

CHAPTER 8

Vehicles and Traffic

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ARTICLE I

Model Traffic Code

Sec. 8-1-10. Model Traffic Code adopted.

Pursuant to Parts 1 and 2 of Article 16, Title 31, C.R.S., and Section 43-2-135(1)(J), C.R.S., there is hereby adopted by reference Articles I and II, inclusive, of the 2003 edition of the *Model Traffic Code for Colorado*, promulgated and published as such by the Colorado Department of Transportation, Staff Traffic and Safety Projects Branch, 4201 East Arkansas Avenue, Denver, CO 80220. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the State and the nation. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the Town Clerk and may be inspected during regular business hours. (Ord. 1, 1996 §1; Ord. 8, 2000 §1; Ord. 11 §1, 2002; Ord. 3 §1, 2003)

Sec. 8-1-20. Amendments or modifications.

The Model Traffic Code as adopted by the Town shall be amended or modified as follows:

(1) Section 1701, "Traffic offenses classified - schedule of fines," is amended in its entirety to read as follows:

"1701. Traffic violations classified - schedule of fines.

"(1) The term *traffic violation* refers to either 'traffic infractions' as defined in paragraph (2), or to 'traffic offenses' as defined in paragraph (3) below.

"(2) It is a *traffic infraction* for any person to violate any of the provisions of this code, except those violations specifically listed in paragraph (3). Traffic infractions are civil matters to be tried before the court without right to jury trial, and no person found liable for a traffic infraction shall be punished by imprisonment.

"(3) Violation of the following provisions of the code shall be deemed a misdemeanor *traffic offense* and the defendant have the right to demand a jury trial and may be punished by fine and/or imprisonment:

"a. Section 1101, speeding in excess of twenty-four (24) miles per hour over the lawful speed limit;

"b. Section 1105, speed contests;

"c. Section 1401, reckless driving;

"d. Section 1402, careless driving;

"e. Section 1409, compulsory motor vehicle insurance;

"f. Section 1413, eluding or attempting to elude a police officer;

"g. Section 1903, failing to observe or obey school bus signs.

"(4) In the event any person is charged with more than one (1) traffic violation arising out of the same episode and at least one (1) of the charged violations is a traffic offense, such person shall have the right to demand a trial by jury on all violations, which shall be consolidated for purposes of trial.

"(5) The Fairplay Municipal Code may pursuant to C.M.C.R. 210(b)(5), and in addition to any other notice, specify by published order prominently posted in a place where fines are to be paid a suitable schedule of fines to be imposed for violations of the Code, designating each violation specifically in such schedule. All fines shall be within the limits declared by ordinance. Fines and costs shall be paid to, received by, and accounted for by the municipal court clerk."

(2) Section 1705, "Person arrested to be taken before the proper court," is amended in its entirety to read as follows:

"1705. Person arrested to be taken before the proper court.

"(1) Whenever a person is arrested for any traffic offense under this code, the arrested person shall be taken without unnecessary delay before the municipal court judge.

"(2) A person arrested for a traffic offense may be released by the arresting authority if such authority is satisfied that adequate grounds do not exist to sustain an alleged traffic offense, or the arresting authority is satisfied that the arrestee will obey a summons commanding his or her appearance in the municipal court at a later date. If a person is released under the latter circumstances, he or she shall be given a summons and complaint to appear at a specified date and time in the municipal court, and shall sign a written acknowledgment of receipt of same and a promise to appear at the place, date and time specified.

"(3) The municipal court judge shall provide a bail bond schedule for utilization in the release of persons arrested for traffic offenses."

(3) Section 1707, "Summons and complaint or penalty assessment notice for traffic offenses - release - registration," is amended in its following parts to read as follows:

"1707. Summons and complaint and/or penalty assessment notice for traffic violations.

"(1) Summonses and complaints issued under this code shall comply with the standards and format as prescribed by the Colorado Municipal Court Rules of Procedure ("C.M.C.R."), and shall additionally include the following information: the license number of the vehicle involved, if any; the number of the violator's driver's license, if any; the date the summons and complaint is served on the violator; shall be signed by the officer issuing the summons and complaint; and shall contain a place for the violator to sign for receipt of the summons and complaint and the violator's promise to appear in the municipal court on a date and time specified.

