

Chapter 8

Vehicles and Traffic

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ARTICLE I

Model Traffic Code

Sec. 8-1. 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*, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver, CO 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the State and the Nation. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the Town Clerk, and may be inspected during regular business hours. (Ord. 173, § 1, 1977; Ord. 430, § 1, 1996; Ord. 734, § 1, 2004)

Sec. 8-2. Amendments.

(a) Deletions. The 2003 edition of the *Model Traffic Code* is adopted as if set out at length save and except the following articles and/or sections which are declared inapplicable to this municipality and are therefore expressly deleted:

- §203(4) Unsafe vehicles – spot inspections
- §1701 Municipalities - traffic offenses classified - schedule of fines
- §1702 Counties – traffic offenses classified – schedule of fines
- §1705 Person arrested to be taken before proper court.
- §1707 Summons and complaint or penalty assessment notice for traffic offenses - release - registration §1709 Penalty assessment notice for traffic offenses - violations of provisions by officer - driver's license
- §1710 Failure to pay penalty for traffic offenses – procedures
- §1712 Procedure prescribed not exclusive

(b) Additions or modifications. The adopted code is subject to the following additions or modifications:

(1) "**Section 237(7): Safety belt systems.** Occupants in motor vehicles driven by persons under seventeen years of age shall wear seat belts or be secured in a child restraint system as required by Section 236 and Section 237."

(2) "**Section 1204: Stopping, standing, or parking prohibited in specified places.**

"(1)(l) At any other place where yellow or red curb markings prohibit stopping.

"(2)(g) At any other place where yellow or red curb markings prohibit standing.

"(3)(c) At any other place where yellow or red curb markings prohibit parking."

(3) "**Section 1211: Limitations on backing.**

"(1) The driver of a vehicle, whether on public or private property which is used by the general public for parking purposes, shall not back the same unless such movement can be made with safety and without interfering with pedestrians, other vehicles or other traffic.

"(2) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway."

(4) "**Section 1703: Parties to a crime.** Every person who commits, conspires to commit, or aids or abets in the commission of any act declared in to be a traffic infraction or a traffic offense, whether individually or in connection with one or more other persons or as a principal, agent or accessory, is guilty of such infraction or offense or liable for such infraction or offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits, or directs another to violate any provision of this Code is likewise guilty of such offense or liable for such offense."

(Ord. 173, § 2, 1977; Ord. 300, § 1, 1988; Ord. 328, § 1, 1990; Ord. 330, § 1, 1990; Ord. 350, § 1, 1992; Ord. 375, § 1, 1993; Ord. 377, § 1, 1993; Ord. 380, § 1, 1994; Ord. 393, § 1, 1994; Ord. 407, § 1, 1995; Ord. 430 §§ 2, 3, 1996; Ord. 463, § 1, 1997; Ord. 489, §§ 4—6, 1998; Ord. 734, §§ 2, 3, 2004; Ord. 784, § 1, 2005)

Sec. 8-3. Reserved.

Sec. 8-4. Application.

This Article shall apply to every street, alley, sidewalk area, driveway, park and every other public way, public place or public parking area, either within or outside the corporate limits of this municipality, the use of which this municipality has jurisdiction and authority to regulate. The provisions of Sections 1211, 1401, 1402, 1413 and Part 16 of the adopted Model Traffic Code, respectively concerning limitations on backing, reckless driving, careless driving, eluding a police officer and accidents and accident reports shall apply not only to public places and ways but also throughout this municipality. (Ord. 173, § 4, 1977; Ord. 430, § 5, 1996; Ord. 734, § 4, 2004)

Sec. 8-5. Interpretation.

This Article shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of this Article and 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. 173, § 7, 1977; Ord. 430, § 9, 1996)

Sec. 8-6. Certification.

The Town Clerk shall certify to the passage of this Article and make not less than three (3) copies of the adopted code available for inspection by the public during regular business hours. (Ord. 173, § 9, 1977; Ord. 430, § 10, 1996)

Sec. 8-7. Penalties.

The following penalties shall apply to this Article.

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

(2) Penalties for civil traffic infractions. Upon conviction, entry of a guilty plea or a plea of nolo contendere, to a civil traffic infraction, as defined in Section 8-102 of this Code, a fine, not to exceed one thousand dollars (\$1,000.00), may be imposed by the Court. As a guide, penalties may be imposed at twenty-five dollars (\$25.00) for each point assessed on the summons and complaint.

