

## CHAPTER 8

### Vehicles and Traffic

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## ARTICLE 1

### Model Traffic Code

#### Sec. 8-1-10. Adoption.

Pursuant to Title 31, Article 16, Parts 1 and 2, and Title 30, Article 4, 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, Safety Project Branch, 4201 East Arkansas Avenue, EP 700, Denver, Colorado 80222. 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. (Prior code 11-1-1; Ord. 46 §1, 1995; Ord. 2 §1, 2004; Ord. 4 §1, 2009)

#### Sec. 8-1-20. Copy on file.

One (1) copy of the Model Traffic Code adopted herein is now filed in the office of the Town Clerk and may be inspected during regular business hours. The 2003 edition of the Model Traffic Code is adopted as if set out at length. (Prior code 11-1-1; Ord. 46 §1, 1995; Ord. 2 §1, 2004; Ord. 4 §1, 2009)

#### Sec. 8-1-30. Amendments.

The Model Traffic Code is subject to the following additions, deletions or modifications:

- (1) Parking is allowed on Elk Avenue, subject to the restrictions set forth in Article 2 of this Chapter.
- (2) The provisions of this Chapter pertaining to alternate side of the street parking, winter parking and traffic and fire hydrant zones are hereby reaffirmed and made a part of the adopted code.
- (3) No person shall use any sidewalk within the Town for travel on skis, toboggans, coasting sleds, snowmobiles, roller skates, skateboards or similar devices.
- (4) Section 109 of the Model Traffic Code is hereby amended by adding thereto the following Paragraphs (13), (14) and (15):

"(13) A snowmobile may be operated on the streets and highways under the jurisdiction of the Town only when such operation is authorized by a special ordinance or addition to this code and appropriate notice is given thereof, and then only in the manner and on such streets prescribed by such ordinance consistent with the provisions of state law. A limited access snowmobile route is designated within the Town of Crested Butte for use only by Nordic track-setting machines. Said route shall be designated by the Town Manager no later than the 15th day of October of each year. Any snowmobile or snow machine operated on said route will conform to all applicable state laws regarding their operation, will conform to all ordinances and laws pertaining to the movement and operation of other vehicles, and shall not be operated by anyone under the age of sixteen or between the hours of 9:00 p.m. and 6:00 a.m. The Town Council, during the month of October of each year, shall be required to, by formal resolution following a public hearing at a regular or

special meeting of the Town Council, approve the continued operation of snow machines for Nordic track-setting purposes, the designated route and the restrictions of operations. The notice for the public hearing shall be published at least ten (10) days prior to the public hearing and shall contain the date, time and location of the public hearing and a brief description of the resolution to be proposed.

"(14) Skiing shall be permitted on the following Town streets:

"1. On the entire length of Butte Avenue, from the east boundary of Town to the west boundary of Town; and

"2. On First Street from Whiterock Avenue to Butte Avenue; and

"3. On Whiterock Avenue from the east side of Second Street to the west side of First Street; and

"4. On Third Street from Belleview Avenue to Red Lady Avenue; and

"5. On Red Lady Avenue from Third Street to the Town Ranch; and

"6. On Eighth Street from Red Lady Avenue to Butte Avenue; and

"7. On Elk Avenue from the east side of Sixth Street to the east side of Block 69; and

"8. On Teocalli Avenue from the west boundary of Town to First Street.

"(15) Kicksleds, coaster sleds and toboggans being pulled by human power, shall be allowed on the streets and alleys within the Town, provided that they not be allowed on Elk Avenue, on Sixth Street, on Gothic Road, or on Maroon Avenue west of First Street, except that such devices may be used only to cross these avenues and streets. Lights and reflectors, as defined in section 221 of this code, must be used on the devices between sunset and sunrise.

"(16)(a) A limited access snow cat route shall be designated within the Town for the use of rubber-tracked snow cat machines on Town public streets and highways. Said route shall be designated by the Town Manager by October 15 of each calendar year. Permission for the use of any snow cat shall be given by permit only, and once obtained from the Town as described herein below, shall be for a period beginning on November 1 and expiring on April 30 of the following calendar year. Any such snow cat shall be operated only on such route, and the use thereof shall at all times conform to applicable state laws and regulations regarding its operation on public streets and highways, including, without limitation, applicable licensing, registration and insurance requirements, shall conform to all ordinances and laws pertaining to the movement and operation of other vehicles and shall not be operated by anyone under the age of sixteen (16) or between the hours of 9:00 p.m. and 6:00 a.m.

"(b) A permit shall be first obtained from the Town before any snow cat may be used on public streets and highways. It is unlawful for any person to operate any snow cat on public streets and highways without a permit from the Town or to otherwise operate a snow cat in noncompliance with the provisions of this Section. The Town may issue no more than five (5)

permits for the operation of snow cats on public streets and highways during each permitting period. Each snow cat shall, at a minimum: (i) be street lawful under applicable law; (ii) not exceed 20,000 pounds gross vehicle weight; (iii) without limiting the requirements of Chapter 8, Article 9 of the Crested Butte Municipal Code, not exceed the decibel levels prescribed for motor vehicles in Section 10-9-60; and (iv) be able to maintain posted speed limits within Town so as not to impede traffic flow.

"(c) Application for a permit for the use of a snow cat on public streets and highways shall be submitted to the Town Manager on forms contained in the office of the Town Clerk. The Town Manager may reject any application for being incomplete. As a condition to granting such a permit, the Town shall receive, without limitation, from the applicant therefor, financial security (e.g., irrevocable standby letter of credit, payment bond) acceptable to the Town sufficient to pay for any damage to or destruction caused to public property by such snow cat.

"(d) Permits for snow cats shall be publicly displayed on the snow cat when in use. A permit may be used for more than one (1) specific snow cat, provided that: (i) the application for such permit lists each snow cat that the permit applies to if more than one (1); (ii) where more than one (1) snow cat issued under a given permit, the permittee must be the same person, entity or business operation for all of the snow cats; and (iii) at all times when a snow cat is in use, the permit must be placed in a conspicuous place.

"(e) The holder of a permit for a snow cat shall assume the risk and indemnify, defend and hold harmless the Town, its elected officials, officers, employees and agents against any and all claims arising from any occurrence occasioned by the permitted use and shall maintain, during the period of the permit, comprehensive general public liability and property damage insurance, naming the Town, its officers, elected officials, employees and agents as additional insureds, providing that the insurance is primary insurance and that no other insurance maintained by the Town shall be called upon to contribute a loss covered by the Town and providing for thirty (30) days' notice of cancellation or material change to the Town.

"(f) A permit issued under the provisions of this Section may not be transferred or assigned for any reason. Any such transfer or assignment shall make the subject permit void *ab initio*.

"(g) Subject to subsection (k) of this Section, a snow cat permit is automatically renewable unless the permit is revoked in the same manner as other Town-issued licenses, provided that a permittee who desires to continue operating a snow cat under the permit after the expiration of the permit shall follow the application procedures required of a new applicant. All permits for snow cats issued under the provisions of this Section shall be for snow cats that are being operated in Town no less frequently than once per two (2) calendar weeks.

"(h) All snow cat permits shall be issued on a first-come, first-served basis. If two (2) or more applications are received simultaneously, the Town Manager shall determine priority by lot.