"(3) (a) Whenever a penalty assessment notice for a traffic violation is issued, the penalty assessment notice served upon the violator by the peace officer shall contain at a minimum the name and address of the violator and the license number of the vehicle involved, if any; the number of the violator's driver's license, if any; a citation of the code section alleged to have been violated; a brief

description of the offense and the date and approximate location thereof; the amount of the penalty prescribed for such offense; the amount of any surcharge; the number of points, if any, prescribed for such offense pursuant to Section 42-2-127, C.R.S.; and the date the penalty assessment notice is served on the violator; and shall direct the violator to appear in the municipal court at a specified time and place in the event such penalty and surcharge, if any thereon is not paid. The notice shall be signed by the peace officer and shall contain a place for such violator to elect to execute a signed acknowledgment of liability and an agreement to pay the penalty and surcharge, if any, prescribed thereon within twenty days; as well as such other information as may be required by ordinance and C.M.C.R. to convert such penalty assessment notice into a summons and complaint should the prescribed penalty and surcharge, if any, not be paid within the time allowed by ordinance or court order.

"(5) Whenever a violator refuses to accept service of a summons and complaint and/or penalty assessment notice, tender of such summons and complaint and/or penalty assessment notice by a peace officer to the violator shall constitute service thereof upon the violator.

"(7) A penalty assessment notice shall not be issued and shall not apply to traffic violations when it appears that:

"(a) the violator exceeded the reasonable and prudent speed by more than nineteen (19) miles per hour;

"(b) the alleged violator has caused, or contributed to the cause of, an accident resulting in damage to property of another in an amount not less than two hundred dollars (\$200.00), or in injury or death to any person;

"(c) the violator has, in the course of the same episode, violated more than one provision of this code, one or more of which is a traffic offense;

"(d) the violator is charged with a violation of compulsory motor vehicle insurance laws."

(4) Section 1709, "Penalty assessment notice for traffic offenses - violations of provisions by officer - driver's license," is deleted in its entirety.

(5) Section 1710, "Failure to pay penalty for traffic offenses - procedures," is amended in its entirety to read as follows:

"1710. Failure to pay penalty for traffic infractions - procedures.

"(1) Unless a person who has been cited for a traffic infraction timely pays the penalty assessment and surcharge, if any, thereon, such person shall appear at a hearing on the date and time specified in the citation or penalty assessment notice and answer the complaint against such person.

"(2) If the violator answers that he is guilty or liable, or if the violator fails to appear for the hearing, judgment shall be entered against the violator.

"(3) If the violator denies the allegations in the citation or penalty assessment notice, a trial on the allegations shall be held subject to the provisions regarding a speedy trial which are contained in

Section 18-1-405, C.R.S. If the violator is found guilty or liable at such final hearing, or if the violator fails to appear for a final hearing, judgment shall be entered against the violator.

"(4) If judgment is entered against a violator, the violator shall be assessed an appropriate penalty, surcharge and court costs, if any, thereon."

(6) Section 1716, "Notice to appear or pay fine - failure to appear - penalty," is amended in its entirety to read as follows:

"1716. Notice to appear or pay fine - failure to appear - penalty.

"(1) For the purposes of this Part 17, tender by an arresting or charging officer of the summons, a summons and complaint, or penalty assessment notice shall constitute notice to the violator to appear in court at the time specified on such summons or notice, or to pay the required fine and surcharge thereon.

"(2) Any person who fails to appear when directed on a summons or penalty assessment notice may be punished for contempt of court.

"(3) Any person who fails to appear with regard to a traffic infraction when directed by a summons or penalty assessment notice, or who fails to appear at a final hearing thereon, shall be subject to entry of a default judgment against them."

(7) Section 1717, "Conviction - attendance at driver improvement school," is amended in its entirety to read as follows:

"1717. Conviction - attendance at driver improvement school.