<u>Points Assessed</u>	<u>Penalty</u>
0 point violation	\$ 25.00
1 point violation	25.00
2 point violation	50.00
3 point violation	75.00
4 point violation	100.00
6 point violation	150.00
8 point violation	200.00
12 point violation	300.00

(3) Penalties for noncivil traffic offenses.

a. Upon conviction, entry of a guilty plea or a plea of nolo contendere to a traffic offense as set forth in Subparagraph c. below, any adult (person age eighteen [18] years or older) may be fined by an amount not to exceed one thousand dollars (\$1,000.00), or incarcerated for a period not to exceed one (1) year, or both.

b. Upon conviction, entry of a guilty plea or a plea of nolo contendere to a traffic offense as set forth in Subparagraph c. below, any juvenile (person under the age of eighteen [18] years) may be fined by an amount not to exceed one thousand dollars (\$1,000.00).

c. Noncivil traffic offenses subject to penalties as set forth in Subparagraphs a. and b. above are as follows:

MTC §1101 Speeding violations (25 – 39 mph over speed limit)	6 points
MTC §1101 Speeding violations (40+ mph over speed limit)	12 points
MTC §1105 Speed contests	12 points
MTC §1401 Reckless driving	8 points
MTC §1413 Eluding or attempting to elude police	12 points
MTC §1903 Failure to stop for school bus	6 points
MTC §1409 Compulsory insurance	4 points

Note: MTC refers to Model Traffic Code.

(4) Penalties for speeding violations in a maintenance, repair or construction zone designated pursuant to Section 614 of the Model Traffic Code, 2003 edition, shall be double the penalty for such violation as set forth above.

(5) Penalties for traffic infractions or traffic offenses that occur in a school zone shall be double the penalty for such violation as set forth above. (Ord. 348, § 1, 1992; Ord. 381, §§ 2, 3, 1994; Ord. 407, § 3, 1995; Ord. 402, § 1, 1996; Ord. 430, § 4, 1996; Ord. 463, § 2, 1997; Ord. 489, § 7, 1998; Ord. 686, § 1, 2003; Ord. 734, § 5, 2004)

Secs. 8-8—8-20. Reserved.

ARTICLE II

Abandoned and Junked Vehicles

Sec. 8-21. Impoundment.

(a) Authorized when. Members of the Police Department are authorized to remove or have removed a vehicle to the nearest place of safety, or to a garage designated or maintained by the Police Department or by the Town, under the circumstances hereinafter enumerated:

(1) When any vehicle is left unattended upon any bridge, causeway or viaduct, or in any subway or underpass, where such vehicle constitutes an obstruction to traffic;

(2) When a vehicle upon a street is so disabled as to constitute an obstruction to traffic, or the person or persons in charge of the vehicle are, 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 a vehicle is found being driven upon the streets and is not in proper condition to be driven;

(4) When a vehicle is left unattended upon a street and is so parked illegally as to constitute a definite hazard or obstruction to the normal movement of traffic or proper street or highway maintenance;

(5) When a vehicle constitutes a violation of this Code under the provisions of Section 8-23;

(6) When the driver of such vehicle is taken into custody by the Police Department and such vehicle would thereby be left unattended upon a street;

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

(8) When a vehicle is situated on public property and constitutes a violation of this Code under the provisions of Section 8-24;

(9) Any vehicle failing to display number plates or failing to display the proper number plate or plates assigned to such vehicle under the provisions of Chapter 42, C.R.S., or displaying number plates in such a manner as to reasonably indicate a violation of any provision of said Chapter 42 or any other provision of state law with respect to motor vehicle number plates, while parked, attended or traveling upon the streets, highways or roadways of the Town.

(b) Storage and disposal. This Section is supplemented to the provisions of Section 42-4-1601 *et seq.*, C.R.S. The procedures for towing and storage of vehicles shall be in accordance with the above statute except to the extent specifically superseded by this Article. (Ord. 309, § 11-501 1, 1989)

Sec. 8-22. Definitions.

