

TITLE 10

Vehicles and Traffic

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CHAPTER 10.04

Model Traffic Code*

* *Editor's Note: Prior ordinance history: Ords. 96-5, 78-2, 79-19, 80-16, 81-30, 82-13, 86-26, 87-20 and 95-21.*

Article I

General Provisions

10.04.010. Adoption – copies on file.

(a) Pursuant to Section 6.9 of Chapter 6 of the Town Charter and Title 31, Article 16, Parts 1 and 2, C.R.S., as amended, there is adopted by reference Articles I and II, inclusive, of the 1995 edition of the *Model Traffic Code for Colorado Municipalities*, promulgated and published as such by the Colorado Department of Transportation, Staff Traffic and Safety Projects Branch, 4201 East Arkansas Avenue, Denver, CO 80222. The subject matter of the *Model Traffic Code* relates primarily to comprehensive traffic control regulations for the Town. The purpose of the ordinance codified in this Chapter and the code adopted herein is to provide a system of traffic regulations consistent with state law generally conforming to similar regulations throughout the State and nation.

(b) 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 business hours. The *Model Traffic Code*, as finally adopted, shall be available for sale to the public through the office of the Town Clerk at a moderate price. (Ord. 96-6 §1(part))

10.04.020 Application.

This Chapter shall apply to every street, alley, sidewalk area, driveway, park and to every other public way or public place or public parking area, either within or outside the corporate limits of this municipality, the use of which this municipality has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402, 1413, and Part 16 of the adopted *Model Traffic Code*, respectively concerning reckless driving, careless driving, eluding a police officer and accidents and accident reports, shall apply not only to public places and ways but also throughout this municipality. (Ord. 96-6 §1(part))

10.04.030 Interpretation.

This Chapter shall be so interpreted and constructed as to effectuate its general purpose and conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of this Chapter and adopted *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. 96-6 §1(part))

10.04.040 Violation – penalties.

The following penalties, herewith set forth in full, shall apply to this Chapter:

- (1) It is unlawful for any person to violate any of the provisions adopted in this Chapter.

(2) Every person convicted of a violation of any provision adopted in this Chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00) or by imprisonment not to exceed one (1) year, or by both such fine and imprisonment. (Ord. 02-08 §4; Ord. 96-6 §1(part))

Article II
Traffic Control Schedules

10.04.050 Decreased and increased speed limits.

In accordance with the provisions of Sections 1101 and 1102 of the *Model Traffic Code*, and when official signs are erected giving notice thereof, the speed limit for specified intersections or approaches thereto and upon streets or portions thereof shall be designated in resolutions duly adopted by the Town Council. (Ord. 96-6 §1(part))

Article III
Amendments

10.04.060 Section 1212 added to Article I, Part 12 of the *Model Traffic Code* – parking on private property.

Article I, Part 12 is amended by the addition of Section 1212, which shall read as follows:

"Section 1212. Unlawful Parking on Private Parking Lots or Private Property.

"It shall be unlawful for any person to park or cause to be parked any vehicle upon any private parking lot or any other private property within the Town of Avon, without the consent of the owner thereof or the tenant or person in possession or control of said private parking lot or private property.

"(a) Posting of Sign

"Any, owner, tenant or person in possession or control of a private parking lot or private property wishing to avail himself of the provision of this section shall post at each and every entrance to a private parking lot or private property a sign containing essentially the following words:

"Private Parking Lot

"Parking is reserved for persons having permission of the owner and any other person may be subject to the penalties imposed by Ordinance No. 96-6 (Series 1996). Violating vehicles may be impounded.

"All signs must be approved by the Chief of Police, who shall have the authority to determine size, shape and lettering of such signs.

"(b) Signing of Complaints

"No complaint shall be issued for any violation of this section unless the same is signed by the owner, tenant or person in possession or control of the private parking lot or private property within or upon which a violation of this section may have occurred or the agent of such person or entity."

(Ord. 96-6 §1(part))

10.04.070 Section 1801 added to Article I, Part 18 of the *Model Traffic Code* – authority to impound vehicles.

Article I, Part 18 is amended by the addition of Section 1801, which shall read as follows:

"Section 1801. Authority to Impound Vehicles. (a) Whenever any police officer finds a vehicle, attended or unattended, standing upon any portion of a street or highway right-of-way within this municipality in such a manner as to constitute a violation of sections 1202 and 1204 of this Code, or left unattended, for a period of 24 hours or more and presumed to be abandoned under the conditions prescribed by 42-4-1802 et seq. C.R.S., such officer shall require such vehicle to be removed or cause the same to be removed and placed in storage at the nearest garage or other place of safety designated or maintained by this municipality.

"(b) In the event of abandonment of a vehicle on property within this municipality other than public rights-of-way the owner of such property shall notify the police department, and said police after a period of 72 hours cause the abandoned vehicle to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by the municipality.

"(c) Whenever any police officer finds a vehicle parked on any street or at any place within this municipality in violation of any provision of this code or in violation of a provision contained on any official sign, such officer may require such vehicle to be removed or cause the same to be removed and placed in storage.

"(d) A vehicle illegally parked on private property shall not be impounded pursuant to Section 1801(c) hereof unless a complaint for said violation is signed by the owner, lessee, tenant, or authorized agent, who is legally in possession or control of said property.

"(e) In the event a vehicle is impounded pursuant to subsection (a), (b) or (c) of Section 1801 hereof, the owner or driver of the vehicle shall pay as a fine a reasonable amount for said removal or removal and storage in addition to the penalty imposed for illegal parking or any other violation of any of the provisions hereof.

"(f) Whenever the police officer or any other employee of the Town of Avon so authorized removes the vehicle and causes it to be impounded as authorized by law, and the officer or other employee knows or is able to ascertain from the registration, or other records in the vehicle or otherwise, the name of the owner and address of the owner, the officer or employee shall immediately give or cause to be given notice in writing to the owner of the fact of the removal, the reason for it and the place to which the vehicle has been removed.