"Whenever a person has been convicted or found liable for violating any provision of this code or other law regulating the operation of vehicles on highways, the court, in addition to the penalty provided for the violation, or as a condition of either the probation or the suspension of all or any portion of any fine or sentence of imprisonment for a violation, may require the violator, at his own expense, to attend and satisfactorily complete a course of instruction at any designated driver improvement school located and operating in the county of the violator's residence and providing instruction in the traffic laws of this state, instruction in recognition of hazardous traffic situations, and instruction in traffic accident prevention. Unless otherwise provided by law, such school shall be approved by the court."

(8) A new Section 1718, "Notice on illegally parked vehicles," is added to the code to read as follows:

"1718. Notice on illegally parked vehicles.

"Whenever any motor vehicle without driver is found parked or stopped in violation of any of the restrictions imposed by the ordinances of this municipality, the code enforcement or peace officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a penalty

assessment notice directing the driver thereof to respond to and answer the charge against him at a place and at a time specified in said notice."

(9) A new Section 1719, "Failure to comply with notice on parked vehicle," is added to the code to read as follows:

"1719. Failure to comply with notice on parked vehicle.

"If the driver or owner of an unattended motor vehicle charged with an apparent violation of the restrictions on stopping, standing or parking under the traffic ordinances of this municipality does not respond within the time specified to a penalty assessment notice affixed to such vehicle as provided in Section 1718 by appearance and payment at the municipal court, or by timely mailing payment by means of the United States mail, or by other disposition of the charge as provided by law, the clerk of the municipal court shall send a notice that default judgment has been entered by the court by mail to the registered owner of the vehicle to which the original notice was affixed. In the event such notice is disregarded for a period of seven (7) days from the date of mailing, the Town may exercise any other available legal remedy."

(10) A new Section 1720, "Presumption in reference to illegal parking," is added to the code to read as follows:

"1720. Presumption in reference to illegal parking.

"In any prosecution charging a violation of any provision governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the penalty assessment notice or complaint was parked in violation of any such regulation, together with proof that the violator named in the notice or complaint was at the time of such parking the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred."

(Ord. 1, 1996 §3; Ord. 8, 2000 §2; Ord. 11, 2002 §1; Ord. 3, 2003 §3)

Sec. 8-1-30. Application of Model Traffic Code and ordinances regulating motor vehicles and traffic.

The Model Traffic Code and all other Town ordinances regulating motor vehicles and traffic shall apply to every street, alley, sidewalk area, driveway, park and every other public way, public place or public parking area, either within or outside the corporate limits of the Town, the use of which the Town has jurisdiction and authority to regulate. Specifically, and without limitation, the provisions of Sections 1401, 1402 and 1413 and Part 16 of the adopted Model Traffic Code, concerning reckless driving, careless driving, eluding a police officer and accidents, respectively, shall apply not only to public places and ways but also throughout the Town. (Ord. 1, 1996 §5; Ord. 8, 2000 §3; Ord. 11, 2002 §1; Ord. 3 §4, 2003; Ord. 4 §4, 2004)

Sec. 8-1-40. Interpretation.

This Article shall be interpreted and construed so as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. The section headings of this Article and the Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning

or extent of the provisions of any article or section thereof. (Ord. 1, 1996 §8; Ord. 8, 2000 §4B; Ord. 3 §8, 2003)

Sec. 8-1-50. Fine and surcharge schedule.

(a) Adoption. Pursuant to Part 17 of the 2003 Model Traffic Code, the Town hereby adopts the following penalty assessments and surcharges for violations of the Colorado Model Traffic Code, as previously adopted in this Article.

(b) Fines.

(1) Every person convicted of a violation of any provision of the Model Traffic Code shall be assessed a fine pursuant to Section 42-4-1701, C.R.S.

(2) The fine imposed for speeding violations under this Section shall be doubled if the violation occurs within a designated school zone.

(3) The fine imposed for speeding violations under this Section shall be doubled if the violation occurs within a designated maintenance, repair or construction zone.

