

CHAPTER 8

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ARTICLE I

Model Traffic Code

Sec. 8-1-10. 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*, together with the appendices thereto, promulgated and published as such by the Colorado Department of Transportation, Staff Traffic and Safety Projects Branch, 4201 East Arkansas Avenue, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic and vehicle control regulations for the City. The purpose of this Article and the code adopted herein is to provide a system of uniform traffic regulations consistent with state law, and generally conforming to similar regulations throughout the state and the nation. (Ord. 30-03 §2-14.04.020)

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

One (1) copy of the Model Traffic Code adopted herein is now on file may be inspected during regular business hours. Copies are available for sale in the office of the City Clerk. (Ord. 30-03 §2-14.04.150; Ord. 4 §1, 2005)

Sec. 8-1-30. Amendments.

Except as expressly modified in this Article, the Model Traffic Code is adopted as if set forth in full. (Ord. 30-03 §2-14.04.030)

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 City, the use of which the City has jurisdiction and authority to regulate. 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. (Ord. 30-03 §2-14.04.040; Ord. 4 §1, 2005)

Sec. 8-1-50. Bicycle registration program.

The City offers a voluntary bicycle registration program as a service to citizens of the City who desire to register their bicycles for theft and safety purposes. The registration shall be provided free of charge, by submitting a completed registration application to the Police Department. Once registered, a bicycle will remain in the City's computer registration list until the owner notifies the City to remove it. (Ord. 30-03 §2-14.04.110)

Sec. 8-1-60. Prohibited activities on sidewalks.

Section 109(9) of the adopted code is amended by the addition of the following sentence at the end of subsection (9):

"When properly posted, it shall be unlawful for any person to ride a bicycle, roller skate, roller blade, skateboard or utilize similar devices on sidewalks or parking lots anywhere within the City limits."

(Ord. 30-03 §2-14.04.135; Ord. 4 §1, 2005)

Sec. 8-1-70. Definition and use of off-road vehicles.

A new Section 111 of the adopted code is hereby enacted as follows:

"111. Off-road vehicles.

"(1) Definition of Off-Road Vehicle. Every motor vehicle designed primarily for travel off of the public highways and which is not required to be registered with the State of Colorado under the provisions of Article 3, Title 42, C.R.S.

"(2) Use of Off-Road Vehicles. No off-road vehicle shall be operated anywhere in the City of Rifle, except on private property by the written permission of the landowner, or in a parade licensed by the Chief of Police in accordance with the provisions of Section 8-1-200 of the Rifle Municipal Code. Testimony of the failure of any owner or operator of an off-road vehicle to present immediate evidence of permission to operate the vehicle, when requested to do so by a peace officer, shall constitute prima facie evidence that such owner or operator of the off-road vehicle violated this section. No person shall be convicted of a violation of this section if he produces in court an affidavit, signed under oath by the landowner, that he had given the owner or operator permission to use the off-road vehicle on his property at the time of the alleged violation."

(Ord. 30-03 §2-14.04.120; Ord. 4 §1, 2005; Ord. 3 §2, 2006)

Sec. 8-1-80. Obstruction of roadways by pedestrians prohibited.

Section 801 of the adopted code is amended to add a new subsection (4) as follows:

"(4)(a) It is unlawful for a pedestrian to engage in any activity within a public street or roadway that obstructs, or reasonably could obstruct, the free flow of vehicular traffic or otherwise constitutes, or reasonably could constitute, a hazard, except as expressly permitted or authorized by this Code.

"(b) It is unlawful for a parent, guardian, or other person having care or custody of any child under the age of ten (10) years to intentionally, knowingly, or recklessly allow or permit any such child to violate subsection (a) of this section.

"(c) The fact that a child under the age of ten (10) years is engaged in an activity within a public street or roadway contrary to the provisions of subsection (a) of this section shall be prima facie evidence that the parent, guardian, or other person having custody of the child is guilty of violating this section."

(Ord. 30-03 §2-14.04.130; Ord. 4 §1, 2005)

Sec. 8-1-90. Speed limits.

Section 1101(2) of adopted code is amended to read as follows:

"(2) Except when a special hazard exists that requires a lower speed, and except as otherwise provided herein, the following speeds shall be lawful:

"(a) Twenty-five (25) miles per hour on all City streets, unless otherwise posted.

"(b) Twenty (20) miles per hour on narrow, winding mountainous highways and blind curves.

"(c) Forty (40) miles per hour on open mountain highways.

"(d) Forty-five (45) miles per hour for all vehicles in the business of transporting trash, where higher speeds are posted, when said vehicle is loaded as an exempted vehicle pursuant to Section 507(3).

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

"(f) Seventy-five (75) miles per hour on surfaced, four-lane highways which are on the interstate system, as defined in C.R.S. §43-2-101(2), where authorized by a majority of the members of the transportation commission and such speed has been so designated by official traffic control devices.

"(g) Any speed not in excess of a speed limit designated by an official traffic control device."