"(g) Whenever an officer or employee of the Town removes a vehicle from a public way or from public or private property and does not know or is not able to ascertain the name of the owner thereof, or for any other reason is unable to give the notice to the owner as provided in Section 1801(f), and in the event the vehicle is not returned to the owner within a period of three days, the Chief of Police or other employee of the Town designated by the Chief of Police shall immediately send or cause to be sent a written report of the removal by mail to the state department whose duty it is to register motor vehicles. The notice shall include a complete description of the vehicle, the date, time and place of

removal, the reasons for the removal, and the name of the garage or other place where the vehicle is stored, with a request that the owner of the vehicle be notified immediately.

"(h) Whenever, pursuant to the terms of this chapter, a vehicle has been impounded by the Town for period of thirty days and no claim of ownership or right to possession thereof has been made, or when a claim has been made but not established to the satisfaction of the town manager, and no suit or action to determine the claim has been instituted, the Town may dispose of the vehicle in the manner set out in subsection (i).

"(i) The Chief of Police or other employee of the Town designated by the Chief of Police shall cause written notice to be given to all persons known by him to claim an interest in the vehicle. The notice shall be given by delivery in person, or by certified mail, addressed to the last known address of the business or residence of the person to be notified. The notice shall contain the following:

"1. An itemized statement of the amount due to the Town for removal of and storage of the vehicle showing the amount due at the time of notice;

"2. A description of the vehicle.

"3. A demand that the amount due the Town, as stated in the notice, and such further claims as shall accrue, shall be paid and the right to the possession of the vehicle be established to the satisfaction of the Chief of Police on or before the date mentioned, being not less than ten days from the delivery of the notice if it is personally delivered, or from the date of registration of the letter, unless the person notified chooses to appear before the Chief of Police or his designee within such ten-day period and establishes that (1) the impounding of the vehicle was improper or (2) the amount demanded is unreasonable, and the statement that unless the amount due the Town is paid or determined not to be required and the right to the possession of the vehicle is established to the satisfaction of the Chief of Police within the time specified, the vehicle will be advertised for sale and sold by auction at a specified time and place.

"(j) In accordance with the terms of the notice provided for in Section 1801(i)(3), a sale of the vehicle by auction may be had to satisfy the claim of the Town for the storage and removal of the vehicle and to discharge the Town from further responsibility in connection with the vehicle and from any duty to further retain or store the vehicle. The sale shall be held at the place where the vehicle is stored or impounded or, if it is manifestly unsuitable for the purpose, at the nearest suitable place and shall be made to the highest bidder of a price at least as great as the estimated value of the vehicle. After the time for the payment of the claim and the establishment to the satisfaction of the Chief of Police of the right to possession of the vehicle has elapsed and notice was given as required, an advertisement of the sale, describing the vehicle to be sold and stating the names of all persons known by the Chief of Police to claim an interest in the vehicle, if any, and the time and place of the sale, shall be published once a week for two consecutive weeks in a newspaper published in the county. The sale shall be held not less than fifteen days from the date of the first publication. The Chief of Police shall execute and deliver a bill of sale, together with any report required by the Colorado Department of Revenue, evidencing transfer of title to the vehicle to any purchaser.

"(k) From the proceeds of the sale provided for in Section 1801(j), the Chief of Police shall satisfy the claim of the Town for the charges for removal and storage of the vehicle, and for the reasonable charges or expenses for or of the notice, advertising and sale. The balance, if any, of the proceeds will be paid into the treasury of the Town and deposited to the general fund. No claim for refund shall be

made by any person entitled to it except if the claim is made within one year from the date of any sale resulting in the payment of any such proceeds into the treasury. A claim or refund shall be made to the town manager, who shall make a thorough examination of the claim. The failure on the part of any person to request the initiation of a refund to him within one year from the date of sale shall be conclusive of the fact that he has no meritorious claim for the refund within the set period of one year from the date of sale and he shall not thereafter commence any action, suit or proceeding whatsoever to obtain the refund and the Town shall be under no liability to him whatsoever by reason of the sale for the payment of any part of the proceeds of the sale or the entire proceeds of the sale in the treasury of the Town.

"(l) When any vehicle is offered for sale at auction pursuant to the terms of this Chapter and there is no bid for the vehicle, the Chief of Police shall declare the vehicle to be sold to the Town for the amount of the charges for the removal and storage of the vehicle, and the charges and expenses of notice, advertisement, and sale, and shall place the vehicle in the custody of such department of the Town as he in his sole discretion may determine, for the sole benefit and use of the Town.

"(m) There shall be no right of redemption from any sale made pursuant to the terms of this section and after a vehicle has been sold pursuant to such terms, neither the Town nor any officer, agent or employee of the Town shall be liable for failure to deliver the vehicle to anyone other than the purchaser or purchasers at the sale.

"(n) Nothing contained herein shall be construed as imposing any obligation or liability on the Town for any negligence in the towing or storage of any vehicle or with respect to the quality of title to any vehicle."

(Ord. 96-6 §1(part))

10.04.080 Section 706 amended – obedience to railroad signal.

Section 706 of the *Model Traffic Code* is amended to read as follows:

"Section 706. Obedience to Railroad Signal.

"(1) Whenever any person driving a motor vehicle approaches a railroad grade crossing under any circumstances stated in this section, the driver of such vehicle shall stop within fifty feet but not less than fifteen feet from the nearest rail of such railroad and shall not proceed until he can do so safely. Such requirements shall apply when:

"(a) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train.

"(b) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train;

"(c) A railroad train approaching within approximately fifteen hundred feet of the highway crossing emits a signal audible from such distance, and such railroad train, by reason of its speed or nearness to such crossing, is an immediate hazard;

"(d) An approaching railroad train is plainly visible and is in hazardous proximity to such crossing.

"(2) No person shall drive any vehicle through, around, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed, nor shall any pedestrian pass through, around, over, or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed."

