

## **PART 17 - PENALTIES AND PROCEDURE**

### **1701. Traffic offenses classified.**

- (1) It is a misdemeanor traffic offense for any person to violate any provision of the Traffic Code except as provided in Section 1-15 of the City Code.
- (2) The Municipal Court shall designate the specified traffic offenses or infractions under this Traffic Code and ordinances of the City and the state traffic laws with respect to which payments of fines may be accepted by the Municipal Court Clerk's Office or other designated office in satisfaction thereof, and shall specify by suitable schedules the amount of such fines for first, second and subsequent offenses, provided that such fines are within the limits declared by law, and shall further specify what type and number of offenses shall require mandatory appearance before the court.
- (3) Fines and costs shall be paid to, receipted by and accounted for by the Municipal Court Clerk or other designated office or person. (Ord. 016, 2003 §1)

### **1702. Municipal Court Clerk's Office.**

- (1) The Municipal Court Judge may establish an office, policies and procedures to assist the court with the clerical work of traffic cases.
- (2) The Municipal Court Clerk's Office may be in charge of such person or persons as the court may designate to handle traffic cases and shall be open on such days excluding Saturdays, Sundays and holidays, and at such hours as may be established by the court.
- (3) The following duties are hereby imposed upon the head and personnel of the Municipal Court Clerk's Office in reference to traffic offenses:
  - (a) They shall accept designated fines, issue receipts and present to the court the written evidence of the guilty pleas and waivers of appearance of violators who have requested and are permitted to so plead.
  - (b) They shall receive and issue receipts for bail from persons who must or wish to be heard in court, enter the time of their appearance on the court docket, and notify the arresting officer and witnesses, if any, to be present.
  - (c) They shall, on behalf of the court, forward to the Colorado Department of Revenue as required by Section 42-2-121, C.R.S. a record of the conviction of any person in said court for a violation of any of the traffic ordinances of the City or any of the traffic laws of this State subject to the point system schedule provided by law.

- (d) They shall keep an easily accessible record of all violations of which each person has been guilty during the preceding thirty-six (36) months, whether such guilt was established in court or by pleas of guilty and payment of fine at the Municipal Court Clerk's Office.
- (4) The Municipal Court Clerk's Office shall keep records and submit summarized monthly records and reports to the Judge of all notices issued and arrests made for violations of this Traffic Code, of all fines collected by the Municipal Court Clerk's Office or the court, and of the final disposition or present status of every case of violation of the provisions of said laws and ordinances. Said records shall be maintained to show all types of violations and the totals for each.
- (5) The Municipal Court Clerk's Office shall follow such procedures and perform such duties as may be prescribed by this Traffic Code as may be required by any laws or regulations of the State of Colorado. (Ord. 016, 2003 §1)

**1703. Parties to a crime.**

Every person who commits, conspires to commit or aids or abets in the commission of any act declared in this Traffic Code to be a traffic offense, whether individually or in connection with one (1) or more other persons or as principal, agent or accessory, is guilty of such offense or liable for such offense, and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this Traffic Code is likewise guilty of such offense or liable for such offense. (Ord. 016, 2003 §1)

**1704. Offenses by persons controlling vehicles.**

It is unlawful for the owner or any other person employing or otherwise directing the driver of any vehicle to require or knowingly to permit the operation of such vehicle upon a street or highway in the City in any manner contrary to law or this Traffic Code. (Ord. 016, 2003 §1)

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

- (1) Whenever a person is arrested for any violation of this Traffic Code, the arrested person shall be taken without unnecessary delay before a Municipal Judge who has jurisdiction of such offense as provided by law, in any of the following cases:
  - (a) When a person arrested demands an appearance without unnecessary delay before a judge;
  - (b) When the person is arrested and charged with an offense under this Traffic Code causing or contributing to an accident resulting in injury to any person;

- (c) When the person is arrested upon a charge of failure to stop in the event of an accident causing personal injuries or damage to property;
  - (d) Reckless driving;
  - (e) Exceeding the speed limit by more than nineteen (19) miles per hour;
  - (f) Exhibition of speed or speed contest;
  - (g) In any other event when the provisions of this Part 17 apply and the person arrested refuses to give his or her written promise to appear in court as provided in Section 1707.
- (2) Whenever any person is arrested by a police officer for any violation of this Traffic Code and is not required to be taken before a Municipal Judge as provided in Subsection (1) of this Section, the arrested person shall, in the discretion of the officer, either be given a written notice or summons to appear in court as provided in Section 1707 or be taken without unnecessary delay before a Municipal Judge who has jurisdiction of such offense when the arrested person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court. The court shall provide a bail bond schedule and available personnel to accept adequate security for such bail bonds. (Ord. 016, 2003 §1)

