

CHAPTER 8

Vehicles and Traffic

Article 1 Traffic Code

- Sec. 8-1 Short title
- Sec. 8-2 Adoption
- Sec. 8-3 Additions or modifications
- Sec. 8-4 Application
- Sec. 8-5 Interpretation
- Sec. 8-6 Violations

Article 2 Abandoned and Junked Vehicles

- Sec. 8-30 Definitions
- Sec. 8-31 Storage and disposal
- Sec. 8-32 Authorized when
- Sec. 8-33 Abandonment prohibited
- Sec. 8-34 Junked vehicles prohibited – Exceptions
- Sec. 8-35 Restrictions on storage of vehicles – Ownership requirements
- Sec. 8-36 Investigation authorized – Notices of violation
- Sec. 8-37 Liability
- Sec. 8-38 Post-impoundment hearing for impounded vehicles
- Sec. 8-39 Conduct of hearing
- Sec. 8-40 Decision
- Sec. 8-41 Violation – Penalty – Abandoned and junked vehicles

ARTICLE 1

Traffic Code

Sec. 8-1. Short title.

This article may be known and cited as the *Municipal Traffic Ordinance*. (Prior code 10.04.010)

Sec. 8-2. Adoption.

Pursuant to Parts 1 and 2 of Article 16 of Title 31, 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 Municipalities*, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering 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 city. The purpose of the ordinance codified herein and the code adopted herein is to provide for a system of traffic regulation consistent with state law and generally conforming to similar regulations throughout the state and the nation. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the city clerk, and may be inspected during regular business hours. (Prior code 10.04.020; Ord. 374 §1, 1990; Ord. 470 §1, 1996; Ord. 626 §1, 2003)

Sec. 8-3. Additions or modifications.

The following additions, amendments or deletions are made to Article I of the Model Traffic Code:

- (1) Section 513, Weight Limitations on Certain Streets, is added to read as follows:

"Section 513. Weight Limitations on Certain Streets. In accordance with Section 106(3) and when official signs are erected giving notice thereof, no person shall operate a truck or other commercial vehicle, except a self-propelled recreational vehicle or motor home, with a weight in excess of ten thousand (10,000) pounds at any time upon any public street in the City except Colorado Avenue, Eighth (8th) Street, and Highway 52, unless such vehicle is making a local delivery or pickup, is an emergency vehicle, or is a school bus operated on a regular route."

- (2) Section 1101, Speed Limits, subsection (4) and subsection (7) are deleted, and subsection (2) is amended to read as follows:

"(2) Where speed limits are posted by an official traffic control device, it shall be unlawful for any person to drive in excess of the posted speed limits. Where speed limits are not posted, and where no special hazard exists, the following speeds shall be lawful:

"(a) Twenty-five (25) miles per hour in any residence district, as defined in Section 42-1-102(80), C.R.S.;

"(b) Twenty-five (25) miles per hour in any business district, as defined in Section 42-1-102(11), C.R.S.;

"(c) Fifteen (15) miles per hour in alleys;

"(d) Fifty-five (55) miles per hour on open highways which are not on the interstate system, as defined in Section 43-2-101(2), C.R.S."

(3) Section 1212, Trailer, Trailer Coach or Mobile Home Parking, is added to read as follows:

"Section 1212. Trailer, Trailer Coach or Mobile Home Parking. As defined herein, no trailer, trailer coach, mobile home or any trailer under two thousand (2,000) pounds shall be parked, detached, on any public right-of-way in the City."

(4) Section 1213, Bus, Trailer Coach, Mobile Home, Motor Home, Recreational Vehicle Restrictions, is added to read as follows:

"Section 1213. Bus, Trailer Coach, Mobile Home, Motor Home, Recreational Vehicle Restrictions. No bus, trailer coach, mobile home, self-propelled motor home or recreational vehicle shall be used for living, sleeping or residing on any street or public right-of-way within the City."

(5) Section 1416, Restrictions on Motorized Traffic, is added to read as follows:

"Section 1416. Restrictions on Motorized Traffic. No person shall operate any automobile, bus, motor vehicle, motor-driven cycle, motorized bicycle, motor scooter, motor bicycle, road machinery, road tractor, tractor, dirt bike, snowmobile, or any other motor-driven apparatus on any public property in the City unless such public property has been dedicated as a public road, street, alley, highway, roadway or other area for the use of motorized vehicles, and unless operation on such rights-of-way is allowed by the Model Traffic Code or other provisions of the Dacono Municipal Code. Motorized apparatus used for maintenance by City employees or by contractors with the City shall be excepted."