"(i) A permitted snow cat shall make no more than four (4) trips within Town per calendar day. For purposes hereof, 'trip' shall be an act of operating a snow cat on a public street or highway within Town.

"(j) No more than one (1) permit for operation of a snow cat under the provisions of this Section may be held by any person, entity or business operation.

"(k) The provisions of this Section shall be in full force and effect for a period of one (1) year from the effective date hereof, November 11, 2009. Following the conclusion of said one-year period, this Section and the provisions contained herein shall, unless otherwise extended or amended by the Town Council by duly adopted ordinance, expire and be of no further force and effect without further action of the Town Council. Further, upon such expiration, is at all, any rights to operate a snow cat by permit as contemplated under this Section shall become void *ab initio*."

The explanatory map, attached to this Code as Appendix B, shall illustrate where skiers may traverse Town streets. Skiers on Town streets shall ski in a safe and prudent manner, and shall follow all rules and regulations generally applicable to pedestrians.

(5) Subsection 802(1) of the Model Traffic Code is hereby amended to read as follows:

"(1) When traffic control signals are not in place or not in operation, the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be, to so yield to a pedestrian within a crosswalk."

(6) Section 1204 of the Model Traffic Code is hereby amended by adding thereto the following language:

"Without, in any respect, limiting the application of this section to the following examples, a vehicle shall be deemed to be parked in violation of this section if:

"1. It is not moved to a different parking place at least once every twenty-four (24) hours during uninterrupted snowfall.

"2. It is not moved to a new parking place within twenty-four (24) hours after a snowfall of six inches or more.

"3. It is parked so as two lanes of traffic cannot pass in the street."

(Ord. 19 §§2, 3, 1992; Ord. 16 §§1, 2, 1994; Ord. 46 §2, 1995; Ord. 2 §§2, 3, 2004; Ord. 4 §1, 2009; Ord. 13 §1, 2009)

**Sec. 8-1-40. Application.**

This Article shall apply to every street, alley, sidewalk area, driveway, park and every other public way, place or parking area, either within or outside the corporate limits of the Town, the use of which the Town 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 the Town. (Prior code 11-1-4; Ord. 46, §4 1995; Ord. 4 §1, 2009)

**Sec. 8-1-50. Interpretation.**

This Article shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of this Article and the adopted code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or intent of the provisions of any article or section thereof. (Ord. 2, §8 2004; Ord. 4 §1, 2009)

**Sec. 8-1-60. Violation; penalty.**

(a) Any person who violates any of the provisions stated or adopted in this Article shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, except that the violation of a traffic infraction, as set forth in the state statutes, shall constitute a civil matter and shall be penalized by the payment of a fine. The fine amount shall be established pursuant to the penalty schedule set forth at Section 42-4-1701, C.R.S. Each day that any violation of this Article continues to exist shall constitute a separate and additional offense.

(b) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Article.

(c) Any person violating any provision of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(d) The remedies provided in this Section are cumulative and not exclusive and are in addition to any other remedies provided by law. (Ord. 19 §4, 1992; Ord. 46 §3, 1995; Ord. 7 §1, 2001; Ord. 4 §1, 2009)

**ARTICLE 2**

**Parking Regulations**

**Sec. 8-2-10. Intent and purpose.**

The Town Council finds and declares that the provisions of this Article are enacted for the following reasons:

- (1) To reduce hazardous traffic conditions resulting from the use of streets within residential districts for vehicles parked by persons not residing within the Town;
- (2) To protect the Town's citizens and visitors from polluted air, excessive noise and refuse caused by the entry of such vehicles;
- (3) To protect the residents from unreasonable burdens in gaining access to their residences;
- (4) To preserve the character of Town;
- (5) To encourage the use of public transportation;
- (6) To promote efficiency in the maintenance of streets in a clean and safe condition;

- (7) To preserve the value of the property in Town;
- (8) To promote traffic safety and the safety of children and other pedestrians;
- (9) To forestall dangers arising from the blocking of fire lanes, hydrants and other facilities required by emergency vehicles, both in reaching victims and in transporting them to hospitals;
- (10) To facilitate the movement of traffic in the event of accidents and other disasters; and
- (11) To promote the peace, comfort, convenience and welfare of all inhabitants of the Town.  
(Prior code 11-2-1)

**Sec. 8-2-20. Definitions.**

The following definitions shall apply to the interpretation and enforcement of this Article:

*Abandon* means to leave a thing with the intention not to retain possession of or assert ownership over it. The intent need not coincide with the act of leaving.

*East side* of any roadway shall mean that part of any north-south street or alley which is geographically east of the curb placement of said street or alley.

*Fire hydrant zone* means the area adjacent to every fire hydrant within the Town, extending five (5) feet along the curb in each direction from every fire hydrant, then running perpendicular from each curb to the centerline of the roadway.

*Maintained public parking* means the seven (7) feet beyond the roadway on either side and within the street, which may also be described as seven (7) feet beyond the curbs on either side.

*North side* of any roadway shall mean that part of any east-west street or alley which is geographically north of the curb placement of said street or alley.

*Park* shall mean to leave a vehicle or to allow a vehicle to remain stationary and unoccupied on a public street or alley.

*Public snow storage* means the remaining nonmaintained portion of the street beyond the maintained public parking on either side available for private parking and snow storage.

*Roadway* means that portion of a street improved, designed or ordinarily used for vehicular travel and designated as that portion of the street between curbs or twelve (12) feet on either side of the centerline of the street. The entire width of the alley is designated as roadway.

*South side* of any roadway shall mean that part of any east-west street or alley which is geographically south of the curb placement of said street or alley.

*Street* means the entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel; but does not include *alleys* which are only seasonally maintained and are considered as public service access only for purposes of this Article.

*Vehicle* shall mean any device which is capable of moving itself or of being moved from place to place upon wheels, including but not limited to automobiles, four-wheel drive vehicles, trucks, all-terrain vehicles, snowmobiles, tractors, backhoes, trailers and other mechanized conveyances and machinery.

*West side* of any roadway shall mean that part of any north-south street or alley which is geographically west of the curb placement of said street or alley. (Prior code 11-2-2, 11-3-1; Ord. 19 §6, 1992; Ord. 2 §8, 2004; Ord. 4 §1, 2009)

**Sec. 8-2-30. Parking.**

In addition to provisions of the Model Traffic Code as adopted by the Town in Article 1 of this Chapter, the requirements set forth in this Article shall apply. (Prior code 11-2-3; Ord. 4 §1, 2009)

**Sec. 8-2-40. Prohibited parking.**

Parking within the roadway is prohibited. (Prior code 11-2-3)

**Sec. 8-2-50. Winter Parking Rules.**

(a) The requirements of this Section shall apply from November 1 to April 30, unless the Town Manager shall again give proper notice to the public that there no longer exists conditions which necessitate implementation of the provisions of this Section. These provisions shall be collectively known as the "Winter Parking Rules."

(b) The Winter Parking Rules shall become effective immediately upon posting of public notice by the Town Manager in three (3) public places in Town and the publication of said notice in the Town's official newspaper. Said notice shall contain the effective date of the Winter Parking Rules and the provisions of Subsections (c) through (i) below. Notice of termination of the Winter Parking Rules shall be given by the Town Manager by posting of public notice in three (3) public places and publication of said notice in the Town's official newspaper stating the last effective date of the Winter Parking Rules.