(Ord. 30-03 §2-14.04.070; Ord. 4 §1, 2005)

Sec. 8-1-100. Traffic regulation in mobile home parks.

Pursuant to Section 1102(5) of the adopted code, all stop sign regulations and speed limits not inconsistent with Section 8-1-90 above shall be enforced upon any way which is open to travel by motor vehicles and which is privately maintained in mobile home parks, when appropriate signs giving notice of such enforcement are erected at the entrances to such ways. (Ord. 30-03 §2-14.04.080; Ord. 4 §1, 2005)

Sec. 8-1-110. Parking in alleys.

Section 1204(1) of the adopted code is amended to add a subsection (l) to read as follows:

"(l) Within an alley, except during the necessary expeditious loading and unloading of merchandise or freight, and in no case shall a stop for loading or unloading of materials exceed twenty (20) minutes."

(Ord. 30-03 §2-14.04.090; Ord. 4 §1, 2005)

Sec. 8-1-120. Illegal parking on private property.

Section 1204 of the adopted code is hereby amended to add a new subsection (6) to read as follows:

"(6) At any place within this municipality where clearly marked signs or markings are posted by the owner, or lessee, of the property, giving notice of any stopping, standing or parking restrictions or prohibitions, no person shall stop, stand or park a vehicle in any manner in violation of the provisions contained on such sign or signs. Any violation thereof shall be punished as in other cases of unlawful parking; provided, however, that the police department shall require the owner or lessee of the property to sign a complaint prior to taking any action."

(Ord. 30-03 §2-14.04.100; Ord. 4 §1, 2005)

Sec. 8-1-130. Obedience to stopping, standing or parking restriction and prohibition signs.

Section 1204 of the adopted code is hereby amended by the addition of new subsection 1204 (7), to read as follows:

"(7) On any street, alley, parking lot, or at any place within this municipality where official signs are posted giving notice of stopping, standing or parking restrictions or prohibitions as authorized in Section 42-4-111(a), C.R.S., no person shall stop, stand or park a vehicle in any manner in violation of the provisions contained on such sign or signs except when necessary to avoid conflict with other traffic, or in compliance with the directions of a police officer. The City Council may adopt by resolution parking restrictions on certain streets, alleys and parking lots."

(Ord. 3 §3, 2006)

Sec. 8-1-140. Interference with parking enforcement officer or procedures.

Section 1204 of the adopted code is hereby amended by the addition of new subsection 1204(8), to read as follows:

"(8) No person shall erase, remove, alter or otherwise tamper with markings or other detection materials placed on any vehicle, vehicle tire or pavement for the purpose of enforcement of timed parking."

(Ord. 3 §4, 2006)

Sec. 8-1-150. Parking for certain purposes prohibited.

Section 1205 of the adopted code is hereby amended by the addition of a new subsection 1205(4), to read as follows:

"(4) No person shall park a vehicle upon a roadway for the purpose of:

"(a) Greasing, painting, washing or repairing such vehicle, except repairs necessitated by an emergency."

(Ord. 3 §5, 2006)

Sec. 8-1-160. Parking permits.

A new Section 1212 of the adopted code is hereby adopted, to read as follows:

"1212. Parking permits. The City Council may provide by resolution for parking permits granting exemption from time parking regulations on such terms and conditions and for such fees as the Council may determine appropriate from time to time."

(Ord. 3 §6, 2006)

Sec. 8-1-170. Notice on illegally parked vehicles.

A new Section 1213(1) of the adopted code is hereby adopted, to read as follows:

"(1) Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the restrictions imposed by the ordinances of the City of Rifle, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a penalty assessment notice issued pursuant to Section 8-1-190 of the Rifle Municipal Code."

(Ord. 3 §7, 2006)

Sec. 8-1-180. Penalties for violation.

Section 1701 of the adopted code is amended to read as follows:

"1701. Municipalities – traffic offenses classified – schedule of fines.

"(1) Except as otherwise provided for in this section, any person who violates any provision of the Model Traffic Code shall be deemed to have committed a noncriminal traffic offense. Every person who is convicted of, who admits liability for, or against whom a judgment is entered for, a noncriminal traffic offense shall be penalized by imposition of a fine in an amount not less than \$5.00 and not greater than \$100.00. The presiding Judge of the Municipal Court shall promulgate a schedule of penalties for all noncriminal traffic offenses contained in the Model Traffic Code. Said schedule shall be prominently posted in the office of the Municipal Court Clerk.

"(2) A violation of any of the following provisions of the Model Traffic Code shall be a criminal offense. Every person convicted of violating any of the following provisions of the Model Traffic Code shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

"(a) Section 1903 – Stopping for school buses.

"(b) Section 1101 – Speeding (the alleged violator is accused of exceeding the prima facie speed limit by more than 19 miles per hour).

"(c) Section 1105 – Speed contests.

"(d) Section 1401 – Reckless driving.

"(e) Section 1402 – Careless driving (the violation has caused, or contributed to the cause of, an accident resulting in appreciable damage to property of another or an injury or death to any person).

"(f) Section 1413 – Eluding or attempting to elude police officer.