(6) Section 1701, Municipalities – Traffic Offenses Classified – Schedule of Fines, is amended to read as follows:

"Section 1701. Municipalities – Traffic Offenses Classified – Schedule of Fines.

"(1) It is a traffic offense for any person to violate any provision of this Code.

"(2) Pursuant to C.M.C.R. 210(b)(4), the court may by order, which may from time to time be amended, supplemented or repealed, designate the traffic offenses, the penalties, fines and costs for which shall be payable at, receipted by and accounted for at the office of the City Clerk.

"(3) The court in addition to any other notice, by published order to be prominently posted in a place where fines are to be paid, shall specify by suitable schedules the amount of fines to be imposed for violations, designating each violation specifically in the schedules. Such fines will be within the limits set by ordinance.

"(4) Penalties, fines and costs shall be payable at, receipted by, and accounted for at the office of the City Clerk."

(7) Section 1709, Penalty Assessment Notice for Traffic Offenses – Violations of Provisions by Officer – Driver's License, is amended to read as follows:

"Section 1709. Penalty Assessment Notice for Traffic Offenses – Refusal. Whenever the defendant refuses to accept service of the penalty assessment notice, tender of such notice by the peace officer to the defendant shall constitute service thereof upon the defendant."

(8) Section 1717, Conviction – Attendance at Driver Improvement School, is amended to read as follows:

"Section 1717. Conviction – Attendance at Driver Improvement School. Whenever a person has been convicted of violating any provision of this Code or other law regulating the operation of vehicles on highways, the Municipal Court, in addition to the penalty provided for the violation or as a condition of either probation, a deferred sentence or the suspension of all or any portion of any fine or sentence of imprisonment for a violation, may require the defendant, at his or her own expense, if any, to attend and satisfactorily complete a course of instruction at any designated driver improvement school and providing instruction in the traffic laws of this state, instruction in recognition of hazardous traffic situations, and instruction in traffic accident prevention. Unless otherwise provided by law, such school shall be approved by the court."

(9) The following sections of the Model Traffic Code are not adopted and are hereby deleted therefrom: Section 227(3)(b); Section 235(3); Section 1402(2); Section 1412(10)(d); Subsections (1)(d), (1)(e) and (1)(f) of Section 1705; Section 1903(6)(b); and Section 1904. (Ord. 470 §2, 1996; Ord. 484 §2, 1997; Ord. 489 §1, 1997; Ord. 498 §1, 1997; Ord. 626 §2, 2003; Ord. 702 §1, 2007)

Sec. 8-4. Application.

This Article shall apply to every street, alley, sidewalk area, driveway, park, to every other public way or public place or public parking area, either within or outside the corporate limits of the City, the use of which this City has jurisdiction and authority to regulate, and to the following private streets located within the City: Stardust Court, Sterling Lane and Horizon Place. The provisions of Sections 1401, 1402 and 1413 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving and eluding a police officer, shall apply not only to public places and ways but also throughout the City. (Prior code 10.04.040; Ord. 470 §3, 1996; Ord. 643 §1, 2004)

Sec. 8-5. Interpretation.

The Model Traffic Code adopted in 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 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. 470 §4, 1996)

Sec. 8-6. Violations.

(a) It is unlawful for any person to violate any of the provisions of this Article for which no specific penalty has been provided or for which the sole penalty provided is a fine, which violations are hereby deemed traffic infractions. A traffic infraction shall be a civil matter for which punishment by imprisonment shall not be available, and for which a penalty assessment notice shall be issued. Every person who is convicted of a traffic infraction, who admits liability or guilt for a traffic infraction or

against whom a judgment is entered for a traffic infraction, is subject to a penalty of at least ten dollars (\$10.00), but not more than three hundred dollars (\$300.00).

(b) For any violation of any provision of this article which is a traffic infraction, no trial by jury shall be available, no arrest warrant shall be issued for failure to appear or to pay, no privilege against self-incrimination shall apply, the standard of proof shall be a preponderance of the evidence, and the conduct of all proceedings applicable to such violation shall otherwise be in conformity with those generally applicable to civil matters.