(c) On Monday, Wednesday, Friday and Sunday, between the hours of 1:00 a.m. and 10:00 a.m., it shall be unlawful to park a vehicle on the north or east side of any street or alley, except Elk Avenue from Sixth Street to First Street.

(d) On Tuesday, Thursday and Saturday, between the hours of 1:00 a.m. and 10:00 a.m., it shall be unlawful to park a vehicle on the south or west side of any street or alley, except Elk Avenue from Sixth Street First Street.

(e) On every day between the hours of 2:30 a.m. and 8:00 a.m., it shall be unlawful to park a vehicle:

(1) On Elk Avenue from Sixth Street to First Street.

(2) In the following Town public parking lots:

a. The lot immediately east of the intersection of Sixth Street and Elk Avenue.

b. The lot immediately south of the intersection of First Street and Elk Avenue.

- c. The lot at the Crested Butte Nordic Center/Big Mine Park.
  - d. The lot on the north side of the alley west of Second Street between Elk Avenue and Maroon Avenue.
  - e. The lot at the Fire Hall located at 306 Maroon Avenue.
  - f. The lot immediately north of the Crested Butte Mountain Heritage Museum located at 331 Elk Avenue.
- (f) On every day between the hours of 2:30 a.m. and 7:00 a.m., it shall be unlawful to park a vehicle on Third Street from one hundred twenty-five (125) feet north of Elk Avenue to one hundred twenty-five (125) feet south of Elk Avenue.
- (g) On every day during which the Winter Parking Rules are in effect, it shall be unlawful to park a vehicle on the north side of Elk Avenue from Second Street to Fourth Street. Vehicles may park only to load and unload.
- (h) On every day, between Elk Avenue and Sopris Avenue and Elk Avenue and Maroon Avenue from one hundred (100) feet west of Second Street to one hundred fifty (150) feet east of Third Street, it shall be unlawful to park a vehicle in the alleys and to place a trash collection device, including Dumpsters, on any public street, alley or right-of-way.
- (i) No person shall park a vehicle at any time on the west side of Second Street from Elk Avenue to Sopris Avenue and on the south side of Whiterock Avenue from Second Street to one hundred (100) feet east of Second Street. (Prior code 11-2-3; Ord. 11 §1, 1989; Ord. 6 §1, 1991; Ord. 15 §1, 1991; Ord. 7 §1, 2006; Ord. 4 §1, 2009)

**Sec. 8-2-60. Designated loading zones.**

During the times that the Winter Parking Rules are in effect, it shall be unlawful to park in any of the below designated loading zones that are located on the north side of Elk Avenue between Second Street and Fourth Street. Rules and regulations regarding three types of designated loading zones, differentiated by their location, size and length of time in which parking is permitted, are set forth below. Each of these zones shall be designated as such by the appropriate signage.

(1) Between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday, no parking at all shall be permitted in the designated loading zones located:

- a. On the north side of Elk Avenue, between First Street and Second Street. This designated loading zone is approximately seventy-five (75) feet in length.

- b. On the south side of Elk Avenue between Second Street and Third Street. This designated loading zone is approximately seventy-five (75) feet in length.

(2) Between the hours of 8:00 a.m. through 11:00 a.m., Monday through Friday, no parking at all shall be permitted in the designated loading zones located:

a. On the east side of Second Street, between Elk Avenue and Coal Creek. This designated loading zone is approximately fifty-five (55) feet in length.

b. On the north side of Elk Avenue between Second Street and Third Street. This designated loading zone is approximately eighty (80) feet in length.

(3) Between the hours of 8:00 a.m. through 5:00 p.m., Monday through Friday, parking shall be permitted for a maximum of ten minutes per vehicle in the designated loading zones located:

a. On the north side of Elk Avenue between Second Street and Third Street. This designated loading zone is approximately fifty-five (55) feet in length.

b. On the north side of Elk Avenue between Third Street and Fourth Street. This designated loading zone is approximately thirty (30) feet in length. (Prior code 11-2-3; Ord. 10 §1, 1991; Ord. 9 §1, 2001; Ord. 7 §2, 2006)

**Sec. 8-2-70. Stalled or inoperative vehicles.**

(a) No person operating a motor vehicle during the effective period of the Winter Parking Rules shall allow such vehicle to become stalled wholly or partly because the drive wheels thereof are not equipped with effective tire chains or snow tires.

(b) No person operating a motor vehicle during the effective period of the Winter Parking Rules on which there is a parking prohibition in effect shall allow such vehicle to become stalled or to become inoperative. (Prior code 11-2-3)

**Sec. 8-2-80. Two-hour parking limits.**

These following provisions shall be collectively known as the "Two-Hour Parking Limits":

(1) The two-hour parking limits shall be in effect throughout the year, as provided for below.

(2) Between the hours of 8:00 a.m. and 5:00 p.m., it shall be unlawful to park a vehicle for longer than two (2) hours on Elk Avenue, from the east side of Fifth Street to the west side of First Street, and on Third Street from the alley between Elk Avenue and Sopris Avenue to the alley between Elk Avenue and Maroon Avenue, except that parking in designated loading zones, Monday through Fridays, is regulated pursuant to Section 8-2-60 above. At all times during which the designated loading zone rules contained in Section 8-2-60 above or the Winter Parking Rules contained in Section 8-2-50 above are not applicable, then parking is permitted in those designated loading zones for not more than two (2) hours per vehicle, with the exception of the designated loading zone located on Second Street, to which the two-hour parking limits do not apply. (Prior code 11-2-3; Ord. 9 §1, 2001; Ord. 3 §§1—3, 2002; Ord. 4 §1, 2009)

**Sec. 8-2-90. Licensing for off-street private use.**

The Town Manager is hereby authorized to issue revocable licenses to property owners within the Town for landscaping and access upon consideration of the following:

(1) The effect on the safety of the residents and visitors from intensive vehicle parking;

(2) The difficulty or inability of residents and visitors of the immediate area to obtain adequate curbside parking adjacent to or near residences and businesses because of widespread use of available curbside parking spaces by nonresident motorists;

(3) The likelihood of alleviating any problem of nonavailability of residential parking spaces;

(4) The desire of the residents in the immediate area for the institution of a license in that area;

(5) The need for some parking spaces to be available in the area for use by the general public;

(6) The actual planned use to be made of the public property and the exact dimensions of the portion of the street to be so used; and

(7) The effect on snow removal and storage. (Prior code 11-2-4)

**Sec. 8-2-100. Residential parking permit signs.**

(a) The Town shall post signs within the Town giving reasonable notice of the provisions of this Article.

(b) The signs shall be of such character as to inform readily an ordinarily observant person that parking is prohibited within the Town roadways; and signs shall be of such character and placed frequently enough to readily inform an ordinarily observant person of the Winter Parking Rules. (Prior code 11-2-5; Ord. 4 §1, 2009)

**Sec. 8-2-110. Regulations.**

The Town may, from time to time, promulgate such rules and regulations as it deems necessary to implement and carry out the intent of this Article; provided, however, that such rules and regulations shall not be inconsistent herewith. (Prior code 11-2-6)

**Sec. 8-2-120. Abandonment of vehicles.**

(a) It is unlawful for any person to abandon any vehicle upon a street, highway, alley, right-of-way or any other Town property, or upon any private property within the Town without the express consent of the owner or person in lawful charge of such private property.