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

(1) *Abandoned vehicle* means:

a. Any vehicle left unattended on private property for seventy-two (72) hours without the consent of the owner or lessee of such property or his or her legally authorized agent;

b. Any vehicle left unattended on private property without the consent of the owner or lessee of the property or his or her legally authorized agent when such private property has been posted to give notice that any vehicles left on the private property without permission may be towed at the owner's expense. Such notice shall be posted with signs visible to ordinarily observant persons on the property.

c. Any vehicle left unattended on public property, including any portion of a highway, street, alley or other right-of-way for twenty-four (24) hours or longer unless the owner or driver has conspicuously affixed a dated notice stating his or her intention to return and remove the vehicle within seventy-two (72) hours or has otherwise notified the Police Department of his or her intention to remove the vehicle within seventy-two (72) hours.

(2) *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.

(3) *Person* means any person, firm, partnership, association, corporation, company or organization of any kind.

(4) *Property* means any real property within the Town which is not a street or highway.

(5) *Street or highway* 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.

(6) *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, recreational vehicle, tractor, buggy and wagon. (Ord. 309, § 11-501 2, 1989; Ord. 453, § 1, 1997)

Sec. 8-23. Abandonment prohibited.

It is unlawful for any person to abandon any vehicle within the corporate limits of the Town. (Ord. 309, § 11-501 2, 1989)

Sec. 8-24. Junked vehicles prohibited; exceptions.

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

- (1) The vehicle is located upon the premises of a lawfully zoned vehicle repair or vehicle storage business.
- (2) The vehicle is stored within a completely enclosed structure.
- (3) A maximum of one (1) vehicle per lot or parcel of real property shall be permitted provided that:
 - a. The vehicle is covered with a one-piece opaque heavy tarp or commercial car cover that covers the entire vehicle and is securely fastened at all times; and
 - b. The vehicle is parked in the rear yard or in the driveway of said property.
- (4) In nonresidential areas, said vehicle is screened by a concealing fence not less than six (6) feet in height and otherwise complying with Town ordinances applicable to such fence, rendering the vehicle not visible to persons on adjacent private or public property to the extent that such concealment can be reasonably obtained under the conditions of topography and other attendant circumstances.
- (5) A maximum of one (1) vehicle per lot or parcel of real property is permitted if the vehicle is currently undergoing repair or is awaiting the settlement of an insurance claim, provided that the vehicle is removed or brought into compliance within ninety (90) days. (Ord. 309, § 11-501 2, 1989; Ord. 453, § 2, 1997; Ord. 704, § 1, 2003; Ord. 720, § 1, 2004)

Sec. 8-25. Restrictions on storage of vehicles; ownership requirement.

The storage of junked vehicles as authorized by Section 8-24 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. (Ord. 309, § 11-501 3, 1989)

Sec. 8-26. Investigation authorized; notices of violation.

Any member of the Police Department, or any Code enforcement officer or environmental protection officer, is authorized to investigate any circumstance and enforce this Article relating to any vehicle left at any place within the Town which reasonably appears to be in violation of this Article or lost, stolen or unclaimed. (Ord. 309, § 11-501 4, 1989)

Sec. 8-27. Liability.

Neither the Town, nor its officers, employees or agents, nor any person acting under the direction of the Town, 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 of state law in the enforcement of the provisions of this Section. (Ord. 309, § 11-501 5, 1989)

Sec. 8-28. Post-impoundment hearing for impounded vehicles.

(a) Right to Hearing. As to any vehicle placed in storage in an impound lot pursuant to this Article, 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 Town Clerk within ten (10) days after the postmarked date of the notice sent to the owner by the Police Department pursuant to state law. Failure to request a hearing within such time shall operate as a waiver of the owner's right to such hearing.

(b) Conduct of hearing:

(1) A hearing shall be conducted before the hearing officer within seventy-two (72) hours of receipt by the Town 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 Town 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 vehicles.

(2) *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, other ordinances of the Town or state or federal law, or because of an emergency.

(3) 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.

(4) 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.

(c) 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 Town 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 Subsection, 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. (Ord. 309, § 11-501 6, 1989)

Sec. 8-29. Violation; penalty.

In addition to any other penalty provided in this Code, any such vehicle found on any private property within the Town to be in violation of the provisions hereof shall constitute a public nuisance, and the Town Attorney shall be authorized to bring a civil action before any court of competent jurisdiction to secure abatement thereof. All costs incurred by the Town 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. (Ord. 309, § 11-501 7, 1989)

Secs. 8-30--8-40. Reserved.