(c) For any violation of any provision of this article which is a traffic infraction, the court may enter a judgment or liability by default against the defendant for failure to appear or to pay, and may assess such penalty together with such court costs and surcharges, as are established by law. The court may establish, by written order, rules and regulations for the administration of any violation of this article which is a traffic infraction, including but not limited to schedules establishing the amount of penalties payable without a court appearance, and schedules establishing discounts from those amounts for early payment of penalties. Such early payment discounts shall apply only to penalties paid within ten (10) days of issuance of the penalty assessment notice for the infraction.

(d) The city prosecutor may establish a prosecutor's plea bargain procedure, which shall be printed on the penalty assessment form and which, in conjunction with any early payment discount, shall provide for the automatic reduction of points assessed for a traffic infraction, subject to the following limitations:

- (1) A four-point violation may be reduced to no more than a two-point violation; and
- (2) A three- or a two-point violation may be reduced to no more than a one-point violation.

(e) It is unlawful for any person to violate any of the following provisions of this article, which violations are hereby deemed criminal offenses. Every person convicted of a violation of the following provisions of this article shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), exclusive of any court costs and surcharges, or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.

- (1) Section 1101 of the Model Traffic Code, where the speed as driven is twenty (20) miles per hour or more over the lawful speed.
- (2) Section 1105 of the Model Traffic Code, speed contest.
- (3) Section 1401 of the Model Traffic Code, reckless driving.
- (4) Section 1402 of the Model Traffic Code, careless driving.
- (5) Section 1409 of the Model Traffic Code, no insurance.
- (6) Section 1413 of the Model Traffic Code, eluding or attempting to elude a police officer.
- (7) Section 1903 of the Model Traffic Code, stopping for school buses. (Ord. 463 §1, 1996; Ord. 470 §6, 1996; Ord. 582 §4, 2001)

Secs. 8-7—8-29. Reserved.

ARTICLE 2

Abandoned and Junked Vehicles

Sec. 8-30. Definitions.

The following definitions shall apply in the interpretation and enforcement of this chapter:

Abandon or *abandoned* means:

- a. Any vehicle left unattended on private property for a period of seventy-two (72) hours without the consent of the owner or lessee of such property or his or her legally unauthorized agent;
- b. Any vehicle left unattended on public property, including any portion of a public way for a period of twenty-four (24) hours or longer unless the owner or driver has conspicuously affixed thereto a dated notice indicating his or her intention to return or has otherwise notified the police department of his or her intention to remove same within seventy-two (72) hours.

Hearing officer means a city council member as appointed from time to time by the mayor to perform the functions provided for in this chapter. No council member shall be eligible to be so appointed while serving as police commissioner.

Junked means any vehicle which:

- a. Does not bear valid, unexpired license plates, unless of a type specifically exempted from motor vehicle licensing by the laws of the state; or
- b. Is wrecked, damaged or substantially dismantled to the extent that such vehicle is inoperable; or
- c. If designed to be capable of moving itself when in proper repair, is incapable of being moved under its own power in its existing condition, or does not have all tires inflated.

Private property means any real property within the city which is not a public way.

Public way 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.

Vehicle means a machine propelled by power other than human power, and includes campers, trailers and other equipment designed to be carried upon or towed behind such powered vehicle, designed to travel along the ground by use of wheels, treads, runners or slides, or upon such vehicle, and transport persons or property or pull machinery, and shall include, without limitation, automobile, airplane, truck, trailer, camper, motorcycle, motor scooter, tractor, buggy and wagon. (Prior code 10.12.010; Ord. 356 §1, 1989; Ord. 374 §1, 1990)

Sec. 8-31. Storage and disposal.

This chapter is supplemental to the provisions of Part 16 of Article 4 of Title 42, C.R.S., as from time to time amended, and the procedures for the towing and storage of vehicles in said provisions shall be applicable to the city except to the extent specifically superseded by this chapter. (Prior code 10.12.020; Ord. 356 §1, 1989)

Sec. 8-32. Authorized when.