(b) It is prima facie evidence of the necessary intent to abandon the vehicle that:

(1) The vehicle has been left for more than seven (7) days unattended and unmoved;

(2) License plates or other identifying marks have been removed from the vehicle;

(3) The vehicle has been extensively damaged or deteriorated; or

(4) The owner has been notified by the Town Marshal or a deputy marshal to remove the vehicle, and it has not been removed within three (3) days after notification. (Prior code 11-2-7; Ord. 19 §6, 1992; Ord. 4 §1, 2009)

**Sec. 8-2-130. Parking in fire hydrant zones.**

(a) No person shall stop, stand or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with directions of a police officer or traffic control device, as follows:

- (1) In any fire hydrant zone; or
- (2) In any manner so as to obstruct access to a fire hydrant.

(b) Any person who violates any provision of this Section may be fined up to one thousand dollars (\$1,000.00) for each offense.

(c) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin, abate or remove any violation of this Section.

(d) Any person violating any provision of this Section shall be liable to the Town for any expense, loss or damage, including reasonable attorney's fees, occasioned by reason of such violation.

(e) The remedies provided by this Section are cumulative and not exclusive and are in addition to any other remedies provided by law. (Prior code 11-3-2, 11-3-3; Ord. 19 §8, 1992; Ord. 4 §1, 2009)

**Sec. 8-2-140. Violation and penalty.**

(a) Penalty. Any person who is convicted of, or admits guilt to, a violation of this Article shall be guilty of a traffic infraction and shall be fined for such violation in accordance with the fine schedule set forth in Section 42-4-1701(1)(M), C.R.S.

(b) Evidence with respect to vehicles parked or left in violation of Article. In any prosecution with regard to a vehicle parked or left in a place or in a condition in violation of any provision of this Article, proof that the particular vehicle described in the complaint was parked or left in violation of a provision of this Article, together with proof that the defendant named in the complaint was at the time the registered owner of such vehicle, shall be prima facie evidence that the defendant was the person who parked or left the vehicle in violation of this Article. (Prior code 11-2-8; Ord. 19 §7, 1992; Ord. 2 §5, 2004; Ord. 4 §1, 2009)

**ARTICLE 3**

**Towing and Impoundment Regulations**

**Sec. 8-3-10. Legislative intent.**

The purpose of this Article is to protect the public health, safety and welfare by prohibiting the storage of abandoned or inoperable vehicles on public property and to establish procedures for removing from public or private property any vehicle that obstructs traffic, is so defective as to pose a safety hazard, is involved in criminal conduct or whose impoundment is otherwise authorized. (Ord. 12 §1, 2005)

**Sec. 8-3-20. Authority to impound vehicle.**

(a) A peace officer is authorized to remove or cause to be removed a vehicle from any public or private property when:

(1) A vehicle is situated in a manner that it obstructs the normal movement of traffic or creates a hazard to other traffic on a public street, public alley or public parking lot and the person in possession of the vehicle is not present or is unwilling or unable to provide for its immediate removal;

(2) A vehicle being driven on a street is so defective as to pose an imminent hazard to the public safety;

(3) A vehicle is found unattended and situated in a manner that obstructs the commencement or ongoing operation of a public construction, maintenance or repair project or street closure; and seventy-two (72) hours' advance notice of the parking prohibition, the time it is effective and that the vehicle will be towed away at the owner's expense has been conspicuously posted and reasonable efforts have been made to maintain notice on the site;

(4) The driver of a vehicle is taken into custody by the Marshal's Department;

(5) Removal of a vehicle is necessary in the interest of the public health or safety because of fire, flood, snow, storm or other emergency, and the person in possession of the vehicle is not present or is unwilling or unable to provide for its immediate removal;

(6) There is probable cause to believe that the operator's license of the driver of a vehicle is suspended, revoked, denied or canceled;

(7) There is probable cause to believe that a vehicle is stolen;

(8) A vehicle blocks ingress to or egress from a public or private driveway, and the person in possession of the vehicle is not present or is unwilling or unable to provide for its immediate removal;

(9) Tow-away zones:

a. A vehicle has been found upon a street, public parking lot or other public property in a signed "tow away zone," and the person in possession of the vehicle is not present or is unwilling or unable to provide for its immediate removal;

b. A vehicle has been found parked at a parking space on a street with parking limits for seventy-two (72) or more hours without being moved, there is a warning on the sign which indicates that such a vehicle may be towed and the person in possession of the vehicle is not present or is unwilling or unable to provide for its immediate removal;

(10) Impoundment is authorized by Sections 8-3-60 and 8-3-70 of this Article, except that if, but for a ticket issued to the vehicle while it was being operated under a lease whose term was less than thirty (30) days, impoundment or immobilization of such vehicle would not have been authorized under said Sections, then no such vehicle shall be impounded or immobilized under the authority of this Subsection after the Municipal Court has been notified of such lease;

(11) A vehicle is parked in a space designated for handicapped parking without displaying the placard or license plate required by that section; such space is also designated as a "tow away" space by any sign or pavement marking on or near the space using the term "tow away," displaying a tow-away symbol, or otherwise reasonably indicating that vehicles illegally parked in such space will be towed away; and the person in possession of the vehicle is not present or is unwilling or unable to provide for its immediate removal;

(12) The Town Manager has posted "tow-away" no-parking zones within any park, parkway, recreation area or open space to clear off-street parking areas after designated hours of operation and to clear designated fire roads and other emergency access routes and a vehicle is parked in violation of such traffic control devices; or

(13) There is probable cause to believe that a vehicle is being vandalized or its parts are being stolen, and reasonable inquiries have been made on abutting properties in an effort to locate the person in possession of the vehicle.

(b) Within seventy-two (72) hours of the time that a motor vehicle is impounded pursuant to Subsection (a) above, the Town Manager shall give notice by certified or first-class mail to the registered owner of such motor vehicle:

(1) That the motor vehicle has been removed and impounded;

(2) Of the reason therefor;

(3) Of the location of the vehicle;

(4) That the vehicle owner has a right to contest the validity of the impoundment by requesting a prompt hearing within fifteen (15) days from the date on which such notice is mailed;

(5) That if the vehicle is not claimed by the owner or the owner's authorized agent and any accrued removal and storage charges are not paid in full within thirty (30) days of the date on which the notice is mailed, the vehicle will be sold. If the vehicle has been appraised at a reasonable market value of less than two hundred dollars (\$200.00), the notice shall so state and shall indicate that the period for payment and reclaiming of the vehicle before sale is fifteen (15) days;

(6) If the vehicle is not registered in Colorado, or if the license plate or vehicle identification number is expired, altered or missing, the Town Manager shall send the notice required in this Section as soon as reasonably practicable, but without regard to the seventy-two-hour limit;

(7) If the vehicle was impounded pursuant to Sections 8-3-60 and 8-3-70 of this Article, the notice shall also specify the total amount of fines, late fees, scofflaw fees and administrative impound fees which must also be paid before the vehicle may be reclaimed; and

(8) If the vehicle was reclaimed from impoundment or a hearing concerning the impoundment was set before the notice required by this Section was sent, then no such notice need be given.