"(g) Section 1409 – Compulsory insurance.

"(h) Any other offense contained in the Model Traffic Code resulting in an accident causing personal injury or substantial property damage."

(Ord. 30-03 §2-14.04.050; Ord. 4 §1, 2005; Ord. 3 §2, 2006)

Sec. 8-1-190. Procedure for noncriminal traffic offenses.

Part 17 of the adopted code is amended by the addition of a new Section 1701.5, to read as follows:

"1701.5 Procedure – noncriminal traffic offenses.

"(1) Notwithstanding the provisions of Rule 223(a) and (b) of the Colorado Municipal Court Rules of Procedure, or any other provision of law, the right of a jury trial shall not be available at a hearing where the cited person is charged with a noncriminal traffic offense. In addition, no person charged with a noncriminal traffic offense shall be afforded the right of court-appointed counsel.

"(2) The Colorado Municipal Court Rules of Procedure shall apply to any hearing where the cited person is charged with a noncriminal traffic offense, unless any of the rules are clearly inapplicable. The burden of proof shall be upon the people, and the court shall dismiss charges against an alleged violator beyond a reasonable doubt.

"(3) An appeal from final judgment on a noncriminal traffic offense shall be made in accordance with Rule 237 of the Colorado Municipal Court Rules of Procedure.

"(4) Except as otherwise provided in this subsection, no person against whom a judgment has been entered for a noncriminal traffic offense shall collaterally attack the validity of that judgment unless such attack is commenced within three months after the date of entry of the judgment. The only exceptions to the time limitations shall be:

"(a) A case in which the court entering judgment did not have jurisdiction over the subject matter of the alleged infraction;

"(b) A case in which the court entering judgment did not have jurisdiction over the person of the violator;

"(c) Where the court finds by a preponderance of the evidence that the failure to seek relief within the applicable time period was caused by an adjudication of incompetence or by commitment of the violator to an institution for treatment as a mentally ill person; or

"(d) Where the court finds that the failure to seek relief within the applicable time period was the result of circumstances amounting to justifiable excuse or excusable neglect.

"(5) At any time that a person is cited for the commission of any noncriminal traffic offense, the citing officer shall give a notice to the person in charge of or operating the motor vehicle involved, which notice shall be in the form of a penalty assessment notice.

"(6) The penalty assessment notice tendered by the citing officer shall contain the name and address of such person or, if the vehicle is unattended, the owner of the vehicle shall be presumed to be such person, the license number of the vehicle involved, if any, the number of such person's driver's license, if available, the nature of the offense, the amount of the penalty prescribed for such offense, the date of the notice, the time and place and when and where such person shall appear in court in the event such penalty is not paid, and a place for such person to execute a signed acknowledgment of liability and an agreement to pay the penalty prescribed within twenty days, as well as such other information as may be required by law to constitute such notice as a summons and complaint to appear in court, should the prescribed penalty not be paid within the time period.

"(7) One copy of the notice shall be given to the violator by the citing officer.

"(8) The time specified in the notice to appear shall be at least fourteen days, but not more than forty-five days after such citation, unless the person cited shall demand an earlier hearing.

"(9) Whenever the alleged violator refuses to sign or accept the penalty assessment notice, tender of such notice by the citing officer to the alleged violator shall constitute service of a summons and complaint.

"(10) In the event a person who has been cited for a noncriminal traffic offense fails to pay the penalty assessment within the time period specified in the penalty assessment notice, he shall make an appearance and answer the complaint against him. If the alleged violator answers that he is liable, judgment shall be entered against him, and he shall be assessed the appropriate penalty and applicable court costs. If the alleged violator denies the allegations in the complaint, a final hearing on the complaint shall be held within the time period prescribed in Rule 248 of the Colorado Municipal Court Rules of Procedure. If the alleged violator fails to appear for a final hearing, judgment shall be entered against him, and he shall be assessed the appropriate penalty and applicable court costs.

"(11) In the event a person who has been cited for a noncriminal traffic offense fails to pay the penalty assessment within the time period specified in the penalty assessment notice and fails to appear at the time and place specified in the notice, judgment shall be entered against him, and he shall be assessed the appropriate penalty and court costs.

"(12) A police officer coming upon an unattended vehicle which is in apparent violation of any provision of the *Model Traffic Code* may place upon the vehicle a penalty assessment notice indicating the noncriminal traffic offense pursuant to the procedure set forth at Subsection (6) above. If the penalty assessment is not paid within twenty days of the issuance of such notice, the court shall mail a notice to the registered owner of the vehicle, setting forth the noncriminal traffic offense, the time and place where it occurred, directing the payment of the penalty assessment within twenty days from the issuance of the notice, and the time and place and when and where such person shall appear in court in the event such penalty is not paid as provided in the initial penalty assessment notice. In any prosecution of any of the provisions governing unattended vehicles, proof that the particular vehicle described in the penalty assessment notice was left unattended in violation of any such law or regulation, together with proof that the defendant named in the penalty assessment notice was, at the time of violation, the registered owner of such vehicle, shall constitute in evidence a prima facie rebuttable presumption that the registered owner of such vehicle was the person who left the vehicle unattended at the place where, and for the time during which, such violation occurred.