(Ord. 96-6 §1(part))

10.04.090 Section 1709 amended – penalty assessment notice for traffic offenses.

Section 1709 of the *Model Traffic Code* is amended by the addition of the following language:

"1709(5.5). If a person receives a penalty assessment notice for a violation under Section 1709 and such person pays the fine and surcharge for the violation on or before the date the payment is due, the points assessed for the violation are reduced as follows:

"(a) For a violation having an assessment of three (3) or more points under Section 42-4-1701 (5), Colorado Revised Statutes, the points are reduced by two (2) points;

"(b) For a violation having the assessment of two (2) points under Section 42-4-1701(5), Colorado Revised Statutes, the points are reduced by one (1) point.

"1709(6). Whenever the Town of Avon reduces a traffic offense the reduced offense and the points assessed for such reduced offense shall conform to the point assessment schedule under Section 42-2-127(5), Colorado Revised Statutes."

(Ord. 97-9 §1)

10.04.100 Section 1415 added to Article I, Part 14 of the *Model Traffic Code* – school zones – increase of penalties for moving traffic violations.

Article I, Part 14 is amended by the addition of Section 1415, which shall read as follows:

"Section 1415. School zones - Increase of penalties for moving traffic violations. (1) Any person who commits a moving traffic violation in a school zone is subject to increased penalties and surcharges imposed by Section 1701(5).

"(2) For purposes of this section, 'school zone' means an area that is designated as a school zone and has appropriate signs posted indicating that the penalties and surcharges will be double. The state or local government having jurisdiction over the placement of traffic signs and traffic control devices in the school zone area shall designate when the area will be deemed to be a school zone for the purposes of this section. In making such designation, the state or local government shall consider when increased penalties are necessary to protect the safety of school children."

(Ord. 98-11 §1)

10.04.110 Section 1903 amended – school bus violations – increase of penalties for traffic violations.

Section 1903 of the *Model Traffic Code* is amended by the addition of the following language:

"1903(6)(c). Any person who violates the provisions of paragraph (a) of subsection (1) of this section is subject to increased penalties and surcharges imposed by Section 1701(5)."

(Ord. 98-11 §2)

10.04.120 Section 1701 amended – traffic offenses and infractions classified – penalties – penalty and surcharge schedule.

Section 1701 of the *Model Traffic Code* is amended by the addition of the following language:

"1701(5). The penalty and surcharge schedule imposed for any moving traffic violation under subparagraph 3 of Section 1701 are doubled if the violation occurs within a school zone pursuant to Section 1415 or if a violation of Section 1903(1)(a) occurs.

"1701(6). The penalty and surcharge schedule imposed for any moving violation under subsection 3 of Section 1701 are doubled if the violation occurs within any of the residential areas as designated pursuant to Section 1416."

(Ord. 99-18 §2; Ord. 98-11 § 3)

10.04.130 Section 1416 added to Article I, Part 14 of the *Model Traffic Code* – residential areas – increase of penalties for moving traffic violations.

From and after the posting of signs, any person who commits a moving traffic violation in the Wildridge Subdivision; on Hurd Lane east of Avon Road; on Stonebridge Drive; on Eaglebend Drive; or on West Beaver Creek Boulevard between Highway 6 and Benchmark Road, is subject to increased penalties and surcharges imposed by Section 1701(6). (Ord. 99-18 § 1)

CHAPTER 10.08

Restricted Use Areas

10.08.010 Definitions.

For the purposes of this Chapter, the words and phrases set forth in this Section shall have the following meanings:

Motorized vehicle means any device, which by means of any motor or engine, whether assisted by human effort or not, operates or is capable of being operated in such a manner as to propel itself and/or its operator across or upon land, water, ice or snow, and includes, but is not limited to: all trucks, vans, automobiles, cars, dune buggies, motorcycles, motorscooters, mopeds, snowmobiles, boats, jet-skis, airboats or hydrofoils.

Restricted use area means all land and property, however owned, for which persons cited under the terms and provisions of this Chapter have not received permission from the owner or agent for the owner of said property, to engage in the act or acts for which said person was cited, and such permission, in order to constitute a defense to said citation, must have been given prior to the date on which such property owner or agent complained of such acts. Further, all property belonging to the Town shall also be considered *restricted use area* and all land zoned OLD, PRM, SPG or GPEH according to the official zone district map of the Town, regardless of ownership, shall be considered *restricted use area*. Roads, streets, alleys, highways, parking lots and parking structures, regardless of ownership, shall not be considered *restricted use area*. (Ord. 79-23 §1)

10.08.020 Prohibited acts.

No person shall park, drive, pilot or in any manner operate any motorized vehicle, as defined in Section 10.08.010, upon or across any restricted use area within the Town. Neither shall any person be a passenger upon, on or in any motorized vehicle or upon, on or in any conveyance parked, drawn, pulled, pushed or otherwise propelled by any motorized vehicle within the Town. (Ord. 79-23 §2)

10.08.030 Exceptions.

The provisions of this Chapter shall not apply to an operator or passenger of a motorized vehicle when such vehicle is operated in connection with any activity involving maintenance, construction, snow removal or mowing; provided that such activity was authorized by the owner or agent for the owner of such restricted use area. (Ord. 79-23 §3)

10.08.040 Complaint by property owner or agent – affidavit.

(a) If the owner or agent for the owner of any land or property classified under this Chapter as restricted use area wishes to complain of the acts of another in violation of the terms and conditions of this Chapter, he or she shall so indicate by filling out and swearing or affirming to an affidavit such as is set out in Subsection (b) of this Section, when so requested by any member of the Police Department. Such affidavit shall be sworn to and signed in the presence of the Town Clerk.

(b) The affidavit shall have the following form:

STATE OF COLORADO) AFFIDAVIT
) PURSUANT
COUNTY OF EAGLE) ss TO ORDINANCE NO.
TOWN OF AVON) 23, SERIES OF 1979

I, _____, a property owner or agent for a property owner within the Town of Avon, having been sworn upon oath hereby depose and state:

1. That I am the owner of or an agent for the owner of property located at _____, within the Town of Avon, Eagle County, Colorado.