ARTICLE III

Miscellaneous Provisions

Sec. 8-41. Use of streets by trucks and commercial vehicles.

(a) As used in this Section, the following definitions shall apply:

Commercial vehicle means any vehicle used for any commercial or business purpose, and includes, but is not limited to, trailers used for commercial or business purposes.

Semi-trailer means any wheeled vehicle, without motive power, designed to be used in conjunction with a truck-tractor so that some part of its own weight and that of its cargo load rest upon, or are carried by such truck-tractor and which are commonly used to carry and transport property over the public highways.

Truck-tractor means any vehicle which is generally and commonly designed to draw a semi-trailer and its cargo over the public highways.

(b) It is unlawful to:

(1) Leave or park any semi-trailer and truck-tractor, either of them or any commercial vehicle, on any street, alley or public place for longer than seventy-two (72) hours.

(2) Leave or park any semi-trailer and truck-tractor, either of them or any commercial vehicle, on any private property for longer than seventy-two (72) hours.

(c) Any violations of Subsection (b) above shall be a traffic infraction. (Ord. 704 § 3, 2003; Ord. 720, § 3, 2004)

Sec. 8-42. Inclusions.

The following zoning districts are hereby declared to be included in the provisions set forth in Section 8-41 above:

- (1) R-1 Residential District, Single-Family.
- (2) R-2 Residential District.
- (3) R-3 Residential District, Multi-Family
- (4) E-1 Estate District, Large Lot.
- (5) E-2 Estate District, with Common Open Space (Conservation Subdivision).

(6) MFH Manufactured Housing Development District. (Ord. 704 § 4, 2003; Ord. 720, § 3, 2004)

Sec. 8-43. Exclusions.

The following zoning districts are hereby declared to be excluded from the provisions set forth in Section 8-41 above:

- (1) MU-R Mixed Use Residential.
- (2) MU-C-D Mixed Use Downtown District.
- (3) MU-C-H#52 Mixed Use Commercial-Highway 52 District.
- (4) B-1 Business District.
- (5) C-N Commercial District, Neighborhood.
- (6) C-C Commercial District, Community.
- (7) BLI Business/Light Industrial District.
- (8) I Industrial District.
- (9) P-E Public Established District.
- (10) MH Manufactured Home Park District.
- (11) A-1 Agricultural District.
- (12) A-2 Agricultural District, with animals. (Ord. 720, § 3, 2004)

Secs. 8-44—8-60. Reserved.

ARTICLE IV

Reserved

Secs. 8-61—8-80. Reserved.

ARTICLE V

Handicapped Parking

Sec. 8-81. Handicapped defined.

A handicapped person is defined in Section 42-4-1109(1), C.R.S. (Ord. 364, § 1, 1993)

Sec. 8-82. Violation.

It is unlawful for any person other than a handicapped person to park in a parking space in public or private property which is clearly identified by an official sign or being reserved for use by the handicapped unless such person is parking the vehicle for the benefit of a handicapped person. (Ord. 364, § 1, 1993)

Sec. 8-83. Penalty.

Any person convicted of a violation of Section 8-82 shall be fined by an amount not to exceed fifty dollars (\$50.00). (Ord. 381, § 4, 1994)

Sec. 8-84. Handicapped spaces designated.

At the request of the owner of Clark Plaza, the Town hereby designates two (2) parking spaces in front of the Tri-Town Market as reserved for use by the handicapped and authorizes the installation of official signs identifying parking spaces reserved for use by the handicapped. (Ord. 364, § 1, 1993)

Secs. 8-85--8-100. Reserved.

ARTICLE VI

Traffic Infractions

Sec. 8-101. Definitions.

As used in this Article, the following definitions shall apply:

(a) *Charging document* means the document commencing or initiating the traffic infraction matter, whether denoted as a complaint, summons and complaint, citation, penalty assessment notice or other document charging the person with the commission of a traffic infraction or infractions.

(b) *Defendant* means any person charged with the commission of a traffic infraction, including but not limited to the following terms used in the implementing legislation: *cited person, cited party, individual, person charged with a traffic violation, violator or accused.*

(c) *Docket fee* means a fee assessed according to the provisions of this Code, or a fee established by the rules of the Municipal Court.

(d) *Judgment* means the admission of guilt or liability for any traffic infraction, the entry of judgment of guilt or liability, or the entry of default judgment as set forth in this Chapter against any person for the commission of a traffic infraction.