"(13) If the alleged violator is cited for a noncriminal traffic offense, he shall be privileged to answer the complaint made against him in the manner provided in the Colorado Municipal Court Rules of Procedure. The maximum penalty which may be imposed shall not exceed the penalty set forth in the penalty assessment notice.

"(14) The provisions of this section shall not apply to violations specified in Section 1701(2) of this code, nor shall they apply when it appears that the alleged violator has, in the course of the same transaction, violated one of the provisions referred to in Section 1701(1) of this code, and has also violated one or more of the provisions contained in Section 1701(2) of this code, and the arresting officer charges such alleged violator with two or more violations, any one of which is not referred to in Section 1701(1) of this code.

"(15) If a person receives a penalty assessment notice for a violation under this Part 17 and such person pays the fine and surcharge for the violation on or before the date the payment is due, the points assessed for the violation are reduced as follows:

"1. For a violation having an assessment of three (3) or more points, the points are reduced by two (2) points;

"2. For a violation having an assessment of two (2) points, the points are reduced by one (1) point."

(Ord. 30-03 §2-14.04.060; Ord. 6 §1, 2004; Ord. 4 §1, 2005; Ord. 14 §2, 2005; Ord. 3 §2, 2006)

Sec. 8-1-200. Parade permits.

The adopted code is amended by the addition of a new Part 20 to read as follows:

"PART 20 PARADE PERMITS

"(1) No person shall engage in, participate in, aid, form or start any parade or procession, unless a parade permit shall have been obtained from the Chief of Police. A parade or procession means a group of twelve or more persons moving along a public street or right-of-way in an orderly and formal manner, for festive or ceremonial purposes or as a means of public expression.

"(2) Except in the case of an emergency, any person seeking issuance of a parade permit shall file an application with the Chief of Police not less than twenty days prior to the date of the proposed parade. The Chief of Police shall respond to the application within five days of the receipt thereof.

"(3) The Chief of Police shall issue a parade permit when, from a consideration of the application, he finds that the conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic; the conduct of the parade will not prevent normal police protection to the City; the concentration of persons, animals, or vehicles at the assembly points of the parade will not unduly interfere with fire and police protection; the conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or create a disturbance and the parade is not to be held for the sole purpose of advertising products or goods.

"(4) If the Chief of Police disapproves the application, he shall notify the applicant in writing within two days from the date upon which the application was filed. This notice shall state the reason for the denial of the permit. Any person aggrieved by the denial of a parade permit may appeal the same to the City Council within ten days after the notice of denial is received.

"(5) The applicant shall comply with all permit conditions and with applicable laws and ordinances and shall carry the parade permit upon his person during the conduct of the parade."

(Ord. 30-03 §2-14.04.140; Ord. 4 §1, 2005; Ord. 3 §2, 2006)

ARTICLE II

Abandoned and Inoperable Vehicles

Sec. 8-2-10. Definitions.

As used in this Article, unless the context otherwise requires:

Abandoned vehicle means:

a. Any vehicle left unattended on private property for a period of twenty-four (24) hours or longer without the consent of the owner or lessee of such property or his or her legally authorized agent.

b. Any vehicle left unattended on public property, including any portion of a public right-of-way, within the City for a period of seventy-two (72) hours or longer, unless the owner of the vehicle has been granted permission by the City Manager to park it for an extended period.

c. Any vehicles stored in an impound lot at the request of its owner, the owner's agent or the Police Department and not removed from the impound lot according to the agreement with the owner or agent or within seventy-two (72) hours of the time the Police Department notified the owner or agent that the vehicle is available for release upon payment of any applicable charges or fees. If the Police Department requested the storage, the provisions governing public tows as contained in Section 8-2-50 below shall apply as of the time of abandonment. Otherwise, the private tow provisions contained in Section 8-2-80 below shall apply as of the time of abandonment.

Disabled vehicle means any vehicle which is stopped or parked, either tended or unattended, upon a public right-of-way and which is, due to any mechanical failure or any inoperability because of collision, fire or other such injury, temporarily inoperable under its own power.

Inoperable vehicle means any automobile, truck, tractor, motorcycle or self-propelled vehicle which is in a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purpose for which it was originally constructed. The existence of any of the following conditions shall raise the presumption that a vehicle is inoperable:

a. Absence of an effective registration plate upon such vehicle.

b. Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports.

c. Absence of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

Motor home means a vehicle designed to provide temporary living quarters and which is built into, as an integral part of or a permanent attachment to, a vehicle chassis or van.

Operator means a person or a firm licensed by the Public Utilities Commission as a towing carrier.

Parking means standing of a vehicle, whether occupied or not, other than very briefly for the purpose of and while actually engaged in loading or unloading property or persons.

Private property means any real property which is not public property.

Private tow means any tow of an abandoned or inoperable vehicle not requested by the Police Department.