(c) Surcharges.

(1) Every person convicted of a violation of any provision of the Model Traffic Code shall be assessed, in addition to any fines, a fifteen-dollar surcharge. This surcharge is to be collected by the Municipal Court Clerk and credited to the Police Department, to be used as necessary for equipment and training.

(2) Pursuant to Section 42-4-1701(4)(a)(VI) (B)(e)(II), C.R.S., an additional twelve-dollar surcharge will be assessed for speeding violations, for the Colorado Traumatic Brain Injury Trust Fund, created pursuant to Section 26-1-309, C.R.S. If the surcharge is collected by the Municipal Court Clerk, the surcharge shall be twelve dollars (\$12.00), of which two dollars (\$2.00) shall be retained by the municipality and the remaining ten dollars (\$10.00) shall be transmitted to the State Treasurer and credited to the Colorado Traumatic Brain Injury Trust Fund within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in Sections 26-1-301 to 26-1-310, C.R.S. (Ord. 4, 2004 §§1—3)

Sec. 8-1-60. Penalties; penalty assessments; automatic points assessment reduction; parental notification; driver's license.

(a) It is unlawful for any person to violate any of the provisions of the MTC, other than those violations set forth in Section 8-1-50 above, or any other traffic or vehicle ordinances adopted by the Town. Other than The penalties set forth below shall apply to such violations. Fines, court costs and surcharges shall be paid to the Municipal Court Clerk.

(1) In criminal traffic offense actions, the penalty shall be a fine not to exceed one thousand dollars (\$1,000.00), or a term of imprisonment not to exceed one (1) year, or by both such fine and imprisonment.

(2) In civil traffic infraction matters, the penalty shall be a fine not to exceed one thousand dollars (\$1,000.00).

(b) Except as otherwise specifically provided, a peace officer shall issue a penalty assessment for all traffic infractions. Whenever a peace officer issues a summons and complaint for an alleged criminal traffic offense, the officer, in his or her discretion, may instead offer a penalty assessment notice. Notwithstanding the foregoing, no penalty assessment notice shall be issued or offered when:

- (1) A violator exceeds the reasonable and prudent speed by more than nineteen (19) miles per hour;
- (2) The violation caused, or contributed to the cause of, an accident resulting in damage to property of another in an amount not less than two hundred dollars (\$200.00), or in injury or death to any person;
- (3) More than one (1) violation is alleged, one (1) or more of which constitutes a criminal traffic offense;
- (4) The violation is for failure to comply with motor vehicle compulsory insurance laws; and
- (5) When the officer issuing the notice knows, or reasonably believes, that the alleged violator or vehicle has been involved in a criminal violation of any law of the Town for which there has been a conviction in a court of competent jurisdiction and for which the sentence or judgment (be it fine or imprisonment) remains as yet unsatisfied.

No person shall be entitled to elect to pay a penalty assessment unless an offer of a penalty assessment notice has been made under this Subsection.

(c) Any person offered a penalty assessment notice may elect to pay the penalty assessment and appropriate surcharge instead of proceeding to trial on the alleged violation. The amount of the penalty assessment and surcharge shall be as provided on the penalty assessment notice. Payment of a penalty assessment and corresponding surcharge constitutes complete satisfaction of the alleged violation if the prescribed payment is postmarked or received by the Town within twenty (20) days following service of the penalty assessment on the person charged with the violation. Payment of a penalty assessment and surcharge constitutes an acknowledgment of liability for the violation described in the notice. If the person offered a penalty assessment notice elects not to make full and timely payment thereunder, an action on the alleged violation shall proceed as otherwise provided by law.

(d) If a person receives a penalty assessment notice of a violation of the MTC and such person pays the fine and surcharge for the violation on or before the date the payment is due, the points assessed for such violation under the point system schedule adopted at Section 42-2-127, C.R.S., as amended, shall be reduced as follows:

- (1) For a violation having an assessment of three (3) or more points, the points shall be reduced by two (2) points.
- (2) For a violation having an assessment of two (2) points, the points shall be reduced by one (1) point.
- (3) The point reductions as provided for in this Section shall only be valid in accordance with the authority provided to municipalities under Section 42-2-127(5.6), C.R.S., and in the event such statute is amended and/or repealed, this Section shall, correspondingly, be amended and/or repealed.