(e) *Officer* means a peace officer who tenders or serves a charging document.

(f) *Penalty* means a fine imposed pursuant to this Code for the violation of a traffic infraction.

(g) *Referee* means any person appointed by the Municipal Judge as a referee pursuant to this Chapter, to hear and determine parking assessments. (Ord. 381, § 1, 1994)

Sec. 8-102. Civil traffic infractions.

Notwithstanding any provision contained to the contrary as set forth in this Code, all violations of any provisions of this Chapter relating to traffic, including the provisions of Article IV regarding safety belt and restraint systems, and Article V regarding handicapped parking or any provision of the Model Traffic Code for Colorado Municipalities, as adopted and amended by the Town, for which a fine only is established as a penalty for the violation thereof, are hereinafter referred to as *traffic infractions* and are deemed and shall constitute civil matters and not criminal violations, except those violations set forth in Section 8-104 and any other traffic offense for which, upon conviction, a term of imprisonment is provided. (Ord. 381, § 1, 1994)

Sec. 8-103. Trial before court or referee.

Civil traffic infractions, except as provided by Section 8-105 relating to traffic offenses for which imprisonment may be imposed upon conviction, shall be tried only to the Municipal Judge or associate municipal judge. A referee who shall be authorized only to hear parking assessment traffic infractions, need not be an attorney-at-law. (Ord. 381, § 1, 1994)

Sec. 8-104. No jury trial of traffic infractions.

A defendant brought to trial solely upon a traffic infraction or infractions shall have no right to a trial by jury as contemplated by Section 13-10-114, C.R.S. or Rule 223, Municipal Court Rules of Procedure, and trial of civil traffic infractions shall be to the court or, if the charge contemplates a parking infraction, to the designated referee. No defendant found civilly liable for a traffic infraction shall be punished by imprisonment for said infraction. (Ord. 381, § 1, 1994)

Sec. 8-105. Right to jury trial for noncivil traffic offenses.

(a) Any adult (person eighteen [18] years of age or older) charged with any traffic violation punishable upon conviction with the imposition of a penalty which includes the possibility of imprisonment, shall have the right to a trial by jury. Perfection of such right shall be pursuant to Rule 223, Colorado Municipal Court Rules of Procedure. Such offenses include the following offenses as set forth in the Model Traffic Code for Colorado, as adopted and amended by the Town, as follows:

- (1) §1101, Speeding violations (25+ mph over speed limit);
- (2) §1105, Speed contest;
- (3) §1401, Reckless driving;
- (4) §1409, Compulsory insurance;
- (5) §1413, Eluding or attempting to elude police; and
- (6) §1903, Failure to stop for school bus.

(b) In the event that an adult is charged with more than one (1) traffic violation arising out of the same incident and at least one (1) of the charged offenses is listed in Subsection (a) above, the defendant shall have the right to demand a jury trial to all such offenses, which shall be consolidated for purposes of trial.

(c) No person under the age of eighteen (18) shall have the right to a jury trial or any noncivil traffic offense. (Ord. 381, § 1, 1994; Ord. 430, § 4, 1996; Ord. 489, § 8, 1998; Ord. 734, § 6, 2004)

Sec. 8-106. Commencement of action.

An action under this Article charging a civil traffic infraction is commenced by the tender or service of a charging document upon a defendant, or by conspicuously attaching a parking assessment to the subject vehicle, and by filing of the charging document with the Municipal Court. (Ord. 381, § 1, 1994)

Sec. 8-107. Payment before appearance.

(a) The Clerk of the Court shall accept payment of a penalty assessment notice by a defendant without an appearance before the court, if payment is received five (5) days prior to the date set for first hearing.

(b) The defendant may elect to receive an early payment discount (Town Prosecutor's plea bargain) if payment is received by the court, or if mailed, postmarked, ten (10) days prior to the date set for first hearing. The early payment discount will be a fine discount of twenty-five dollars (\$25.00) off the penalty as set forth on the summons and complaint, and a penalty point reduction. The penalty point reduction shall be two (2) points per charge, with the exception of a three-point charge, which shall be reduced to a two-point charge. The early payment discount shall not apply to zero-point violations.