**1706. Juveniles - convicted - arrested and incarcerated - provisions for confinement.**

Pursuant to Section 13-10-113(5), C.R.S., and notwithstanding any other provision of law, a child, as defined in Section 19-1-103(18), C.R.S., arrested for an alleged violation of the City Code or this Traffic Code, convicted of violating provision of the City Code or this Traffic Code or probation conditions imposed by a Municipal Court, or found in contempt of court in connection with a violation or alleged violation of the City Code or this Traffic Code shall not be confined in a jail, lockup or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the Department of Human Services or a temporary holding facility operated by or under contract with the City that shall receive and provide care for such child. The Municipal Court imposing penalties for violation of probation conditions imposed by such court or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a child pursuant to Section 19-2-508, C.R.S., for up to forty-eight (48) hours in a juvenile detention facility operated by or under contract with the Department of Human Services. In imposing any jail sentence upon a juvenile for violating any municipal ordinance when the Municipal Court has jurisdiction over the juvenile pursuant to Section 19-2-104(1)(a)(II), C.R.S., a Municipal Court does not have the authority to order a child under eighteen (18) years of age to a juvenile

detention facility operated or contracted by the Department of Human Services.  
(Ord. 016, 2003 §1)

**1707. Summons and complaint and penalty assessment notice for traffic offenses.**

- (1) Whenever a person commits a violation of this Traffic Code other than a violation for which a penalty assessment notice may be issued in accordance with the provisions of Sections 1701 1702, Colorado Rules for Magistrates and C.M.C.R., and such person is not required by the provisions of Section 1705 to be arrested and taken without unnecessary delay before a Municipal Judge, the peace officer may issue and serve upon the defendant a summons and complaint which shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of the Traffic Code Section alleged to have been violated, a brief description of the offense, the date and approximate location thereof, and the date the summons and complaint is served on the defendant; shall direct the defendant to appear in a specified Municipal Court at a specified date, time and place; shall be signed by the peace officer; and shall contain a place for the defendant to execute a written promise to appear at the date, time and place specified in the summons portion of the summons and complaint.
- (2) If a peace officer issues and serves a summons and complaint to appear in Municipal Court upon the defendant as described in Subsection (1) of this Section, any defect in form in such summons and complaint regarding the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, the date and approximate location thereof, and the date the summons and complaint is served on the defendant may be cured by amendment at any time prior to trial or any time before verdict or findings upon an oral motion by the prosecuting attorney after notice to the defendant and an opportunity for a hearing. No such amendment shall be permitted if substantial rights of the defendant are prejudiced. No summons and complaint shall be considered defective so as to be cause for dismissal solely because of a defect in form in such summons and complaint as described in this Subsection (2).
  - (a) The date and time specified in the summons portion of a summons and complaint must be at least fourteen (14) days after the date such summons and complaint is served, unless the defendant shall demand through the Municipal Court an earlier court appearance date.
  - (b) The place specified in the summons portion of said summons and complaint or of the penalty assessment notice must be the Fort Collins Municipal Court.

- (c) If the defendant is otherwise eligible to be issued a summons and complaint or a penalty assessment notice for a violation of this Traffic Code punishable as a traffic offense and does not possess a valid Colorado driver's license, the defendant, in order to secure release, as provided in this Section, must either consent to be taken by the officer to the nearest mailbox and to mail the amount of the penalty thereon to the Clerk of the Court or must execute a promise to appear in court on the penalty assessment notice or on the summons and complaint. If the defendant does possess a valid Colorado driver's license and the driver's license number is recorded on the summons or complaint, the defendant shall not be required to execute a promise to appear on the penalty assessment notice or on the summons and complaint.
- (3)
    - (a) Whenever a penalty assessment notice for a traffic offense is issued pursuant to Section 1701 or 1702, the penalty assessment notice which shall be served upon the defendant by the peace officer shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of the Traffic Code alleged to have been violated, a brief description of the offense, the date and approximate location thereof, the amount of the penalty prescribed for such traffic offense, the number of points, if any, prescribed for such offense pursuant to Section 42-2-127, C.R.S., and the date the penalty assessment notice is served on the defendant; shall direct the defendant to appear in Municipal Court at a specified date, time and place in the event such penalty thereon is not paid; shall be signed by the peace officer; and shall contain a place for such defendant to elect to execute a signed acknowledgment of guilt and an agreement to pay the penalty prescribed thereon within fourteen (14) days, as well as such other information as may be required by ordinance and court rules to constitute such penalty assessment notice to be a summons and complaint, should the prescribed penalty thereon not be paid within the time allowed by ordinance or court order.
    - (b) One (1) copy of said penalty assessment notice shall be served upon the defendant by the peace officer and one (1) copy sent to the Clerk of the Municipal Court.
    - (c) The time specified in the summons portion of said penalty assessment notice must be at least fourteen (14) days but not more than ninety (90) days after the date such penalty assessment notice is served, unless the defendant shall demand an earlier hearing.
    - (d) The place specified in the summons portion of said penalty assessment notice must be Fort Collins Municipal Court.

(e) 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.

(4) It shall be unlawful for any person to cancel or solicit the cancellation of any traffic summons and complaint or penalty assessment notice in any manner other than by process of law. (Ord. 016, 2003 §1; Ord. 109, 2006 §§12, 13)

**1708. Burden of proof - appeals.**

(1) The burden of proof shall be upon the prosecution, and the Court shall enter judgment in favor of the defendant unless the people prove the liability of the defendant beyond a reasonable doubt.