Public property means any real property having its title, ownership, use or possession held by the federal government, the State, any county or municipality or other governmental entity of this State.

Public tow means any tow of an abandoned or inoperable vehicle requested by the Police Department.

Vehicle means any device which is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks. *Vehicle* includes any bicycle, off-highway vehicle, snowmobile, trailer, farm tractor or any implement of husbandry designed primarily or exclusively for use and used in agricultural operations. (Prior code 14.08.010; Ord. 4 §1, 2005)

Sec. 8-2-20. Abandonment of vehicles prohibited; penalty.

No person shall knowingly abandon any vehicle upon public property or upon private property other than his or her own. The first time a person violates this Section in any consecutive twelve-month period shall be deemed to have committed a noncriminal offense. Every person who is convicted of, who admits liability for or against whom a judgment is entered for this noncriminal offense shall be penalized by imposition of a fine in an amount not less than five dollars (\$5.00) and not greater than one hundred dollars (\$100.00). The Municipal Judge shall promulgate a schedule of penalties for this noncriminal offense, and said schedule shall be prominently posted in the office of the Municipal Court Clerk. Any second and subsequent violation of this Section by any person in a consecutive twelve-month period shall be deemed a Class B municipal offense. Each day or portion thereof during which such violation continues shall be deemed to constitute a separate offense. (Prior code 14.08.020; Ord. 4 §1, 2005)

Sec. 8-2-30. Inoperable vehicles prohibited; penalty.

(a) No person shall knowingly leave any partially dismantled, wrecked, discarded, inoperable or unlicensed vehicle on any public property within the City.

(b) It is unlawful for any person who is the owner of any vehicle or any person who is in the charge or control of any property within the City, whether as owner, tenant, occupant, lessee or otherwise, to

knowingly permit or allow a wrecked, inoperable, unlicensed or discarded vehicle to remain on such property longer than thirty (30) days; provided, however, that this Subsection shall not apply with regard to a vehicle in an enclosed building; a vehicle on the premises of a business enterprise operated in a lawful place and manner when necessary to the operation of such business enterprise; or a vehicle in an appropriate storage place or depository maintained for impounded vehicles by the City.

(c) The first time a person violates this Section in any consecutive twelve-month period shall be deemed to have committed a noncriminal offense. Every person who is convicted of, who admits liability for or against whom a judgment is entered for, this noncriminal offense shall be penalized by imposition of a fine in an amount not less than five dollars (\$5.00) and not greater than one hundred dollars (\$100.00). The Municipal Judge shall promulgate a schedule of penalties for this noncriminal offense, and said schedule shall be prominently posted in the office of the Municipal Court Clerk. Any second and subsequent violation of this Section by any person in a consecutive twelve-month period shall be deemed a Class B municipal offense. Each day or portion thereof during which such violation continues shall be deemed to constitute a separate offense. (Prior code 14.08.030; Ord. 4 §1, 2005)

Sec. 8-2-40. Limitations on parking on residential streets.

(a) No trailer or hauling device, unless attached to a vehicle, can be parked on a street in a residential zone district at any time, except as provided for in Subsection (b) below.

(b) A trailer or hauling device may be parked for a maximum of forty-eight (48) continuous hours for the sole purpose of loading and unloading. Any subsequent parking by the same trailer or hauling device on the same block shall be separated from the previous use by at least twenty-four (24) continuous hours. The City or an authorized contractor of the City may place a trailer containing a traffic control device, variable message sign or speed awareness device that is not attached to a vehicle on a street in a residential zone district. Any activities conducted pursuant to a permit issued pursuant to Chapter 11, Article 4 of this Code shall be excepted from this Section.

(c) For purposes of this Section, residentially zoned areas shall include streets that are in or border a residentially zoned area (for those areas that border a residential zone, only the streets on the residentially zoned side are subject to this Section).

(d) Any person committing such offenses listed above shall, upon conviction thereof, be punished in accordance with the provisions of Section 1-4-20 of this Code. (Prior code 14.08.035; Ord. 19 §2, 2004; Ord. 4 §1, 2005)

Sec. 8-2-50. Abandoned and inoperable vehicles; public tow.

(a) Any police officer who finds a vehicle which he or she has reasonable grounds to believe has been abandoned or is inoperable shall require such vehicle to be removed or cause the same to be removed and placed in storage in any impound lot designed or maintained by the Police Department. The Police Department may perform a public tow from public property or private property; provided, however, that a public tow may only be performed on private property at the request of the owner or lessee of the private property or of the owner or lessee's agent authorized in writing. As a condition of a public tow from private property, the owner, lessee or agent shall execute an indemnity and hold harmless agreement approved by the City Attorney indemnifying and holding the City harmless against all claims

and liability that may arise from such public tow. In addition, the owner, lessee or agent shall pay the costs of towing and processing at the time of the tow pursuant to Section 8-2-90 below.