A police officer is authorized to remove or have removed a vehicle to the nearest place of safety, or to an impound lot designated or maintained by the police department, after making such efforts as the officer deems practicable under the circumstances to locate the owner of the vehicle, and under the circumstances hereinafter enumerated:

(1) When any vehicle is left unattended upon any bridge, viaduct or underpass, where such vehicle constitutes, in the judgment of the police officer, an obstruction to traffic;

(2) When the vehicle is on a public way and, in the judgment of the police officer, is to disabled as to constitute an obstruction to traffic, or when, in the judgment of the officer, the driver of the vehicle is, by reason of physical injury or otherwise, incapacitated to such an extent as to be unable to provide for its custody and removal;

(3) When the vehicle is found being driven upon a public way and, in the judgment of the police officer, is not in proper condition to be driven;

(4) When the vehicle is left unattended upon a public way and is parked in such a manner as to constitute, in the judgment of the police officer, a hazard or obstruction of the normal movement of traffic or to the maintenance of a public way;

(5) When the vehicle constitutes a violation of this chapter under the provisions of Section 8-33;

(6) When the driver of the vehicle is taken into custody by a police officer and such vehicle would thereby be left unattended upon a public way;

(7) When, in the judgment of the police officer, removal is necessary in the interest of public safety because of fire, flood, snow, storm or other emergency reason;

(8) When the vehicle is situated on public property and constitutes a violation of this chapter under the provisions of Section 8-34;

(9) When vehicle fails to display number plates or failing to display the proper number plate or plates assigned to such vehicle under the provisions of Title 42, C.R.S., as from time to time amended, or to display number plates in such a manner as to reasonably indicate a violation of any provision of said Title 42 or any other provision of state law with respect to motor vehicle number plates, while parked, attended or unattended, or traveling upon the public ways of the city. (Prior code 10.12.030; Ord. 356 §1, 1989)

Sec. 8-33. Abandonment prohibited.

It is unlawful for any person to abandon any vehicle within the corporate limits of the city. (Prior code 10.12.040; Ord. 356 §1, 1989)

Sec. 8-34. Junked vehicles prohibited – Exceptions.

It is unlawful for any person to permit any junked vehicle to be left upon any public property or, being the owner or tenant in possession of any real property in the city, to cause or permit any junked vehicle to be put upon or kept upon any real property in the city, except that this section shall not apply to the following conditions which, if proven, shall constitute an affirmative defense hereunder:

(1) The vehicle is located upon the premises of a lawfully zoned vehicle repair business, lawfully zoned vehicle storage business, or lawfully zoned junkyard.

(2) The vehicle is stored within a completely enclosed structure. Such a structure shall comply with all applicable city ordinances.

(3) On a residential lot or parcel of real property, a maximum of one (1) vehicle per lot or parcel, in addition to any vehicle meeting the requirements of paragraph (2) of this section, shall be permitted if said vehicle is entirely covered with a one (1) piece opaque heavy tarp or commercial car cover, securely fastened at all times, or is screened by a concealing fence not less than six (6) feet in height which renders the vehicle not visible to persons on adjacent private or public property. Such a fence shall comply with all applicable city ordinances.

(4) On a nonresidential lot or parcel of real property to which the provisions of paragraph (1) of this section do not apply, a maximum of one (1) vehicle only per lot or parcel, in addition to any vehicle meeting the requirements of paragraph (2) of this section, shall be permitted if said vehicle is screened by a concealing fence not less than six (6) feet in height which renders the vehicle not visible to persons on adjacent private or public property. Such a fence shall comply with all applicable city ordinances. (Prior code 10.12.050; Ord. 356 §1, 1989)

Sec. 8-35. Restrictions on storage of vehicles – Ownership requirements.

The storage of junked vehicles as authorized by Section 8-34 shall be permitted only as to vehicles owned by the occupant of the premises upon which such vehicle is located, or by members of the immediate family of the occupant. (Prior code 10.12.060; Ord. 356 §1, 1989)

Sec. 8-36. Investigation authorized – Notices of violation.

(a) Any police officer is authorized to enforce this chapter and to investigate any circumstance relating to any vehicle left at any place within the city which reasonably appears to be in violation of this chapter or to be lost, stolen or unclaimed.