(2) Appeals from the Municipal Court shall be in accordance with Rule 37 of the Colorado Rules of Criminal Procedure. (Ord. 016, 2003 §1)

**1709. When a person may elect to appear at Municipal Court Clerk's Office or before the Court.**

(1) Any person charged with an offense or violation under this Traffic Code for which a penalty assessment notice may be issued and for which payment of a fine may be made to the Municipal Court Clerk's Office shall have the option of paying such fine within the date, time and at the place specified in said notice upon entering a plea of guilty and upon waiving appearance in court; or may have the option of depositing any required lawful bail, and upon a plea of not guilty shall be entitled to a trial as authorized by law.

(2) Payment of a penalty assessment notice by the person to whom the notice is tendered shall constitute an acknowledgment of guilt by such person of his or her violation of the offense stated in such notice.

(3) The penalty assessment notice or the officer shall advise the person to whom the penalty assessment notice is tendered of the number of points to be assessed for the offense stated in such notice.

(4) Payment of the prescribed fine shall be deemed a complete satisfaction for the violation, and the Municipal Court Clerk's Office, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof. Checks tendered and accepted and on which payment is received shall be deemed sufficient receipt. (Ord. 016, 2003 §1)

**1710. Failure to pay penalty - procedures.**

(1) Unless a person who has been cited for a traffic infraction pays the penalty, such person shall appear at a hearing on the date and time specified in the citation and answer the complaint against such person.

- (2) If the violator answers that he or she is guilty or if the violator fails to appear for the hearing, judgment shall be entered against the violator.
- (3) If the violator denies the allegations in the complaint, a final hearing on the complaint shall be held subject to the provisions regarding a speedy trial contained in Section 18-1-405, C.R.S. If the violator is found guilty or liable at such final hearing or if the violator fails to appear for a final hearing, judgment shall be entered against the violator.
- (4) If judgment is entered against a violator, the violator shall be assessed an appropriate penalty. If the violator had been cited by a penalty assessment notice, the penalty shall be assessed pursuant to Section 1701 or 1702. If a penalty assessment notice is prohibited by Section 1705(l), the penalty shall be assessed pursuant to Section 1701. (Ord. 016, 2003 §1)

**1711. Compliance with promise to appear.**

A written promise to appear in court may be complied with by an appearance by counsel. (Ord. 016, 2003 §1)

**1712. Procedure prescribed not exclusive.**

The foregoing provisions of this Traffic Code shall govern all police officers in making arrests without a warrant or issuing citations for violations of this Traffic Code, for offenses or infractions committed in their presence, but the procedure prescribed in this Traffic Code shall not otherwise be exclusive of any other method prescribed by law for the arrest and prosecution of a person for an offense or infraction of like grade. (Ord. 016, 2003 §1)

**1713. Reserved.**

**1714. Reserved.**

**1715. Convictions, judgments and charges recorded - public inspection.**

- (1) The Municipal Court Clerk shall keep a full record of every case in which a person is charged with any violation of this Traffic Code or any other law regulating the operation of vehicles on highways for the period of time prescribed by the records retention schedule of the State Archivist.
- (2) Within ten (10) days after the entry of a judgment, conviction or forfeiture of bail of a person upon a charge of violating any provision of this Traffic Code or other law regulating the operation of vehicles on highways, the Judge or clerk of the Court shall prepare and immediately forward to the Motor Vehicle Division of the State Department of Revenue an abstract of the record of said Court covering every case in which said person had a judgment entered against

him or her, was so convicted or forfeited bail, which abstract must be certified by the person so required to prepare the same to be true and correct.

- (3) Said abstract must be made upon a form furnished by the State Department of Revenue and shall include the name, address and driver's license number of the party charged, the registration number of the vehicle involved, the nature of the offense, the date of hearing, the plea, the judgment or whether bail forfeited, and the amount of the fine or forfeiture as the case may be. (Ord. 016, 2003 §1)

**1716. Notice to appear or pay fine; failure to comply.**

- (1) For the purposes of this Part 17, tender by an arresting officer of the summons and complaint or penalty assessment notice to the violator shall constitute notice to the violator to appear in court at the time specified on such summons or to pay the required fine thereon.
- (2) In the event the form of summons and complaint or penalty assessment notice provided under Part 17 includes information and is sworn to as required under the general laws of this State in respect to a complaint charging commission of the offense alleged in said summons and complaint or penalty assessment notice to have been committed, then such summons and complaint or penalty assessment notice when filed with a court having jurisdiction shall be deemed to be a lawful complaint for the purpose of prosecution under this Traffic Code.
- (3) In the event any person fails to comply with the summons and complaint or penalty assessment notice given to such person, or fails to respond to a summons and complaint for a misdemeanor traffic violation directing a mandatory appearance in the Municipal Court or at the Municipal Court Clerk's Office, the Clerk, at the direction of the Municipal Judge, shall forthwith have a complaint issued against such person and shall issue and have served a warrant for his or her arrest. (Ord. 016, 2003 §1)