(c) Nothing in this Chapter shall be deemed to restrict the authority possessed by any peace officer under other provisions of law to seize any motor vehicle or part thereof if it is or contains evidence or is

an instrumentality of a crime. Such provisions include, without limitation, the authority to seize a vehicle when there is probable cause to believe that a vehicle has been involved in a hit-and-run accident or contains stolen parts, or when a search of a vehicle has been authorized by court order. The release of any vehicle so seized shall be governed by the provisions of law under which it was seized. When such vehicle is released pursuant to such provisions, its owner shall be notified and shall not be liable for the towing or storage charges attributable solely to such seizure, but shall be liable for such costs to the extent attributable to any charge which arose concurrently under this Chapter. Any vehicle not retrieved within seventy-two (72) hours of notice under this Subsection shall be deemed abandoned, and the Town Manager shall dispose of such vehicle in accordance with Section 8-3-80 of this Article.

(d) This Section does not apply to bicycles. (Ord. 12 §1, 2005)

**Sec. 8-3-30. Abandoned or inoperable vehicles.**

(a) Any vehicle left in one (1) location upon any public property without the consent of the property owner, for a continuous period of more than seventy-two (72) hours constitutes an abandoned vehicle, which is a public nuisance. Proof that the vehicle's odometer shows movement of no more than two-tenths (0.2) of a mile during a period of at least seventy-two (72) hours shall constitute prima facie evidence that the vehicle was left in one (1) location.

(b) Any inoperable vehicle or any parts thereof left on any public property constitutes an inoperable vehicle, which is a public nuisance.

(c) If a peace officer has probable cause to believe that a vehicle left unattended on public property is an abandoned or inoperable motor vehicle, the officer shall leave under the windshield wiper or otherwise attach to the vehicle a conspicuous warning notice that:

(1) States the date and the time that the notice was attached to the vehicle;

(2) Orders removal of an inoperable vehicle, as prescribed by Subsection (d) below, or the moving of an abandoned vehicle, as prescribed by Subsection (a) above, from the location within seven (7) days of the notice;

(3) Warns that, if the vehicle is still parked in violation of Subsection (a) or (d) of this Section after seven (7) days from the date of the notice, it may be impounded by order of the Marshal's Department and that the vehicle owner will be liable for the expenses of such impoundment; and

(4) Advises the person in possession of the vehicle that such person has a right to a prompt hearing to determine whether or not the vehicle has been parked in violation of Subsection (a) or (b) of this Section, if such person requests such hearing within seven (7) days from the date and time that such notice is attached to the vehicle.

(d) Within forty-eight (48) hours of the time that a notice is attached to a vehicle under Subsection (c) above, the Town Manager shall give written notice by certified or first class mail to the registered owner of the vehicle containing all of the information described in Subsection (c) above. The notice shall also advise the owner that, if the vehicle is towed and is not claimed by the owner or the owner's authorized agent and the amount of any accrued removal and storage charges and the impoundment fee are not paid within thirty (30) days from the date and time that the vehicle is impounded, the vehicle will

be sold. If the vehicle has been appraised at a reasonable market value of less than two hundred dollars (\$200.00), the notice shall so state and shall indicate that the period for payment and reclaiming of the vehicle before sale is fifteen (15) days.

(e) If the vehicle is not registered in Colorado, or if the license plate or vehicle identification number is expired, altered or missing, the Town Manager shall send the notice required in this Section as soon as is reasonably practicable, but without regard to the forty-eight-hour limit.

(f) If an abandoned or inoperable vehicle or any part thereof is still parked in violation of Subsection (a) or (b) above after seven (7) days from the date and time that the notice prescribed by Subsection (d) above is attached to the vehicle, a peace officer may cause the vehicle and parts thereof to be removed and impounded by a towing carrier, unless a hearing requested pursuant to Section 8-3-40 of this Article is pending or unless a hearing officer has determined that the vehicle is not parked in violation of this Section.

(g) A vehicle or parts impounded pursuant to this Section shall be released to its owner when payment to the Town of an administrative impoundment fee of an amount established by resolution of the Town Council, and payment to the towing carrier of the costs of towing and storage, unless ordered released as a result of a hearing held pursuant to Section 8-3-40.

(h) This Section does not apply to bicycles. (Ord. 12 §1, 2005; Ord. 4 §1, 2009)

**Sec. 8-3-40. Hearing.**

(a) The owner of a vehicle impounded by or at the request of the Town pursuant to this Article or a person in possession of a vehicle at the time it was so impounded is entitled to a hearing regarding the impoundment, if such person requests a hearing within fifteen (15) days from the date the notice of impoundment was mailed or within fifteen (15) days of reclaiming the vehicle from impoundment if no notice was mailed and if such person had no hearing prior to the time of the impoundment. The hearing shall be conducted before a judge or a hearing officer appointed by the presiding judge of the Municipal Court within five (5) business days of the time of request for the hearing, unless the person requesting the hearing waives the five-day requirement. If a person requests a hearing and secures the release of the vehicle pursuant to Subsection (b) below, and a summons and complaint or parking ticket has been issued which alleges a violation of this Article which formed the basis of the impoundment, the hearing officer may schedule the hearing provided by this Section to coincide with the trial of the infraction, or may continue the hearing to such time. Within forty-eight (48) hours of a request for a hearing under this Section, the hearing officer shall obtain from the responsible Town department the records concerning the impound and shall determine from these records, and from any supplementary affidavits as the responsible department may provide, whether or not probable cause existed for the impoundment of the vehicle. If the hearing officer determines that no probable cause existed for the impoundment based on these written materials, the hearing officer shall so find, shall issue a final order that the vehicle shall be released immediately to the person entitled to possession and shall assess the costs of removal and impoundment against the Town. Copies of such order shall be provided to the responsible Town department and mailed to the person requesting the hearing. If the hearing officer determines that probable cause existed, the hearing officer shall so notify the responsible Town department and the person requesting the hearing at the hearing, but such a finding shall not change the burden of proof at such hearing.

(b) A person who requests a post-impoundment hearing may obtain the release of the vehicle prior to the hearing by posting a bond in the amount of the towing and storage charges due as of the date of the request, plus an amount established by resolution of the Town Council in administrative costs. If such person fails to appear at the date and time of the scheduled hearing, the hearing request shall be dismissed with prejudice, and the bond amount shall be forfeited to the Town.

(c) The party requesting the hearing bears the burden of establishing that such person has the right to possession of the vehicle. The Town bears the burden of establishing the validity of the proposed or completed impoundment. The standard of proof is a preponderance of the evidence.

(d) Failure of any person to request an impoundment hearing within the time provided or attend any such hearing constitutes a waiver of the right to such hearing and a determination of all issues then existing as supporting the impoundment or immobilization.

(e) At a hearing prior to the impoundment of a vehicle allegedly parked in violation of Section 8-3-30 of this Article, the hearing officer shall determine whether the vehicle is parked in violation of such Section. If the hearing officer so finds, he or she shall order the vehicle removed and impounded and assess the costs thereof against the vehicle.