(b) In addition to any other available remedy for a violation of Section 8-34, a police officer may issue a written warning to a person owning, occupying or possessing any real property in violation of Section 8-34. Said notice shall direct such person to comply with the provisions of this chapter within seven (7) days after the date on said notice. If the person fails to comply with the provisions of this

chapter within such time, a police officer may issue a summons and complaint for a violation of this chapter. A police officer shall not be required to issue a written warning prior to issuing a summons and complaint, and the failure of any person to receive such a written warning shall not constitute an affirmative defense to a prosecution under this chapter. (Prior code 10.12.070; Ord. 356 §1, 1989)

Sec. 8-37. Liability.

Neither the city, nor its officers, employees, or agents, nor any person acting under the direction of the city, its officers, employees, or agents, shall be liable for any damages occasioned by the towing, impoundment, or storage of a vehicle pursuant to this chapter or pursuant to the provisions or Part 16 of Article 4 of Title 42, C.R.S., as from time to time amended, or occasioned otherwise in the enforcement of the provisions of this chapter. (Prior code 10.12.080; Ord. 356 §1, 1989)

Sec. 8-38. Post-impoundment hearing for impounded vehicles.

As to any vehicle placed in storage in an impound lot pursuant to this chapter, the owner of the vehicle has the right to a post-impoundment hearing to determine whether there was probable cause to impound the vehicle, if the owner files a written demand for such hearing with the city clerk within ten (10) days after the postmarked date of the notice sent to the owner by the police department pursuant to Section 42-4-1604(4), C.R.S., as from time to time amended. Failure to request a hearing within such time shall operate as a waiver of the owner's right to such hearing. (Prior code 10.12.090; Ord. 356 §1, 1989)

Sec. 8-39. Conduct of hearing.

(a) A hearing shall be conducted before the hearing officer within seventy-two (72) hours of receipt by the city clerk of the owner's written demand therefor unless the owner agrees to waive the right to a speedy hearing, or the delay in conducting a speedy hearing was occasioned by the owner. Saturdays, Sundays and city holidays shall be excluded from the calculation of the seventy-two (72) hour period. The sole issue at the hearing shall be whether there was probable cause to tow and impound the vehicle.

(b) *Probable cause to tow and impound* means such a state of facts as would lead a person of ordinary care and prudence to believe that the towing and impoundment of the vehicle was warranted because of a breach of this chapter or other ordinances of the city or of state or federal law, or because of an emergency.

(c) At the hearing, the owner and the police department may each provide testimony or arguments concerning whether there was probable cause to tow and impound the vehicle. The decision of the hearing officer shall in no way affect any judicial proceeding relating to the vehicle or its owner.

(d) The failure of the person who demanded the hearing to attend the hearing shall be deemed a waiver of the owner's right to the hearing. (Prior code 10.12.100; Ord. 356 §1, 1989)

Sec. 8-40. Decision.

At the conclusion of the hearing, the hearing officer shall determine only that either:

- (1) There was probable cause to tow and impound the vehicle; or

(2) There was no probable cause to tow and impound the vehicle. In the event of a determination that there was no probable cause to tow and impound the vehicle, the vehicle shall be released to the owner, and the hearing officer shall order the city to pay any towing or storage fees for the vehicle subject to the availability of budgeted and appropriated funds for the payment of such fees. Except as provided in this paragraph, no vehicle shall be released until the owner has paid all towing and storage fees for the vehicle, and any other lawfully imposed fees or charges. (Prior code 10.12.110; Ord. 356 §1, 1989)

Sec. 8-41. Violation – Penalty – Abandoned and junked vehicles.

(a) It shall be a violation of this chapter for any person to do any act which is forbidden or declared to be unlawful or declared to be a nuisance, or to fail to do or perform any act required in this chapter. Such person shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any provision of this chapter is committed, continued or permitted. Upon conviction thereof, such person shall be punishable by a fine of not more than three hundred dollars (\$300.00).

(b) In addition to any other penalty provided herein, any such vehicle found on any private property within the city to be in violation of the provisions hereof shall constitute a public nuisance, and the city attorney shall be authorized to bring a civil action before any court of competent jurisdiction to secure abatement thereof. All costs incurred by the city in securing the abatement, including impoundment and storage expenses and any other lawfully imposed fees or charges, and reasonable attorney's fees, shall be assessed against the person or persons owning said vehicle and otherwise having occupancy of the private property affected or custody of the junked or abandoned vehicle involved. (Prior code 10.12.120; Ord. 356 §1, 1989)

Secs. 8-42—8-59. Reserved.