(e) Whenever a minor driver receives a summons or penalty assessment notice for a traffic offense or traffic infraction, the minor's parent or legal guardian or, if the minor is without parents or guardian, the person who signed the minor driver's application for a license, shall immediately be notified by the Municipal Court Clerk of such summons or penalty assessment notice. A failure to provide such notice shall not in any way diminish or limit the jurisdiction of the court over the juvenile or the traffic violation or infraction.

(f) The Municipal Court shall notify the Colorado Department of Revenue whenever a judgment entered against a person for a violation of the MTC, excluding violations related to parking, remains outstanding, or a bench warrant issued against any person for a failure to appear to answer for an alleged violation of the MTC, excluding violations relating to parking, remains outstanding, in order that such person shall not be allowed or permitted to obtain or renew a driver's license as provided for in Section 42-4-1709(7)(a), C.R.S. (Ord. 1, 1996 §4; Ord. 8, 2000 §4A; Ord. 11, 2002 §1; Ord. 4, 2004 §1)

ARTICLE II

Abandoned Vehicles

Sec. 8-2-10. Abandonment of vehicle.

(a) It is unlawful for any person to abandon any vehicle within the Town.

(b) It is unlawful for any person to leave any vehicle unattended and unmoved on any public street, highway or right-of-way within the Town for more than seventy-two (72) consecutive hours.

(c) It is unlawful for any person who is the owner of any vehicle or any person who is in charge or control of any vehicle, or for any person who owns property or is in charge or control of property, as tenant, lessee, occupant, renter or otherwise, to permit or allow any abandoned or junked vehicle, or parts thereof, to remain on such property; provided, however, that this Section shall not apply to a vehicle or parts of a vehicle in a completely enclosed building, a vehicle on the premises of a business enterprise operated in a lawful place and manner when such vehicle is necessary to the operation of such business enterprise, or a vehicle in an appropriate storage place or depository maintained by a licensed automobile repair business or automobile towing or impoundment business. (Ord. 7, 1984 §122; Ord. 11, 2002 §1)

Sec. 8-2-20. Towing authorized; redemption.

Any police officer of the Town is authorized to have any abandoned or junked vehicles towed from a public right-of-way or from Town-owned property by a towing service designated by the Town. A list of the authorized towing services shall be available for public inspection in the office of the Town Clerk. All towing and impoundment charges shall be paid by the owner or by the person redeeming a towed vehicle prior to its release (Ord. 7, 1984 §122; Ord. 11, 2002 §1)

Sec. 8-2-30. Notice prior to towing; exceptions; hearing.

(a) Prior to towing an abandoned or junk vehicle from public property, the police officer shall securely affix to the vehicle a conspicuous warning notice indicating that the vehicle is in violation of this Article and the reason for such belief, that if the vehicle is not moved within forty-eight (48) hours from the date of the notice, either a summons may be served or the vehicle may be towed, or both, that any towing and storage

charges must be paid by the owner prior to recovery of the vehicle, and that the owner should contact the Police Department. If the vehicle is not moved or the owner has made no arrangements with the Police Department for an extension of time prior to the expiration of the forty-eight-hour period, the following procedures shall be followed:

(1) The vehicle may be towed at the direction of a police officer if he or she has been unable, after reasonable effort, to determine the identity or location of the owner.

(2) If the owner's identity and address are known, a police officer shall attempt to serve upon the owner a summons and complaint for a violation of this Section.

(3) If the owner's identity and address are known, but a reasonable attempt to serve the summons and complaint upon the owner has been unsuccessful, the vehicle may be towed at the direction of a police officer.

(b) Nothing contained in this Article shall prohibit the immediate towing of a vehicle from a public right-of-way or other public property that is obstructing traffic flow or that otherwise poses an immediate threat to public safety.