2. That pursuant to the terms of The Town of Avon Municipal Code, Ordinance No. 23, Series of 1979, I agree to have this Affidavit considered and treated as a formal Complaint, and I further agree to appear when and where requested by the Town Attorney for the Town of Avon, or his designee, for the purpose of giving testimony concerning a person who has been identified to me as _____.

2. That the person identified to me as _____ was observed by me operating, or as a passenger in or upon, a Motorized Vehicle upon property located at _____, Town of Avon, Eagle County, Colorado.

FURTHER affiant sayeth not.

Dated this _____ day of _____, 20__.

Signature of Affiant

Address, including P.O. Box

Phone number

Subscribed and sworn to before me this _____ day of _____, 20__.

Town Clerk,
Town of Avon

(Ord. 79-23 §5)

10.08.060 Defenses – prior permission.

It shall be a complete defense to any charge of a violation of this Chapter that the person cited under this Chapter had obtained permission to engage in the act for which he or she was cited and that the permission was given by the owner or agent for the owner of the land upon which the act was alleged to have occurred. Such permission must have been given prior to the date on which such property owner or agent complained of such acts. (Ord. 79-23 §6)

10.08.070 Posting not required – presumption.

(a) It shall not be required in order to sustain a conviction for a violation of this Chapter that the restricted use area be posted in any manner whatsoever, nor need such area be identified in any manner.

(b) In all prosecutions under this Chapter, it shall be presumed that any person so cited had knowledge that any land or property not belonging to such person was, in fact, a restricted use area. (Ord. 79-23 §7)

10.08.080 Violation – penalty.

Any person violating any provision of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the provisions of Section 1.08.010 of this Code. (Ord. 79-23 §8; Ord. 04-05 §1)

CHAPTER 10.12

Emergency Lane Parking Restrictions

10.12.010 Title.

This Chapter shall be known and may be cited as "The Avon Emergency Lane Parking Restriction Ordinance." (Ord. 80-3 §1)

10.12.020 Definitions.

The definitions from the *Model Traffic Code*, Part D, Section XXV, shall apply to this Chapter and are incorporated in this Chapter by reference thereto. In addition, the following definitions shall apply:

Emergency lane means certain areas which are set aside for the use of firefighting or other emergency equipment and in which it is prohibited to stop, stand or park a vehicle. Unless otherwise specifically authorized by the Fire Chief or the Police Chief for reasons consistent with the purpose of this Chapter, all emergency lanes shall be designated portions of roadways, parking areas or other public areas on private property. Such emergency lanes may be marked by striping or other appropriate boundary markers.

Fire Chief means the chief of any fire protection district serving the Town or any portion of the Town, or any member of any such fire department who has been designated by the chief of any such department or district to perform certain specific tasks pursuant to this Chapter.

No parking, emergency lane signs shall be those signs approved by the Town Council for the designation of emergency lanes within the Town. (Ord. 80-3 §2)

10.12.030 Emergency lanes – designation and description by Fire Chief – records.

Pursuant to this Chapter and at such times as they may determine, the Fire Chief, acting jointly with the Police Chief, shall conduct a survey within the Town to determine the need for the location and designation of emergency lanes. When such a need has been identified, the Fire Chief shall describe in words on a form appropriate for the task the location of the emergency lane with respect to buildings and other fixed objects. The Fire Chief shall retain a copy of the description of the location of the emergency lane and other copies shall be forwarded to the Police Chief, the Town Manager and the owner of the property on which the emergency lane is located.

The Town Manager shall cause all such descriptions of emergency lanes as received from the Fire Chief to be maintained as a permanent Town record in such a way that, from that record, a property owner or citizen can determine the location of all the emergency lanes so designated within the Town. Such signs shall be considered to be official traffic control devices. (Ord. 80-3 §3(part))

10.12.040 Emergency lanes – notice to property owners – posting.

(a) At such time that the Fire Chief forwards to the property owner the description of the location of the emergency lanes, he or she shall also cause a copy of the following notice to be transmitted to the property owner:

Notice

Following an inspection of your property located at (give street address or legal description of property), in the Town of Avon, Colorado, it has been determined, pursuant to Ordinance No. 3, Series of 1980, that there is a need for the designation of emergency lanes in the following locations:

(Give entire description of location of emergency lanes, such as "along entire south side of building for a distance of ___ feet from building" or whatever is appropriate).

You are hereby notified that, upon the filing of a copy of this Notice of Designation of emergency lane with the Avon Town Manager, these emergency lanes will have official, legal status under Ordinance No. 3, Series of 1980. You are further notified that, as the owner of property upon which emergency lanes have been located and designated, you will be required to have Town Council approved "No Parking, Emergency Lane" signs erected as required by Ordinance No. 3, Series of 1980, at your expense. You will be contacted by me or a member of my department within the near future.

Avon Fire Chief

(b) Within sixty (60) days following the mailing of the above notice, the Fire Chief shall cause to be erected in appropriate locations certain signs bearing the words "No Parking, Emergency Lane, Tow Away Zone," on the property involved. These signs shall be erected in location of maximum visibility and may be placed on existing objects such as buildings and other fixed objects or upon poles or standards placed for the purpose of holding such signs. (Ord. 30-3 §3(part))

10.12.050 Payment for signs – penalty for failure – lien.

It is determined that erection of the emergency lane signs is of special benefit to the property owner on whose property the signs are to be erected. Following the erection of such signs, the Fire Chief shall submit to the Town Manager an itemization of expenses incurred in the erection of such signs. Separate itemizations shall be submitted for each lot or parcel of property on which signs were erected. The itemization shall include the costs incurred for labor and materials as well as the cost of the signs erected. The Town Manager shall then submit a statement of costs to the property owner on whose property the signs have been erected. Included with this statement of expenses shall be a statement that any unpaid statement shall accrue interest at the rate of one and one-half percent (1.5%) of the unpaid balance per month, the accrual of interest to begin thirty (30) days after the mailing of the notice. The amount of such expense, together with any penalty and interest, if not paid when due, shall further constitute a lien on the property benefited, which lien shall continue in effect until paid or otherwise discharged. (Ord. 80-3 §4)

10.12.060 Violation – penalty – impoundment.

(a) No person shall stop, stand or park a vehicle within any emergency lane designated pursuant to this Chapter, except when necessary to avoid a conflict with other traffic, or in compliance with the directions of a police officer or official traffic control device, or except for the purpose of loading or unloading passengers when such standing does not obstruct, impede or endanger any traffic.