(f) At a hearing following the impoundment of a vehicle pursuant to Sections 8-3-20 and 8-3-30 above, or immobilization of a vehicle pursuant to Section 8-3-70 below, the hearing officer shall determine whether the vehicle was subject to impoundment under Section 8-3-20 or 8-3-70, or was parked in violation of Section 8-3-30. If the hearing officer so finds, the hearing officer shall assess the costs of removal and impoundment, including without limitation any administrative impound fee, against the vehicle. If the hearing officer does not so find, he or she shall order the vehicle released immediately to the person entitled to possession and shall assess the costs of removal and impoundment against the Town.

(g) This Section does not apply to bicycles. (Ord. 12 §1, 2005; Ord. 4 §1, 2009)

**Sec. 8-3-50. Failure to claim vehicle.**

If a vehicle, other than a bicycle, that has been impounded by the Town pursuant to this Article is still under impoundment seventy-two (72) hours from the time at which notice prescribed by this Article has been mailed to the registered owner and the owner has not requested a hearing pursuant to Section 8-3-40 above or obtained the release of the vehicle by paying accumulated removal and impoundment charges, the vehicle shall be deemed abandoned, and the Town Manager shall dispose of such vehicle in accordance with Section 8-3-80 of this Article. However, disposal shall be stayed if a timely request is made for a hearing as provided by this Article. (Ord. 12 §1, 2005)

**Sec. 8-3-60. Parking infractions and scofflaw list.**

(a) Any person wishing to pay a fine for a parking infraction may pay the fine before or after the date specified in the parking ticket at the Town Clerk's office. Such payment discharges the obligation to pay the fine and results in dismissal of the case.

(b) Courtesy notice of overdue parking ticket:

(1) The Town may give notice by first-class mail to the registered owner of any vehicle for which there is an overdue parking ticket, stating that there has been no response to the ticket and:

- a. The date and the nature of the ticket overdue and the amount, including late fees, due.
- b. That a response is due within ten (10) days after the date of mailing.
- c. That the owner shall, by said deadline, respond to the notice by paying the total amount due or by arranging a hearing with the Town Clerk for contesting the charges, fees and amounts due, in which case the owner shall post a cash bond for the total amount due or make other arrangements approved by the Municipal Judge.
- d. That, if the vehicle owner fails to respond within the prescribed time period, the owner will forfeit the right to a trial or hearing to contest the tickets and a default judgment will be entered.

The letter may also explain the scofflaw provisions of this Section.

(2) The notice allowed by this Subsection is sufficient if mailed to the address provided by a government vehicle registration office. If the Town is unable, after exercising due diligence, to discover any mailing address, then notice is sufficient if it is published once in a newspaper of general circulation in the Town, posted on the vehicle, personally served on the vehicle owner or driver or provided by any other means that provides due process.

(3) If the date for response specified in the letter passes without payment of the fines and fees or posting of sufficient bond, a default judgment shall be deemed entered upon all tickets specified in the notice.

(c) As frequently as practicable, the Town shall prepare and update the scofflaw list (which may also be known as the "pick-up list"), consisting of vehicles involved in such number of overdue parking tickets as the Town shall determine is sufficient to include on the pick-up list.

(1) There is hereby imposed upon the owner of every vehicle on the scofflaw list a civil penalty in the amount of fifty dollars (\$50.00) to cover administrative costs. There is also hereby imposed upon the owner of every vehicle on the scofflaw list that is immobilized or impounded a civil penalty in the amount of fifty dollars (\$50.00) to cover the additional administrative costs.

(2) The Town shall give notice by first class mail to the registered owner of each vehicle on the scofflaw list, stating that the vehicle is on the scofflaw list and:

- a. The date and the nature of each ticket overdue and the amount due on each;
- b. That a scofflaw list fee in the amount specified in Paragraph (c)(1) above has been imposed to cover administrative costs;
- c. The total amount currently due;
- d. A specific deadline for response, no less than ten (10) days after the date of mailing;

e. That the owner shall, by said deadline, respond to the notice. Response shall be by paying the total amount due. However, for any ticket for which a courtesy notice has not previously been mailed and a default judgment entered, response may also be made by arranging a hearing with the Town Clerk for contesting the charges, fees and amounts due, in which case the owner shall post a cash bond for the total amount due or make other arrangements approved by the Municipal Judge;

f. That, if the vehicle owner fails to respond within the prescribed time period, the listed vehicle will be subject to immediate immobilization or impoundment. For any ticket for which a courtesy notice has not previously been mailed and a default judgment entered, the notice shall also state that, if the date for response specified in the scofflaw notice passes without payment of the fines and fees or posting of sufficient bond, a default judgment shall be deemed entered upon all tickets specified in the notice, and the owner will forfeit the right to a trial or hearing to contest the tickets. If a default judgment has previously been entered, the notice shall so state;

g. That an immobilization or impoundment fee in the amount specified in subsection (c)(1) above will be imposed upon every vehicle immobilized or impounded to cover administrative costs; and

h. That, if the vehicle is impounded, the owner will also be required to pay the costs of towing and storage.

(3) The notice required by Paragraph (c)(2) above is sufficient if mailed to the address provided by a government vehicle registration office. If the Town is unable, after exercising due diligence, to discover any mailing address, then notice is sufficient if it is published once in a newspaper of general circulation in the Town, posted on the vehicle, personally served on the vehicle owner or driver or provided by any other means that provides due process.

(4) If the date for response specified in Subparagraph (c)(2)d. of this Section passes without payment of the fines and fees or, if permitted, posting of sufficient bond, such vehicle may be immobilized or impounded and a default judgment, if not previously entered, shall be deemed entered upon all tickets specified in the notice.

(5) Upon contacting the driver of any vehicle on the scofflaw list for which no response has been made within the deadline stated in the notice while that vehicle is located upon any public property or private property open to the use of the public, a peace officer shall inform the driver thereof that violations are alleged against the vehicle to which no response has been made and request the driver forthwith to appear with the officer at the Town Clerk's office (or to the Marshal's Office after the office's normal business hours) to respond to the charges in the manner indicated by this Section. If such driver fails or refuses to comply with this request forthwith, if such driver cannot demonstrate that the driver has on the driver's person sufficient cash or other means of payment of a type approved by the Municipal Court, or if the vehicle located is unattended at the time the officer initially determines that it is subject to impoundment or immobilization, the peace officer shall cause such vehicle to be immobilized or impounded.

(6) If the owner or an agent of the owner pays the fines and fees, including the amount specified above, if any, and all towing and storage charges, if any, posts a bond to cover such fines, fees and charges, or arranges any combination of payment and bond to cover the total due, the Town shall remove such vehicle from the scofflaw list and release it from immobilization or impoundment. If any

parking ticket not included on the scofflaw list for which the owner is liable becomes overdue before the owner or agent appears to pay or post bond, such subsequent tickets shall also be paid or bond shall be posted therefor before the vehicle is removed from the scofflaw list or released from immobilization or impoundment.