(b) Upon having an abandoned or inoperable vehicle towed, the Police Department shall ascertain, if possible, whether or not the vehicle has been reported stolen and, if so reported, the Police Department shall take such actions as it deems appropriate in accordance with established procedure. The Police Department shall have the right to recover from the owner its reasonable costs to recover and secure the vehicle.

(c) As soon as possible, but in no event later than three (3) working days after having an abandoned or inoperable vehicle towed, the Police Department shall report the same to the Department of Motor Vehicles by first class or certified mail or by personal delivery, which report shall be on a form prescribed and supplied by the Department of Motor Vehicles. The report shall contain the information required in Section 42-4-1604(1)(c), C.R.S.

(d) The Police Department, upon receipt of an ownership report from the Department of Motor Vehicles, shall determine, from all available information and after reasonable inquiries, whether or not the abandoned or inoperable vehicle has been reported stolen and, if so reported, the Police Department shall take such actions as it deems appropriate in accordance with established procedure. The Police Department shall have the right to recover from the owner its reasonable costs to recover and secure the vehicle.

(e) The Police Department, within five (5) working days of the receipt of the ownership report from the Department of Motor Vehicles, shall notify by certified mail the owner of record, if ascertained, and any lienholder, if ascertained, of the fact of such report and the claim, if any, of a lien under Section 42-4-1607, C.R.S., and shall send a copy of such notice to the towing operator. The notice shall contain information that the vehicle has been reported abandoned or inoperable to the Department of Motor Vehicles, the location of the vehicle and the location from which it was towed; and that, unless claimed within thirty (30) calendar days from the date the notice was sent as determined from the postmark on the notice, the vehicle is subject to sale. Such notice shall also inform the owner of record of his or her opportunity to request a hearing concerning the legality of the towing of his or her abandoned or inoperable vehicle, and that the Police Department may be contacted for that purpose. A request for hearing shall be made in writing to the Police Department within ten (10) days of the postmark date of sending such notice. Such hearing, if requested, shall be conducted pursuant to Section 8-2-60 below. (Prior code 14.08.040; Ord. 4 §1, 2005)

Sec. 8-2-60. Post-storage hearing procedure.

(a) Upon request, a hearing shall be conducted before the Municipal Court within seventy-two (72) hours after the receipt of the owner's request, excluding weekends and holidays. The failure of the owner to request or to attend a scheduled hearing shall satisfy the hearing requirement of this Section. The sole issue before the Municipal Judge shall be whether there was probable cause to impound the vehicle in question. The burden of proof shall be on the Police Department to establish probable cause for the impoundment.

(b) *Probable cause to impound* means such a state of facts as would lead a person of ordinary care and prudence to believe there was sufficient violation of this Article to grant legal authority for the removal of the vehicle.

(c) The Municipal Judge shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall have the burden of establishing that such person has the right to the possession of the vehicle. At the conclusion of the hearing, the Municipal Judge shall prepare a written decision. A copy of such decision shall be provided to the person demanding the hearing and the registered owner of the vehicle (if not the person requesting the hearing). The Municipal Judge's decision shall in no way affect any criminal proceeding in connection with the impound in question, and any criminal charges in such proceeding may only be challenged in a court of competent jurisdiction. The decision of the Municipal Judge shall be final.

(d) The Municipal Judge shall only determine that there was or was not probable cause to impound the vehicle. If the Municipal Judge finds that there was no probable cause, the vehicle shall be released to its owner and all towing and storage fees shall be paid by the City. If the owner fails to present the decision of the Municipal Judge to the operator having custody of the vehicle within twenty-four hours (24) of its receipt, excluding such days when the operator is not open for business, the owner shall assume liability for all subsequent storage charges. (Prior code 14.08.050)

Sec. 8-2-70. Release of impounded vehicles.

Except as provided for in Section 8-2-100 below, any owner, operator or employee of any garage, service station or any appointed custodian who releases a vehicle impounded or ordered held by an officer of the Police Department, without a release from an officer of the Police Department or a bona fide court order, commits a class B municipal offense. (Prior code 14.08.055)

Sec. 8-2-80. Abandoned and inoperable vehicles; private tow.

(a) Any owner or lessee, or his or her agent authorized in writing, may have an abandoned or inoperable vehicle removed from his or her property by having it towed and impounded by an operator.

(b) Any operator having in his or her possession an abandoned or inoperable vehicle from a private tow shall immediately notify the Police Department as to the name of the operator and the location of the impound lot where the vehicle is located; a description of the abandoned or inoperable vehicle, including the make, model, color and year, the number, issuing state and expiration date of the license plate; and the vehicle identification number. Upon such notification, the Police Department shall ascertain, if possible, whether the vehicle has been reported stolen and, if so reported, the Police Department shall recover and secure the vehicle and notify its rightful owner. The Police Department shall have the right to recover from the owner its reasonable costs to recover and secure the vehicle.

(c) Any operator shall, as soon as possible, but in no event later than seventy-two (72) hours after receipt of the determination that such vehicle has not been reported stolen, report the same to the Department of Motor Vehicles by first class or certified mail or by personal delivery, which report shall be on a form prescribed and supplied by the Department of Motor Vehicles. The report shall contain the information required in Section 42-4-1605(3)(b), C.R.S.