(c) At the time of payment, which shall include all costs and fees regularly assessed by the court for defendant's pleading or being found guilty of noncivil municipal violations, the defendant shall sign a waiver of rights and acknowledgment of guilt or liability upon a form approved by the rules of the Municipal Court.

(d) This procedure shall constitute an entry and satisfaction of judgment. (Ord. 381, § 1, 1994; Ord. 407, § 4, 1995; Ord. 441, § 1, 1996)

Sec. 8-108. First hearing.

(a) If the defendant has not previously acknowledged guilt or liability and satisfied the judgment, he or she shall appear before the court at the time scheduled for first hearing.

(b) The defendant may appear in person or by counsel, who shall enter appearance in the case; provided, however, that if an admission of guilt or liability is entered, the court may require the presence of the defendant for the assessment of the penalty.

(c) If the defendant appears in person, the court shall advise him or her in open court of the following:

(1) The nature of the infractions alleged in the charging document;

(2) The penalty, any fees and costs that may be assessed, and the penalty points that may be assessed against the driving privilege;

(3) The consequences of the failure to appear at any subsequent hearing including entry of judgment against the defendant and reporting the judgment to the State Motor Vehicle Division, which may assess points against the driving privilege and may deny an application for a driver's license;

- (4) The right to be represented by an attorney at the defendant's expense;
- (5) The right to remain silent, because any statement made by the defendant may be used against him or her;
- (6) Guilt or liability must be proven beyond a reasonable doubt;
- (7) The right to testify, subpoena witnesses, present evidence and cross-examine any witnesses for the State;
- (8) Any answer must be voluntary and not the result of undue influence or coercion on the part of anyone; and
- (9) An admission of guilt or liability constitutes a waiver of the foregoing rights and any right to appeal.

(d) The defendant personally or by counsel shall answer the allegations in the charging document either by admitting guilt or liability or by denying the allegations.

(e) If the defendant admits guilt or liability, the court shall enter judgment and assess the appropriate penalty and the fees and costs after determining that the defendant understood the matters set forth in Section 8-108, and has made a voluntary, knowing and intelligent waiver of rights.

(f) If the defendant denies the allegations, the matter shall be set for final hearing, and the defendant, the prosecuting attorney's office and the charging officer shall be notified. (Ord. 381, § 1, 1994)

Sec. 8-109. Subpoenas.

(a) The defendant and Town shall have the right to the issuance of subpoenas by the Court Clerk as in all other noncivil municipal prosecutions to secure the attendance of witnesses at the final hearing.

(b) The service of a subpoena shall be by first class mail, if the person to whom it is delivered waives personal service, and a signed statement of such waiver of personal service is provided to the court. No fees or mileage need be tendered with service by mail.

(c) If the person to whom a subpoena is directed does not waive personal service, the issuance and service of a subpoena shall be as provided by Rule 271, Municipal Court Rules of Procedure, except as otherwise provided in this Section. (Ord. 381, § 1, 1994)

Sec. 8-110. Speedy trial.

The charges shall be dismissed if the final hearing is not held within the time requirements and standards otherwise applicable to the trial of noncivil municipal code violations. (Ord. 381, § 1, 1994)

Sec. 8-111. Final hearing.

The hearing of all traffic infractions, except for parking assessments, shall be conducted pursuant to the Colorado Rules of Evidence, and the conduct of the hearing shall otherwise be in the form applicable to noncivil offenses tried to the court. (Ord. 381, § 1, 1994)

Sec. 8-112. Judgment after final hearing.

(a) If all elements of a traffic infraction are proven beyond a reasonable doubt, the court shall find the defendant guilty or liable and enter appropriate judgment.

(b) If any element of a traffic infraction is not proven beyond a reasonable doubt the court shall dismiss the charge and enter appropriate judgment; provided, however, that the court may find the defendant guilty of or liable for a lesser included traffic infraction, if based on the evidence offered, and enter appropriate judgment.

(c) If the defendant is found guilty or liable, the court shall assess any applicable fees and additional costs otherwise generally imposed in noncivil municipal offenses.

(d) The judgment shall be satisfied upon payment to the Clerk of the total amount assessed as set forth above.

(e) If the defendant fails to satisfy the judgment upon the finding of guilt or liability, or within the time of a reasonable extension granted upon a showing of good cause by, and upon application of the defendant, then such nonpayment in the full amount of the penalty, fees and costs shall be treated as a default. (Ord. 381, § 1, 1994)

Sec. 8-113. Posthearing motions and appeal.