(d) The owner of a vehicle that is subject to the procedures of this Section and Section 8-3-70 below is entitled to:

(1) A trial conducted under the usual procedures for allegations of violation of a parking infraction, to dispute any of the underlying parking tickets not in default. Whether or not the vehicle was parked in violation of the provision alleged shall be the only issue at such a trial;

(2) A hearing, if a motion is filed with the court to set aside the default on any ticket on the ground that the notice required by this Section before a default may be entered was not properly given;

(3) An administrative hearing to dispute the applicability of the scofflaw fee on the ground that a parking ticket was not served. Such hearing shall be conducted in the same manner as and, where applicable, shall be combined with, the hearing under Section 8-3-40 of this Article, concerning the immobilization or impoundment fee. The fact that a person is found not guilty of one (1) or all of the underlying parking tickets is not relevant to the issue of the applicability of the scofflaw fee; and

(4) A post-impoundment hearing to challenge the immobilization or impoundment fee as prescribed by Section 8-3-40 of this Article. (Ord. 12 §1, 2005; Ord. 4 §1, 2009)

#### **Sec. 8-3-70. Booting.**

(a) At the discretion of a peace officer, any vehicle on the scofflaw list subject to impoundment under Section 8-3-60 above may first be immobilized by installing on such vehicle a device known as a *boot*, which clamps and locks on to a wheel of the vehicle and impedes movement of such vehicle.

(b) The person installing the boot shall leave under the windshield wiper or otherwise attach to such vehicle a notice advising the owner that such vehicle has been booted by the Town for failure to pay or contest one (1) or more parking tickets; that release of the boot may be obtained by paying the fines and fees due or by posting a bond to cover such amounts; that, unless such payments are made, the vehicle will be impounded; and that it is unlawful for any person to remove or attempt to remove the boot, to damage the boot or to move the vehicle with the boot attached.

(c) No parking restriction otherwise applicable to the vehicle applies while the vehicle is immobilized by a boot installed under the provisions of this Section.

(d) Upon notification that the vehicle has been removed from the scofflaw list, the Town shall promptly remove the boot from such vehicle. (Ord. 12 §1, 2005)

#### **Sec. 8-3-80. Disposition of motor vehicles.**

The Town Manager may dispose of impounded motor vehicles in any of the following ways:

(1) By following the procedures provided by state law for disposal of abandoned vehicles; or

(2) If the Town Manager determines that some other method of disposal is more efficient, the Town Manager may adopt such a method. Such method shall provide:

a. Reasonable notice to the owner and any lienholders of record by mail or publication at least thirty (30) days before disposition of the vehicle. However, if the vehicle has been appraised to determine its reasonable market value by the Town Marshal, by any employee of the Marshal's Department designated by the Town Marshal or by a licensed motor vehicle dealer as having a value of less than two hundred dollars (\$200.00), then the vehicle may be disposed of no less than fifteen (15) days after the date of the notice. Notice is deemed given on the date it is delivered, mailed or published, whichever is earliest. The notice shall indicate whether the holding period is fifteen (15) or thirty (30) days. Before giving notice, the Town Manager shall make inquiry through the licensing authority of the State of registration of the vehicle, if that can be ascertained from the license plate or vehicle identification number, if any, as to the name and mailing address of the owner and lienholders of record. Notice shall be delivered or sent by first-class or certified mail to such persons. If the Town Manager's inquiries produce no information, the Town Manager shall publish the notice at least once in a newspaper of general circulation in the Town. The notice shall state the grounds upon which impoundment was authorized, the location of the vehicle and the person to whom the owner or lienholder may apply to reclaim the vehicle prior to its disposal. Notice given to the owner pursuant to Section 8-3-20 or 8-3-30 of this Article satisfies the requirement of this Section for notice to the owner.

b. For disposition of the vehicle:

1. If the vehicle has been appraised and the towing and storage charges at the end of the applicable holding period exceed the appraised value, then the Town Manager may sell the vehicle to the towing and impoundment lot operators, if such were involved, for the amount of the accrued charges;

2. The Town Manager may sell the vehicle at a private sale; or

3. The Town Manager may sell the vehicle at a public sale.

c. For delivery of a bill of sale to the purchaser. The Town Manager shall send a copy of such bill of sale, together with a written report of the sale, to the Colorado Department of Revenue. If the appraised value of the vehicle was less than two hundred dollars (\$200.00), or if, in the case of a vehicle sold without appraisal, the sale was for less than two hundred dollars (\$200.00), the bill of sale shall state that the vehicle is sold only for the purpose of junking or dismantling the vehicle, and that the purchaser acquires no right to a certificate of title for such vehicle. Such purchaser shall also be given a copy of the report which is sent to the Colorado Department of Revenue.

d. For disposition of the proceeds from a sale pursuant to Subparagraph b.2. or b.3. of this Paragraph in the following manner:

1. The costs of towing and storage in an impound lot shall be paid to the towing and impound lot operators in accordance with the contract such operators may have with the Town for such services. Such contract may provide, without limitation, that the towing and impound lot operator will receive only a percentage of the proceeds, but not to exceed such costs. If such

services were not performed pursuant to a contract with the Town, payment shall be calculated in the manner provided by state law.

2. From the balance, if any, there shall be deposited into the general fund of the Town reasonable expenses to the Town on account of the abandonment of the vehicle, including without limitation the costs of the search for owners and lienholders, notice, appraisal, advertising, sale and any other fees or penalties, including without limitation those on account of parking infractions due with respect to the vehicle.

3. The remaining balance, if any, shall then be paid first to any lienholder of record and, second, to any owner of record as their interests may appear on such records, or to any person submitting proof of an enforceable interest in such vehicle as of the date of sale. If no such person is known to the Town Manager, such balance shall be deposited into the General Fund of the Town.

4. There is no right of redemption from any sale made pursuant to this Section. After a vehicle has been sold pursuant to such terms, neither the Town nor any officer, agent or employee thereof is liable for any failure to deliver such vehicle to any person other than the purchaser at such sale. (Ord. 12 §1, 2005; Ord. 4 §1, 2009)

## **ARTICLE 4**

### **Speed Limits**

#### **Sec. 8-4-10. Speed on streets.**

No person shall drive a vehicle on a street or highway within the Town at a speed greater than is reasonable and prudent under existing conditions. (Prior code 11-5-1)

#### **Sec. 8-4-20. Special hazards.**

(a) Except when a special hazard exists that requires a lower speed and, except as provided in Subsection (b) below, any speed in excess of fifteen (15) miles per hour on any street within the Town shall be prima facie evidence that the speed is not reasonable or prudent, and that such speed is unlawful.

(b) Except when a special hazard exists that requires a lower speed, any speed in excess of twenty-five (25) miles per hour on Sixth Street north to the Town boundary from Gothic Avenue, and from Highway 135 (Sixth Street) south to the Town boundary from Elk Avenue, shall be prima facie evidence that the speed is not reasonable and prudent, and that such speed is unlawful. (Prior code 11-5-1)

#### **Sec. 8-4-30. Alley regulations.**

(a) No person shall drive a vehicle in an alley within the Town at a speed greater than is reasonable and prudent under existing conditions.