(c) Any owner who believes that his or her vehicle was towed or impounded in violation of the terms of this Article and who wishes to contest the same may file a written notice of appeal with the Town Clerk within five (5) business days of the date of such towing and/or impoundment, or the date the owner received notice of same. The Town Clerk shall promptly provide the notice of appeal to the Mayor, who shall review the facts and circumstances regarding the towing and/or impoundment and render a decision thereon. If the Mayor finds that the towing or impoundment was performed contrary to the terms of this Article, or was in some other way improperly performed, the Mayor shall waive or order the refund of some or all of the towing and/or impoundment fees charged the owner. In the absence of the Mayor, the Mayor Pro Tem shall hear any appeal submitted under this Section.

(d) As soon as possible, but in no event later than three (3) working days after having an abandoned motor vehicle towed, the Police Chief shall report same to the Colorado Department of Revenue in accordance with Section 42-4-1804, C.R.S. (Ord. 7, 1984 §122; Ord. 11, 2002 §1)

ARTICLE III

Snowmobile Regulations

Sec. 8-3-10. Snowmobile on streets.

Subject to the provisions of this Article, an operator may operate a snowmobile upon Town streets other than streets or roads that are part of the state highway system. (Ord. 1, 1989 §1)

Sec. 8-3-20. Age requirement; registration.

Every operator of a snowmobile on Town streets shall be at least sixteen (16) years old, or if from ten (10) through fifteen (15) years old, shall possess a Snowmobile Safety Certificate and at all times be directly escorted by someone sixteen (16) years or older. *Directly escorted* means that the operator who is sixteen (16) years or older shall drive directly in front of the operator who is ten (10) through fifteen (15) years old.

Further, every snowmobile operated on Town streets shall be registered with the State Division of Parks and Recreation and shall comply with state law. (Ord. 1, 1989 §2; Ord. 11, 2002 §1)

Sec. 8-3-30. Application of laws.

This Article shall create an exception to existing ordinances to the extent necessary to permit snowmobiles and their operators to use Town streets. Except as State law or municipal law might otherwise provide regarding snowmobiles, all snowmobiles operated on Town streets pursuant to this Article shall obey all laws and ordinances applicable to the operation and parking of motor vehicles. (Ord. 1, 1989 §3)

Sec. 8-3-40. Owner responsibility.

It is unlawful for the owner of any snowmobile to allow it to be operated upon the Town streets by an operator who is not authorized to operate a snowmobile as stated in Section 8-3-20. (Ord. 1, 1989 §4; Ord. 11, 2002 §1)

Sec. 8-3-50. Right-of-way.

Snowmobiles must yield the right-of-way to all other street traffic and pedestrians, but otherwise shall be operated in the same manner as any other vehicle. (Ord. 1, 1989 §5)

Sec. 8-3-60. Speed limit established.

The maximum speed limit for snowmobiles on Town streets is twenty (20) miles per hour. (Ord. 1, 1989 §6)

Sec. 8-3-70. Equipment requirements.

Headlights and taillights shall be on at all times on the snowmobile while being operated on the Town streets. (Ord. 1, 1989 §7)

Sec. 8-3-80. Towing restrictions.

No person shall operate a snowmobile on Town streets that is towing any person, except that a disabled snowmobile may be towed in accordance with safe and acceptable practices. Supplies and equipment may be towed, provided that a snowmobile has attached thereto one (1) sled or toboggan which, along with the means of rigid attachment, is designed and intended for such purpose. (Ord. 1, 1989 §8)

Sec. 8-3-90. Noise restrictions.

No person shall operate a snowmobile within the Town in a manner that creates excessive noise, has a tuned exhaust or racing engine or is otherwise equipped so that it makes noise at a greater level than it would with a stock engine and/or exhaust system. (Ord. 1, 1989 §9)

Sec. 8-3-100. Penalty.

Violators will be punished by a maximum fine of one hundred dollars (\$100.00) for the first offense and for each successive violation a fine not to exceed one hundred fifty dollars (\$150.00). (Ord. 1, 1989 §10)