(d) Within five (5) working days of the receipt of an ownership report from the Department of Motor Vehicles, the operator shall notify the owner of record and any lienholder by certified mail or by personal delivery. The operator shall send a copy of the notice by certified mail or by personal delivery to the Police Department. Such notice shall contain the following information:

- (1) That the identified vehicle has been reported abandoned or inoperable to the Department of Motor Vehicles;
- (2) The claim, if any, of a lien under Section 42-2-1607, C.R.S.;
- (3) The location of the vehicle and the location from which it was towed; and
- (4) That, unless claimed within thirty (30) calendar days from the date the notice was sent as determined from the postmark on the notice, the vehicle is subject to sale. (Prior code 14.08.060; Ord. 4 §1, 2005)

Sec. 8-2-90. Impoundment fees.

An owner or lessee, or his or her agent authorized in writing, requesting that the Police Department perform a public tow pursuant to Section 8-2-50 above shall pay the costs of towing and processing at the time of the tow. Said owner, lessee or authorized agent shall be reimbursed for those costs if the Police Department recovers such costs from the owner of the vehicle. No vehicle towed, stored or impounded at the request of the Police Department as provided in this Article shall be released until the charge for towing or otherwise removing such vehicle, together with the charge for storage for the same, as hereinafter set forth, has been paid. The charge of towing an abandoned or inoperable vehicle which weighs less than ten thousand (10,000) pounds shall not exceed the amount set forth in Appendix A to this Code or such greater amount as may be allowed by statute. The charge for the storage of an abandoned or inoperable vehicle which weighs less than ten thousand (10,000) pounds shall not exceed the rate set forth in Appendix A to this Code or such greater amount as may be allowed by statute, for a maximum of sixty (60) days. (Prior code 14.08.070; Ord. 4 §1, 2005)

Sec. 8-2-100. Disposition of abandoned vehicles.

(a) Abandoned vehicles removed from public or private property at the request of the Police Department shall be appraised and sold by the City Manager at a public or private sale, as determined in his or her sole discretion, held not less than thirty (30) days after the date of the notice required by Section 8-2-50(e) above.

(b) If the appraised value of an abandoned vehicle sold pursuant to this Article is two hundred dollars (\$200.00) or less, the sale shall be made only for the purpose of junking, scrapping or dismantling such vehicle, and the purchaser thereof shall not, under any circumstances, be entitled to a Colorado certificate of title. The City Manager shall cause to be executed and delivered a bill of sale, together with a copy of the report described in Section 8-2-50(e) above, to the person purchasing such vehicle. The bill of sale shall state that the purchaser acquires no right to a certificate of title for such vehicle. The City Manager shall promptly submit a report of sale, with a copy of the bill of sale, to the Department of Revenue and shall deliver a copy of such report of sale to the purchaser of the vehicle. Upon receipt of any report of sale with supporting documents on any sale made pursuant to this Subsection, the Department of Revenue shall purge the records for the vehicle as required by state law and shall not issue a new certificate of title for that vehicle.

(c) If the appraised value of an abandoned vehicle sold pursuant to this Section is more than two hundred dollars (\$200.00), the sale may be made for any intended use by the purchaser thereof. The City Manager shall cause to be executed and delivered a bill of sale, together with a copy of the report

described in Section 8-2-50(e) above, and an application for a Colorado certificate of title signed by a legally authorized representative of the City Manager, to the person purchasing such vehicle. The purchaser of the abandoned vehicle shall be entitled to a Colorado certificate of title upon application and proof of compliance with the applicable laws of the State. (Prior code 14.08.080; Ord. 4 §1, 2005)

Sec. 8-2-110. Advertisement prior to public sale.

Prior to any public sale conducted by the City Manager to dispose of unclaimed abandoned vehicles, the City Manager shall prepare a notice which shall be published in the official newspaper of the City on two (2) different occasions one (1) week apart, which notice shall be directed to the public and shall contain a statement of the following matters:

(1) A list of all abandoned vehicles then in possession of the Police Department and which have remained in its possession unclaimed for the proper period of time.

(2) A notification to all persons who may have any claims to the ownership or title of any of the abandoned vehicles mentioned in the notice that they must present their claims to the City Manager prior to the date of the sale, or such claims shall be forever barred.

(3) A statement of the time and place where all unclaimed abandoned vehicles shall be sold by the City Manager.

(4) The time fixed in the notice for the sale, which shall not exceed fifteen (15) days nor be less than five (5) days from the date of last publication of the notice.

(5) If they apply, the provisions of Section 8-2-100(b) or (c) above relative to the limitations on the vehicle. (Prior code 14.08.082; Ord. 4 §1, 2005)

Sec. 8-2-120. Proceeds of sale.

(a) If the sale of any vehicle and its attached accessories or equipment under the provisions of Section 8-2-100 above produces an amount less than or equal to the sum of all the charges of the City, the City shall have a valid claim against the owner of record for the full amount of such charges, less the amount received upon the sale of such vehicle. This claim may be enforced by any manner permitted by law.