(b) Except when a special hazard exists that requires a lower speed, any speed in excess of five (5) miles per hour on any alley within the Town shall be prima facie evidence that the speed is not reasonable and prudent, and that such speed is unlawful. (Prior code 11-5-2)

**Sec. 8-4-40. Definitions.**

The following definitions shall apply to the interpretation and enforcement of this Article only:

*Street* shall be defined as any platted street within the Town, according to the official plat thereof, recorded in the office of the County Clerk and Recorder and bearing Reception Number 260766.

*Vehicle*, for the purposes of this Article, shall be as defined in Section 102 of the 2003 Model Traffic Code, as adopted in Section 8-1-10 of this Chapter. (Prior code 11-5-3; Ord. 2 §6, 2004; Ord. 4 §1, 2009)

**Sec. 8-4-50. Violation; penalty.**

Any person who is convicted of, or who admits guilt to, a violation of this Article shall be guilty of a traffic infraction and shall be fined in accordance with the fine schedule set forth in Section 42-4-1701(4)(L), C.R.S. (Prior code 11-5-3; Ord. 10 §11, 1992; Ord. 2 §4, 2004)

**ARTICLE 5**

**Vehicle Weight Limits**

**Sec. 8-5-10. Definitions.**

The following definitions shall apply to the interpretation and enforcement of this Article:

*Bus* means every motor vehicle designed and used to carry eight (8) or more passengers for compensation.

*Commercial vehicle* means any vehicle designed, used or maintained primarily for the transportation of goods or other property for compensation.

*Government entity* means the United States government or any branch thereof, the State of Colorado or any branch thereof, any legally recognized county or municipality, and any quasi-governmental unit or district recognized by the State.

*School bus* means every motor vehicle operated for the transportation of children or other students to or from any school.

*Semi-trailer* means every vehicle of the trailer type which is used in conjunction with a motor vehicle in such a fashion that some part of its own weight and the weight of its own load rests upon or is carried by the other motor vehicle.

*Truck* means any motor vehicle which is used for the transportation or delivery of goods or other property, with a body built and designed for that purpose. (Prior code 11-6-1; Ord. 4 §1, 2009)

**Sec. 8-5-20. Compliance with Model Traffic Code.**

This Article has been adopted pursuant to and in accordance with Part 5 of the Model Traffic Code, as adopted by the Town in Section 8-1-10 of this Chapter. The Town Marshal shall cause the erection of such signs and the scheduling of said limits on gross weight of vehicles as may be required by said Part 5, and the Model Traffic Code in general. (Prior code 11-6-2; Ord. 2 §7, 2004; Ord. 4 §1, 2009)

**Sec. 8-5-30. Weight limits.**

(a) No person shall operate, drive or move a commercial vehicle, truck or semi-trailer which has more than a gross weight of twenty thousand pounds (20,000), upon the following streets within the Town without a permit issued by the Town, as hereinafter set forth:

- (1) First Street.
- (2) Second Street.
- (3) Third Street.
- (4) Fourth Street.
- (5) Fifth Street.
- (6) Seventh Street.
- (7) Eighth Street.
- (8) Ninth Street.
- (9) Aspen Hill Lane.
- (10) Beckwith Avenue.
- (11) Belleview Avenue.
- (12) Butte Avenue.
- (13) Elk Avenue.
- (14) Maroon Avenue.
- (15) Red Lady Avenue.
- (16) Ruth Road.
- (17) Sopris Avenue.
- (18) Teocalli Avenue.

(19) Treasury Hill Road.

(b) No person shall operate, drive or move a commercial vehicle, truck or semi-trailer on any other right-of-way or public street not designated under Subsection (a) above within the platted limits of the Town of a size, weight or load exceeding the limitations set forth in Part 4 of Article 4 of Title 42, C.R.S.

(c) The Town may from time to time designate truck routes and traffic restrictions as to certain rights-of-way or public streets as it deems necessary to implement and carry out the intent of this Article. Said truck routes may be established as to any public right-of-way or street, no matter what weight limit may be designated otherwise by this Article.

(d) Any weight limit, restriction or truck route established pursuant to this Article shall be effective only after official signs or other traffic control devices conforming to the official Colorado manual and specifications are placed appropriately to give notice of such local traffic regulations. (Prior code 11-6-3; Ord. 4 §1, 2009)

**Sec. 8-5-40. Exceptions.**

The terms and provisions of this Article shall not apply to the following:

(1) Any vehicle defined herein which is traveling upon the restricted streets within the Town to make a local delivery to a home, residence or business within the Town.

(2) Any vehicle which is driven by a resident of the Town traveling to or from his or her home located within the Town limits.

(3) Any bus or school bus as defined herein.

(4) Any authorized emergency vehicle.

(5) Any vehicle owned and/or operated by any government entity in the course of official government business. (Prior code 11-6-4; Ord. 4 §1, 2009)

**Sec. 8-5-50. Excess weight permit.**

(a) It shall be the duty of the Town Manager to administer and enforce all provisions of this Article, including administration of permit applications made pursuant to this Article.

(b) All applications for excess weight permits shall be made on forms provided by the Town for that purpose, and shall include the following information:

(1) A description of the vehicle, including the VIN number.

(2) The name of the applicant.

(3) A gross vehicle weight slip or scale ticket evidencing the total weight of the vehicle and load being transported, issued by properly licensed or certified scales.

(4) A statement of the route the applicant intends to follow through the Town.

(5) A statement of the number of times the applicant intends to travel on the route through the Town.

(c) The Town Manager shall charge a fee for any excess weight permit application sufficient to cover related Town expenses in issuing the permit and the damage such use by the applicant will cause to the public streets and rights-of-way of the Town.

(d) Upon receipt of an application acceptable to the Town Manager accompanied by the appropriate fee, a written permit shall be issued allowing the applicant to pass through the Town along a designated route for a limited number of times. (Prior code 11-6-5; Ord. 4 §1, 2009)

**Sec. 8-5-60. Rules and regulations.**

The Town may, from time to time, promulgate such rules and regulations as it deems necessary to implement and carry out the intent of this Article, including setting a fee schedule based on objective data; provided, however, that such rules and regulations shall not be inconsistent herewith. (Prior code 11-6-7)

**Sec. 8-5-70. Conflicting provisions.**

In the event of a conflict between the Model Traffic Code and any provision set forth in this Article, such conflict shall be resolved in favor of this Article. (Prior code 11-6-8)

**Sec. 8-5-80. Violation, liability and penalty.**

(a) Any person who violates any provision of this Article shall be punished by a fine not to exceed one thousand dollars (\$1,000.00) for each offense. Each day that a violation of this Article continues to exist shall constitute a separate and additional offense.

(b) Any person violating any provision of this Article shall be liable to the Town for any expense, loss or damage, including reasonable attorneys' fees, occasioned by reason of such violation.

(c) The Town may institute injunction, abatement or any other appropriate action to prevent, enjoin or abate any violation of this Article.

(d) The remedies provided by this Section are cumulative and not exclusive, and are in addition to any other remedies provided by law.

(e) Any police officer of the Town having reason to believe that the weight of a vehicle and load is unlawful is authorized to require the driver to stop and submit to a weighing of the same by means of either portable or stationary scales, or shall require that such vehicle be driven to the nearest public scales in the event such scales are within five (5) miles. (Prior code 11-6-6; Ord. 4 §1, 2009)