remain in full force and effect and fully enforceable as written; subject, however, to the Board of County Commissioners exercise of discretion to determine that such severed provision is too important, material, or fundamental to the Ordinance that the entire Ordinance must be invalidated.
- 23. Emergency Clause.** The Board of County Commissioners finds and determines that the provisions of this Ordinance are essential to the immediate protection of the public health, safety, and welfare of the residents of Gilpin County. This Ordinance shall take effect on the date of final adoption of this Ordinance by the Board of County Commissioners.

Introduced and first read the 1st day of November, 2022, and ordered published in full in a newspaper of general circulation published in Gilpin County at least 10 days prior to final adoption.

Approved and adopted upon second reading by a vote of 2 to 0 this 6th day of December, 2022.

ADOPTED this 6th day December, 2022, by a vote of 2 to 0.

BOARD OF COUNTY COMMISSIONERS
OF GILPIN COUNTY

A handwritten signature in cursive script that reads "Sandy Hollingsworth".

Sandy Hollingsworth, Chair

CERTIFICATION AND ATTESTION OF THE COUNTY CLERK

Sahari McCormick, Gilpin County Clerk and Recorder, hereby certifies and attests that the foregoing Ordinance was introduced and publication ordered by the Board of County Commissioners of the County of Gilpin on first reading on the 1st day of November, 2022 at a regularly scheduled meeting of the Board of the County Commissioners, and approved on second reading on the 6th day of December, 2022, at a regularly scheduled meeting of the Board of County Commissioners, Gilpin County, Colorado and that said Ordinance was published in full in the Newspapers of Record at least ten (10) days prior to final adoption.



Sharon McCormick A.K.A Sahari McCormick

Gilpin County Clerk and Recorder

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