(b) Every person convicted of a violation of this Section shall be punished in accordance with the provisions of Section 1.08.010 of this Code.

(c) In addition to issuing a summons and complaint for a violation of this Section, any Town police officer may order any offending vehicle towed and impounded. Before the owner or agent for the owner of any vehicle impounded pursuant to this Chapter is permitted to retake possession of the impounded vehicle, he or she shall pay the actual costs of the towing and the daily storage rate, computed on the basis of the number of days for which the vehicle was stored, to the Town or its designated representative. (Ord. 80-3 §5; Ord. 04-05 §1)

CHAPTER 10.14

Parking and Impoundment

10.14.010 Parking to obstruct traffic.

No person shall park any vehicle upon a street or at any other place within this municipality in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance. (Ord. 87-4 §1(part))

10.14.020 Compliance required.

On any street or at any place within this municipality, including, without limitation, within municipally owned or operated parking lots, where official signs are posted giving notice of stopping or standing restrictions or prohibitions, no person shall stop, stand or park a vehicle in any manner in violation of the provisions contained on such sign or signs except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer or official traffic-control device. The prohibition of this Section shall not apply when, after at least twenty-four (24) hours' notice to the Police Chief, or his or her designee, permission is given in writing to a property owner to park vehicles or vehicles of his or her guests on a street fronting on the property of that property owner for a period of time not in excess of six (6) hours. (Ord. 91-2 §1; Ord. 87-4 §1(part))

10.14.030 Impoundment – authorized.

Whenever any police officer finds a vehicle, attended or unattended, standing upon any portion of a street or upon any place within this municipality in such a manner as to constitute a violation of any section of this Chapter, or left unattended for a period of twenty-four (24) hours or more and presumed to be abandoned under the conditions prescribed by Section 42-4-1601 et. seq., C.R.S., 1973, as amended, the officer shall require the vehicle to be removed or cause it to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by this municipality, and the charges for towing and storage of such vehicle shall be charged to the owner of the vehicle in addition to a ten-dollar impoundment charge. (Ord. 87-4 §1(part))

10.14.040 Impoundment – notice.

(a) Whenever a police officer or an employee of the Town so authorized removes a vehicle and causes it to be impounded as authorized by law, and the officer or other employee knows, or is able to ascertain from the registration or other records in the vehicle or otherwise, the name of the owner and address of the owner, the officer or employee shall immediately give or cause to be given notice in writing to the owner of the fact of the removal, the reason for it and the place to which the vehicle has been removed.

(b) As to any vehicle impounded pursuant to this Chapter by or at the request of the Town, its agents or employees, a person who has legal entitlement to possession of the vehicle has a right to a post-seizure administrative hearing to determine whether there was probable cause to impound the vehicle if such person files a written demand on forms so provided for such a hearing with the Town within ten (10) days after such person has learned such vehicle has been impounded or within ten (10) days after the mailing date set in the notice of stored vehicle, whichever occurs first. The notice of stored vehicle shall be sent in the mail to the legal and registered owner or other agent within seventy-two (72) hours excluding weekends and holidays, after the impounding and storage of the vehicle.

(c)(1) A hearing shall be conducted before a hearing officer designated by the Town Manager within ten (10) days of receipt of a written demand therefor from the person seeking the hearing, unless such person waives the right to speedy hearing. Saturdays, Sundays and Town holidays are to be excluded from the calculation of the ten-day period. The hearing officer shall be someone other than the person that directed the impounding and storage of the vehicle. The sole question before the hearing officer shall be whether there was probable cause to impound the vehicle in question.

(2) *Probable cause to impound* means such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to grant legal authority for the removal of the vehicle.

(3) The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vehicle. The Police Department shall have the burden of establishing that there was probable cause to impound the vehicle in question. At the conclusion of the hearing, the hearing officer shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing and the registered owner of the vehicle (if not the person requesting the hearing). The hearing officer's decision in no way affects any criminal proceeding in connection with the impounding question and any criminal charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer is final. Failure of the registered or legal owner or their agent to request or attend a scheduled post-storage hearing shall be deemed a waiver of the right to such hearing.

(d) The hearing officer shall only determine that as to the vehicle in issue, either:

(1) There was probable cause to impound the vehicle, or

(2) There was no such probable cause.

In the event that the hearing officer determines that there was no probable cause, the hearing officer shall prepare and date a certificate of no probable cause, copies of which shall be given to the possessor of the vehicle and the Police Department. Upon receipt of the possessor's copy of such certificate, the official police, garage or impound lot having custody of the vehicle shall release the vehicle to its possessor. Upon the finding of no probable cause, towing and storage fees shall be paid by the Town in accordance with the arrangements made between the Town and the official police garage or impound lot. If the possessor fails to present such certificate to the impound lot or official police garage having custody of the vehicle within twenty-four (24) hours of its receipt, excluding such days when the official police garage or impound lot is not open for business, the possessor shall assume liability for all subsequent storage charges. Such certificate shall advise the possessor of such requirement. (Ord. 87-4 §1(part))

10.14.050 Impoundment – notice to State.

Whenever an officer or employee of the Town removes a vehicle from a public way and does not know or is not able to ascertain the name of the owner thereof, or for any other reason is unable to give the notice to the owner as provided in Section 10.14.040, and in the event the vehicle is not returned to the owner within a period of three (3) days, the Town Manager shall immediately send or cause to be sent a written report of the removal by mail to the state department whose duty it is to register motor vehicles. The notice shall include a complete description of the vehicle, the date, time and place of removal, the reasons for the removal, and the name of the garage or other place where the vehicle is stored, with a request that the owner of the vehicle be notified immediately. (Ord. 87-4 §1(part))

10.14.060 Impoundment – disposal.

(a) Whenever, pursuant to the terms of this Chapter, a vehicle has been impounded by the Town for a period of thirty (30) days and no claim of ownership or the right to possession thereof has been made, or when a claim has been made but not established to the satisfaction of the Town Manager, and no suit or action to determine the claim has been instituted, the Town Manager may dispose of the vehicle in the manner set out in Subsection (b) of this Section.