(b) If the sale of any vehicle and its attached accessories or equipment under the provisions of Section 8-2-100 above produces an amount greater than the sum of all charges of the City plus any liens, any balance then remaining shall be credited to the General Fund of the City. (Prior code 14.08.084)

Sec. 8-2-130. Disposal of unsold abandoned vehicles.

The City Manager is authorized to dispose of any and all abandoned vehicles not sold at public sale conducted as provided in this Article, at any reasonable time thereafter, as determined in his or her sole discretion to be in the best interests of the City. In such event, the report of any such disposition shall be furnished to the Department of Revenue for the disposition of the certificate of title as provided and required by state law. (Prior code 14.08.086)

Sec. 8-2-140. Entry upon private property.

The Chief of Police or any police officer is authorized to go on private property for the purpose of making an investigation of any violation of this Article and for the purpose of determining ownership and condition of any vehicle reasonably appearing to be in violation of any of the provisions of this Article. (Prior code 14.08.090)

Sec. 8-2-150. Waiver of liability.

Neither the Chief of Police, the City Manager, any police officer or any person acting under his or her direction or control shall be liable or responsible in any manner to the owner of the vehicle, the person claiming to be the owner of a vehicle or any other person, for or on account of any damage to the vehicle or other property, or the loss or damage of or to any property which may be contained within the vehicle as a result of towing, storing or disposing of the vehicle pursuant to the provisions of this Article. (Prior code 14.08.100; Ord. 4 §1, 2005)

Sec. 8-2-160. Authority for immediate towing.

The Chief of Police or any police officer is authorized to remove immediately, without prior notice to the owner or occupant, any vehicle from any public or private property under any of the circumstances hereinafter enumerated, the City Council finding and determining that such vehicle under such circumstances constitutes an obstruction to traffic or a public nuisance:

- (1) When a vehicle is left unattended upon any bridge or viaduct, or when such vehicle constitutes an obstruction to traffic;
- (2) When a vehicle upon a public way is so disabled so as to constitute an obstruction to traffic and the person in charge of the vehicle is by reason of physical injury incapacitated to such an extent as to be unable to provide for its custody or removal;
- (3) When any vehicle is left unattended upon any street or parked illegally so as to constitute a definite hazard or obstruction to the normal movement of traffic, or left unattended upon any public street with the engine running or with keys in the ignition switch or lock;
- (4) When any vehicle is parked or left standing upon any area or portion of a public street in violation of or contrary to a parking limitation or prohibition established by the traffic engineer, provided that such area or portion of the public street has been posted with an official sign giving notice both of the limitation and prohibition and of the fact that such area or portion of such street is a tow-away area;
- (5) When a vehicle is parked in violation of any traffic ordinance and is an obstruction or hazard or potential obstruction or hazard to any lawful function or limits the normal access to a use of any public or private property;
- (6) When a driver of such vehicle is taken into custody by a police officer and the vehicle would thereby be left unattended upon a street, highway, restricted parking area or other public way;

(7) When the driver of a vehicle is reasonably suspected of unlawfully using license plates or a license permit, misusing the license plates or license permit issued to him or her; or when a vehicle is driven without proper license plates or license permit, with no license plates or license permit or with an invalid or expired license permit;

(8) When the driver of a vehicle is driving without an operator's license or chauffeur's license which is current and valid, does not have such license in his or her immediate possession, drives a vehicle contrary to restrictions imposed upon his or her license, drives a vehicle contrary to restrictions imposed upon his or her license, or drives a vehicle while his or her operator's or chauffeur's license is denied, suspended, canceled or revoked by the State;

(9) Where a vehicle is found parked on or near to any railroad tracks so as to block the same in any manner, or when any truck tractor or semi-trailer is parked in any parking-metered space;

(10) When a driver of any vehicle or the vehicle which he or she is driving is reasonably suspected of having been in any hit-and-run accident;

(11) When any vehicle is reasonably suspected of being stolen or parts thereof to be stolen; or

(12) When the driver of any vehicle is taken into custody for a suspected felony or misdemeanor, or when the vehicle is suspected of containing stolen goods or other contraband. (Prior code 14.08.110; Ord. 4 §1, 2005)

Sec. 8-2-170. Impoundment notice.

Whenever, as authorized in this Article, an officer or employee of the City removes a vehicle from the place where it was left, the officer or employee shall give a notice in writing of such impoundment as required in Section 8-2-50(e). Impoundment fees shall be as provided in Section 8-2-90 above. (Prior code 14.08.120)

Sec. 8-2-180. Post-storage hearing request.

Upon request, the owner of a vehicle removed pursuant to Section 8-2-160 above shall be entitled to a hearing as provided in Section 8-2-60 above. (Prior code 14.08.130)

Sec. 8-2-190. Disposition of unclaimed vehicles.

Vehicles removed pursuant to this Article shall be disposed of in a manner provided for in Section 8-2-100 above. (Prior code 14.08.140)