There shall be no posthearing motions except for a motion to set aside a default judgment as provided by Section 8-114. (Ord. 381, § 1, 1994)

Sec. 8-114. Default.

(a) If the defendant fails to appear for any hearing, the court shall enter judgment against the defendant. The record of such judgment, including the points assessed, shall be forwarded to the Colorado Division of Motor Vehicles.

(b) The amount of the judgment shall be the appropriate penalty assessed after a finding of guilt or liability, outstanding judgment fee and additional costs assessable to municipal violations generally upon conviction of noncivil municipal charges, except that such fees and additional costs shall not be added to parking assessment default judgments.

(c) The court may set aside a judgment entered under this Section on a showing of good cause or excusable neglect by the defendant. A motion to set aside the judgment shall be made to the court not more than seven (7) calendar days after entry of judgment.

(d) The defendant may satisfy a judgment entered under this rule by paying the Clerk.

(e) No warrant shall issue for the arrest of a defendant who fails to appear at a hearing or fails to satisfy a judgment. (Ord. 381, § 1, 1994)

Sec. 8-115. Appeal.

Appeal of any finding of guilty or liability of traffic infractions shall be subject to the same procedures as applicable to convictions of municipal offenses generally. (Ord. 381, § 1, 1994)

Sec. 8-116. Referee appointment; hearing of parking assessments.

The Municipal Judge may appoint a referee to hear and determine parking assessments.

(1) The hearing of parking assessment contents shall be informal, the object being to dispense justice and resolution promptly and economically.

(2) The Town shall first provide sworn testimony and evidence to the facts concerning the alleged parking infraction, subject to cross-examination.

(3) Upon the conclusion of testimony and examination, the court or referee may further examine or allow rebuttal as deemed appropriate.

(4) Upon the conclusion of all testimony, each party, or their respective counsel, shall be permitted to make a closing statement.

(5) The Colorado Rules of Evidence shall not apply to hearings relating to parking assessments. (Ord. 381, § 1, 1994)

Secs. 8-117--8-130. Reserved.

ARTICLE VII

Motor Vehicle Windows

Sec. 8-131. Windows unobstructed; certain materials prohibited.

(a) Materials.

(1) Except as provided in this Subsection, no person shall operate any motor vehicle registered in the State on which any window, except the windshield, is composed of, covered by or treated with any material or component which presents an opaque, nontransparent, metallic or mirrored appearance in such a way that it allows less than twenty-seven-percent light transmittance. The windshield shall allow seventy-percent light transmittance. The provisions of this Subsection shall not apply to the windows to the rear of the driver, including the rear window on any motor vehicle; however, if such windows allow less than twenty-seven-percent light transmittance, then the front side windows and the windshield on such vehicles shall allow seventy-percent light transmittance.

(2) Notwithstanding any provision of this Subsection, nontransparent material may be applied, installed or affixed to the topmost portion of the windshield subject to the following:

a. The bottom edge of the material extends no more than four (4) inches measured from the top of the windshield down;

b. The material is not red or amber in color, nor does it affect perception of primary colors or otherwise distort vision or contain lettering that distorts or obstructs vision;

c. The material does not reflect sunlight or headlight glare into the eyes of occupants of oncoming or preceding vehicles to any greater extent than the windshield without the material.

(3) Nothing in this Subsection shall be construed to prevent the use of any window which is composed of, covered by or treated with any material or component in a manner approved by federal statute or regulation if such window was included as a component part of a vehicle at the time of the vehicle manufacture, or the replacement of any such window by such covering which meets such guidelines.

(4) No material shall be used on any window in the motor vehicle that presents a metallic or mirrored appearance.

(5) Nothing in this Subsection shall be construed to deny or prevent the use of certificates or other papers which do not obstruct the view of the driver and which may be required by law to be displayed.

(b) The windshield on every motor vehicle shall be equipped with a device for clearing rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.

(c) Violation of this Section shall be a traffic infraction and shall be punished by a fine of not more than five hundred dollars (\$500.00). A second or subsequent violation shall be a traffic offense and punished by a fine of not less than one thousand dollars (\$1,000.00), six (6) months in jail or both.

(d) This Section shall apply to all motor vehicles. (Ord. 417, § 1, 1996)

Secs. 8-132--8-150. Reserved.