(b) The Town Manager shall cause written notice to be given to all persons known by him or her to claim an interest in the vehicle. The notice shall be given by delivery in person, or by registered mail, addressed to the last known address of the business or residence of the person to be notified. The notice shall contain the following:

(1) An itemized statement of the amount due to the Town for removal of and storage of the vehicle, showing the amount due at the time of notice;

(2) A description of the vehicle;

(3) A demand that the amount due the Town, as stated in the notice, and such further claims as shall accrue, shall be paid and the right to possession of the vehicle be established to the satisfaction of the Town Manager on or before a date mentioned, being not less than ten (10) days from the delivery of the notice if it is personally delivered, or from the date of registration of the letter, and statement that unless the amount due the Town is paid and the right to possession of the vehicle is established to the satisfaction of the Town Manager within the time specified, the vehicle will be advertised for sale and sold at a specified time and place. (Ord. 87-4 §1(part))

10.14.070 Impoundment.

In accordance with the terms of the notice provided for in Subsection 10.14.060(b)(3), a sale of the vehicle may be had to satisfy the claim of the Town for the storage and removal of the vehicle and to discharge the Town from further responsibility in connection with the vehicle and from any duty to further retain or store the vehicle. The sale shall be held at the place where the vehicle is stored or impounded or, if it is manifestly unsuitable for the purpose, at the nearest suitable place. After the time for the payment of the claim and the establishment to the satisfaction of the Town Manager of the right to possession of the vehicle has elapsed and notice was given as required, an advertisement of the sale, describing the vehicle to be sold and stating the names of all persons known by the Town Manager to claim an interest in the vehicle, if any, and the time and place of the sale, shall be published once a week for two (2) consecutive

weeks in a newspaper published in the County. The sale shall be held not less than fifteen (15) days from the date of the first publication. (Ord. 87-4 §1(part))

10.14.080 Impoundment – proceeds of sale.

From the proceeds of the sale provided for in Section 10.14.070, the Town Manager shall satisfy the claim of the Town for the charges for removal and storage of the vehicle, and for the reasonable charges or expenses for or of the notice, advertising and sale. The balance, if any, of the proceeds will be paid into the treasury of the Town and appropriated to the general fund. No claim for refund shall be made by any person entitled to it except if the claim is made within one (1) year from the date of any sale resulting in the payment of any such proceeds into the treasury. A claim for refund shall be made to the Town Manager, who shall make a thorough examination of the claim. The failure on the part of any person to request the initiation of a refund to him or her within one (1) year from the date of sale shall be conclusive of the fact that he or she has no meritorious claim for the refund within the set period of one (1) year from the date of sale and he or she shall not thereafter commence any action, suit or proceeding whatsoever to obtain the refund, and the Town shall be under no liability to him or her whatsoever by reason of the sale for the payment of any part of the proceeds of the sale or the entire proceeds of the sale in the treasury of the Town. (Ord. 87-4 §1(part))

10.14.090 Impoundment – sale to Town.

When any vehicle is offered for sale pursuant to the terms of this Chapter and there is no bid or offered bid for the vehicle, the Town Manager shall declare the vehicle to be sold to the Town for the amount of the charges for the removal and storage of the vehicle, and the charges and expenses of notice, advertisement and sale, and shall place the vehicle in the custody of such department of the Town as he or she in his or her sole discretion may determine, for the sole benefit and use of the Town. (Ord. 87-4 §1(part))

10.14.100 Impoundment – no right of redemption.

There shall be no right of redemption from any sale made pursuant to the terms of this Chapter, and after a vehicle has been sold pursuant to such terms, neither the Town nor any officer, agent or employee of the Town shall be liable for failure to deliver the vehicle to anyone other than the purchaser or purchasers at the sale. (Ord. 87-4 §1(part))

CHAPTER 10.16

Parking Privileges For the Handicapped

10.16.010 Definition – reserved parking – identification.

As used in this Section, a *handicapped person* means a person so severely handicapped that he or she is unable to move from place to place without the aid of a mechanical device or who has a physical impairment verified, in writing, by the director of the division of rehabilitation or a physician licensed to practice medicine in this State that such impairment limits substantially his or her ability to move from place to place. A handicapped person may park in a parking space identified as being reserved for use by the handicapped, whether on public property or private property available for public use. The owner of private property available for public use may request the installation of official signs identifying parking

spaces reserved for use by the handicapped. Such a request shall be a waiver of any objection the owner may assert concerning enforcement of this Section by peace officers of the Town, and such officers are authorized and empowered to so enforce this Section, provisions of the law to the contrary notwithstanding.

(1) A placket or wheelchair license plate issued to a handicapped person by the State Motor Vehicle Division shall be displayed on the vehicle while parked in such space;

(2) It is unlawful for any person other than a handicapped person to park in a parking space on public or private property which is clearly identified by an official sign as being reserved for use by the handicapped unless such person is parking the vehicle for the benefit of a handicapped person. (Ord. 86-2 §1)

10.16.020 Violation – penalty.

Any person violating any provision of this Chapter shall be guilty of a misdemeanor and, upon conviction thereof, shall be punished in accordance with the provisions of Section 1.08.010 of this Code. (Ord. 86-1 §2; Ord. 04-05 §1)

CHAPTER 10.18

Safety Belt Systems

10.18.010 Definitions.

As used in this Section:

Motor vehicle means a self-propelled vehicle intended primarily for use and operation on the public highways, including passenger cars, station wagons, vans, taxicabs, ambulances, motor homes and pickups. The term does not include bicycles, passenger buses, school buses and farm tractors and implements of husbandry designed primarily or exclusively for use in agricultural operations.

Safety belt system means a system utilizing a lap belt, a shoulder belt or any other belt or combination of belts installed in a motor vehicle to restrain drivers and passengers, which system conforms to federal motor vehicle safety standards. (Ord. 87-20 §2(part))

10.18.020 Mandatory use of safety belt systems.

Unless exempted pursuant to Section 10.18.030, every driver of and every front seat passenger in a motor vehicle equipped with a safety belt system shall wear a fastened safety belt while the motor vehicle is being operated on a street or highway in this State. (Ord. 87-20 §2(part))

10.18.030 Exemptions to mandatory use.

The requirement of Section 10.18.020 shall not apply to:

- (1) A child required by Section 42-4-235, C.R.S., to be restrained by a child restraint system;
- (2) A member of an ambulance team, other than the driver, while involved in patient care;

(3) A peace officer, level I, as defined in Section 18-1-901(3)(1)(I), C.R.S., while performing official duties, so long as the performance of said duties is in accordance with rules and regulations applicable to said officer which are at least as restrictive as Section 10.18.020 and which only provide exceptions necessary to protect the officer;

(4) A person with a physically or psychologically disabling condition whose physical or psychological disability prevents appropriate restraint by a safety belt system if such person possesses a written statement by a physician certifying the condition, as well as stating the reason why such restraint is inappropriate;

(5) A person driving or riding in a motor vehicle not equipped with a safety belt system due to the fact that federal law does not require such vehicle to be equipped with a safety belt system;

(6) A rural letter carrier of the United States Postal Service while performing duties as a rural letter carrier; and

(7) A person operating a motor vehicle for commercial or residential delivery or pickup service; except that such person shall be required to wear a fastened safety belt during the time period prior to the first delivery or pickup of the day and during the time period following the last delivery or pickup of the day. (Ord. 87-20 §2(part))

10.18.040 Violation and penalties.

It is unlawful for any person to violate any provision hereof. Any person who violates any provision of this Chapter shall be punished by a fine of ten dollars (\$10.00). (Ord. 87-20 §2(part))

10.18.050 Provision for citation.

No driver or passenger in a motor vehicle shall be cited for a violation of this Chapter unless the driver was stopped by a law enforcement officer for an alleged violation of law other than a violation of this Section. (Ord. 87-20 §2(part))

10.18.060 Testimony at trial.

Testimony at a trial for a violation charged pursuant to Section 10.18.040 may include:

(1) Testimony by a law enforcement officer that he or she observed the person charged operating a motor vehicle while said operator or any passenger was in violation of the requirements of Section 10.18.020; or

(2) Evidence that the driver removed the safety belts or knowingly drove a vehicle from which safety belts had been removed. (Ord. 87-20 §2(part))

CHAPTER 10.24

Vehicles Prohibited

10.24.010 Vehicles prohibited.

No person shall operate or drive a commercial vehicle, truck, bus or semitrailer, having more than a twenty-four-thousand-pound gross weight, on the following streets within the Town:

East Beaver Creek Boulevard;

East Benchmark Road;

Hurd Lane;

Stonebridge Drive; and

Eagle Bend Drive;

except in the course of deliveries to retail outlets within the Town. (Ord. 98-13 §1(part))

10.24.020 Exemption permits.

The Town Manager or his or her designee may issue a permit exempting a vehicle from the application of this Chapter upon proof that no other access exists or can reasonably be acquired to the property to which such vehicle is being driven. Any such permit shall be effective for a period of up to six (6) months, provided the same is displayed in the vehicle exempted. (Ord. 98-13 §1(part))

10.24.030 Violation – penalty.

It is unlawful for any person to violate any of the provisions of this Chapter. Every person convicted of a violation of any of the provisions of this Chapter shall be punished in accordance with the provisions of Section 1.08.010 of this Code. (Ord. 98-13 §2; Ord. 04-05 §1)

CHAPTER 10.28

Vehicle Registration

10.28.010 Registration required.

(a) It is an offense for any person who owns a motor vehicle, trailer, semitrailer or vehicle which is primarily designed to be operated or drawn upon any highway, or who owns a trailer coach or mobile machinery whether or not it is operated on a highway within forty-five (45) days after the purchase of such vehicle to fail to apply and obtain registration therefor, except when an owner is permitted to operate a vehicle under the special provisions of Section 42-3-103, C.R.S.

(b) It is an offense for any owner, operator or occupant of a vehicle which is or has been duly registered for the current year in another state or country of which such owner, operator or occupant has

been a resident, to become a resident of this State and to fail to immediately apply for and obtain registration for such vehicle for this State. (Ord. 02-26 §1(part))

10.28.020 Registration card in vehicle.

It is an offense for any person driving a motor vehicle to fail to have in his or her possession or carry in the vehicle a current registration card issued for the vehicle, available for inspection by any peace officer. (Ord. 02-26 §1(part))

10.28.030 No number plates attached.

(a) It is an offense for any person in control of a self-propelled motor vehicle to fail to attach to such motor vehicle number plates during the current registration year, one (1) in the front and the other in the rear. The number plate assigned to a motorcycle, trailer or semitrailer or any other vehicle drawn by a motor vehicle or any item of mobile machinery or self-propelled construction equipment shall be attached to the rear thereof.

(b) It is an offense for any person in control of any vehicle described in this Subsection to fail to securely fasten each number plate to the vehicle to which it is assigned so as to prevent the plate from swinging and so that it is horizontal at a height not less than twelve (12) inches from the ground, measuring from the bottom of such plate, in a place and position to be clearly visible, free from foreign materials and in a clearly legible condition.

(c) It is an offense for any person in control of any vehicle described in this Subsection to knowingly display or affix to such vehicle any number plates or temporary registration permit that is not issued by the State for the specific vehicle to which the number plate or temporary registration permit is attached, except as provided for in Section 42-3-103, C.R.S.

(d) It is an offense for any person:

(1) To knowingly display, cause or permit to be displayed or to have in his or her possession any certificate of title registration number plate, knowing the same to be fictitious or to have been cancelled, revoked, suspended or altered;

(2) To lend to or knowingly permit the use by one not entitled thereto any certificate of title registration card or registration number plate issued to the person so lending or permitting the use thereof;

(3) To use a false or fictitious name or address in any application for the registration of any vehicle or for any renewal or duplicate thereof or knowingly to make a false statement or knowingly to conceal a material fact or otherwise commit a fraud in any such application;

(4) To use or permit the use of any noncommercial or recreational vehicle to transport cargo or passengers for profit or hire or in any business or commercial enterprise. (Ord. 02-26 §1(part))

10.28.040 Expired number plates/temporary permit.

It is an offense for any person who owns, operates or is in control of any motor vehicle to fail to display license plates or a temporary registration permit other than those of the registration period to which they pertain. (Ord. 02-26 §1(part))

CHAPTER 10.32

Driver Licenses

10.32.010 Driving without valid license.

No person shall drive any motor vehicle unless such person has been issued a currently valid driver, minor driver or provisional driver license, or an instruction permit, unless such person is classified as being exempt from obtaining a license pursuant to Section 42-2-102, C.R.S. (Ord. 02-24 §1(part))

10.32.020 Resident more than thirty days.

No person shall drive any motor vehicle without a valid Colorado driver license or instruction permit after thirty (30) days of becoming a resident of the State. (Ord. 02-24 §1(part))

10.32.030 License expired one year or less.

No person shall drive any motor vehicle if such person's driver license has been expired for one (1) year or less and such person has not been issued another such license by the State or another state or country subsequent to such expiration. (Ord. 02-24 §1(part))

10.32.040 Proper class driver license required.

No person who has been issued a currently valid driver license or instruction permit shall drive a type or general class of motor vehicle for which such person has not been issued the correct type or general class of license or permit. (Ord. 02-24 §1(part))

10.32.050 Valid license on person required.

No person who has been issued a currently valid driver license or instruction permit shall operate a motor vehicle without having such license or permit in such person's immediate possession. (Ord. 02-24 §1(part))

10.32.060 Motorized bicycles.

An operator of a motorized bicycle shall possess a valid driver's license. Motorized bicycles may be operated in bicycle lanes included within roadways. No motorized bicycles may be operated on any sidewalk, pathway or upon any public lands unless such operation is specifically designated. (Ord. 02-24 §1(part))

10.32.070 Special restrictions.

(a) No person under the age of eighteen (18) years shall drive any motor vehicle used to transport explosives or inflammable material or as a school bus for the transportation of pupils to or from school; nor shall any person under the age of eighteen (18) years drive a motor vehicle used as a commercial, private or common carrier of persons or property unless such person has experience in operating motor vehicles and has been examined on such person's qualifications in operating such vehicles. The examination shall include safety regulations of commodity hauling and the driver shall be licensed as a driver or provisional driver.

(b) Notwithstanding the provisions of Subsection (a) above, no person under the age of twenty-one (21) years shall drive a commercial motor vehicle as defined in Section 42-2-402(4), C.R.S., except as provided in Section 42-2-404(4), C.R.S. (Ord. 02-24 §1(part))

10.32.080 Refusal to give license on demand.

No person who operates a motor vehicle and has been issued a driver license or instruction permit or state identification card and who has the same in his or her immediate possession shall refuse to remove it from any billfold, purse, cover or other container and to hand it to any peace officer who has requested the person to do so if such peace officer reasonably suspects that such person is committing, has committed or was about to commit an offense. (Ord. 02-24 §1(part))

10.32.090 License restrictions.

No person shall operate a motor vehicle in any manner which violates restrictions, limitations or conditions imposed in a driver license or instruction permit issued to the person by the State or another state or country. (Ord. 02-24 §1(part))

10.32.100 Notification of change of name or address.

It is a violation of this Chapter to fail to notify the Colorado Department of Revenue of any change in name or address within ten (10) days of such change. (Ord. 02-24 §1(part))

10.32.110 Altered or fictitious license.

(a) No person shall have in his or her possession a lawfully issued driver license, instruction permit or identification card that has been altered by means of erasure, obliteration, deletion, insertion of new matter, transposition of matter or any other means so that the same as altered falsely appears or purports to be an authentic and lawfully issued license, permit or identification card.

(b) No person shall have in his or her possession a paper, document or other instrument which falsely appears or purports to be a lawfully issued and authentic driver license, instruction permit or identification card, knowing that the same was falsely made and was not lawfully issued.

(c) No person shall knowingly display or represent as being such person's own any driver license, instruction permit or identification card which was issued to another person.

(d) No person shall knowingly permit any unlawful use of a driver license, instruction permit or identification card. (Ord. 02-24 §1(part))

10.32.120 Permitting unlicensed person to drive.

(a) No person shall knowingly permit any child under the age of eighteen (18) to drive a motor vehicle when such child has not been issued a currently valid driver license or instruction permit or knowingly permit a child under the age of eighteen (18) to drive a motor vehicle in a manner violating any conditions, limitations or restrictions contained in a license or permit issued to such child.

(b) No person shall knowingly authorize or permit a motor vehicle owned by such person or under such person's control to be driven by any person who has not been issued a currently valid driver license or instruction permit or knowingly permit such person to drive a motor vehicle in a manner violating any conditions, limitations or restrictions contained in the same. (Ord. 02-24 §1(part))