

CHAPTER 8

Vehicles and Traffic

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ARTICLE I

Model Traffic Code

Sec. 8-1. Adoption.

Pursuant to Title 31, Article 16, Parts 1 and 2, C.R.S., there is hereby adopted by reference the 2010 edition of the Model Traffic Code for Colorado, promulgated and published as such by the Colorado Department of Transportation, 4201 East Arkansas Avenue, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the State and the nation. The 2010 edition of the Model Traffic Code is adopted as if set out at length. (Ord. 186 §1, 1980; Ord. 435 §1, 1996; Ord. 717 §2, 2013)

Sec. 8-2. Amendments.

The adopted code is subject to the following amendments:

- (1) Section 109.5 of the adopted code is hereby amended to read in its entirety as follows:

"109.5. Low-speed electric vehicles.

"(1)(a) A low-speed electric vehicle may be operated only on a roadway that has a speed limit equal to or less than thirty-five miles per hour; except that it may be operated to directly cross a roadway that has a speed limit greater than thirty-five miles per hour at an at-grade crossing to continue traveling along a roadway with a speed limit equal to or less than thirty-five miles per hour.

"(b) Notwithstanding paragraph (a) of this subsection (1), a low-speed electric vehicle may be operated on a state highway that has a speed limit equal to forty miles per hour or cross a roadway with a speed limit equal to forty miles per hour to cross at-grade, if:

"(I) Such roadway's land width is eleven feet or greater;

"(II) Such roadway provides two or more lanes in either direction; and

"(III) The Department of Transportation determines, in consultation with the Town, upon the basis of a traffic investigation, survey, appropriate design standards, or projected volumes, that the operation of a low-speed electric vehicle on the roadway poses no substantial safety risk or hazard to motorists, bicyclists, pedestrians, or other persons.

"(2) No person shall operate a low-speed electric vehicle on a limited-access highway."

- (2) Section 111 of the adopted code is hereby amended to read in its entirety as follows:

"111. Golf carts.

"(1) A golf cart may be operated only on a roadway that has a speed limit equal to or less than thirty-five miles per hour; except that it may be operated to directly cross a roadway that has a speed limit greater than thirty-five miles per hour at an at-grade crossing to continue traveling along a roadway with a speed limit equal to or less than thirty-five miles per hour.

"(2) It is unlawful to operate a golf cart in excess of the designated maximum lawful speed limit of the portion of the roadway upon which the golf cart is travelling or in excess of twenty-five miles per hour on any portion of roadway for which the designated maximum lawful speed limit is greater than twenty-five miles per hour.

"(3) Any golf cart operated on a roadway shall display a triangular slow-moving vehicle emblem on the rear that conforms to the requirements of Section 234 of this Code.

"(4) It is unlawful to operate a golf cart on a roadway carrying a greater number of persons or a greater maximum load than is specified or recommended by the manufacturer of such golf cart.

"(5) It is unlawful to operate a golf cart on a roadway from any position other than a seated position in the designated driver's seat or to permit any passenger of a golf cart in motion to ride in any position other than a seated position in a seat designed for passenger transport.

"(6) It is unlawful for any person under the age of sixteen (16) years to operate a golf cart on any roadway. It is unlawful for any person to permit, aid or facilitate a person under the age of sixteen (16) years in the operation of a golf cart on any roadway.

"(7) It is unlawful for any person who does not possess a valid driver's license to operate a golf cart on any roadway.

"(8) It is unlawful to operate a golf cart on any public sidewalk, trail, path or other public area upon which motor vehicles are prohibited, except as expressly permitted by the Town as indicated by posted signs.

"(9) For purposes of this Section, 'golf cart' means a four-wheeled electric vehicle that is designed for the purpose of transporting one or more persons and their golf equipment to play golf. Gas-powered golf carts are specifically excluded from this definition and are not permitted to operate on roadways within the Town."

(3) Section 113 of the adopted code is hereby amended to read in its entirety as follows:

"113. All-terrain vehicles.

"(1) It is unlawful to operate an all-terrain vehicle on any roadway or upon any public sidewalk, trail, path or other public area upon which motor vehicles are prohibited, or upon any Town-owned property.

"(2) For purposes of this section, 'all-terrain vehicle' means and includes any self-propelled vehicle that is designed to travel on wheels or tracks in contact with the ground, designed primarily for use off of the public highways, and generally and commonly used to transport

persons for recreational purposes. "All-terrain vehicle" does not include military vehicles, golf carts, vehicles designed and used to carry persons with disabilities, and vehicles designed and used specifically for agricultural, logging, or mining purposes.

"(3) An all-terrain vehicle equipped with a snow plow attachment is exempt from the prohibitions set forth in Subsection (1) above."

(4) Subsection 803(5) of the adopted code is amended to read in its entirety as follows:

"(5) No pedestrian shall cross at a state highway except at a marked crosswalk."

(5) Pursuant to Subsection 1101(7) of the adopted code, the Town adopts the following maximum lawful speed limits by amending Subsection 1101(12) to read in its entirety as follows:

"(12) Speed laws applicable. The Board of Trustees has determined that the following prima facie speed limits should be applicable on the streets and roadways in the Town, and speed in excess of such limits shall be prima facie evidence that such speed is unlawful and a violation of the Article.

"(a) Further, upon the basis of engineering and traffic investigations and determinations made by the Colorado Department of Transportation on streets which are state highways and traffic studies performed on Town streets, it is hereby declared that standard signs now erected give notice of the reasonable and true prima facie speed limit on those portions of said highways within the corporate limits of said Town. Accordingly, the following reasonable and prima facie speed limits for all streets within the Town shall be fifteen (15) miles per hour unless posted otherwise.

"(b) Except when a special hazard exists that requires lower speed than is hereinabove set forth, the foregoing speed limits are reasonable and prima facie speed limits.

"(c) Unless specifically provided to the contrary, all references to 'Town Limit' in Section 1101 shall mean the existing Town limit. It is the intention of the Board of Trustees that the provisions of Section 1101 shall apply to the entire area within the Town, including recently annexed territory and territory which may be annexed in the future upon the effective date of any annexation."

(6) Section 1701 of the adopted code is hereby amended to read in its entirety as follows:

"1701. Traffic offenses and infractions classified – penalties – penalty and surcharge schedule.

"(1) Except as specifically set forth in this Section 1701, it is a traffic infraction for any person to violate any of the provisions of this code. Any designation or classification of a violation in any other section of this code is inapplicable and expressly superseded by this Section 1701. Traffic infractions shall constitute civil matters. The Colorado Rules of Municipal Procedure shall apply to traffic infraction proceedings, except that no warrant for arrest shall be issued for the defendant's failure to appear when the only violation charged would constitute a noncriminal traffic infraction and the defendant's driver's license is issued

by the State of Colorado or any other state which participates in the Interstate Nonresident Violator Compact, as codified at C.R.S. § 24-60-2101. Instead, the court may enter a judgment of liability by default against the defendant for failure to appear, assess any penalty and costs established by law and report the judgment to the appropriate state motor vehicle department which may assess points against the defendant's driver's license and may take appropriate action to ensure that the judgment is satisfied. There is no right to a trial by jury for any noncriminal traffic infraction.

"(2) The following violations constitute criminal traffic offenses:

"(a) A violation of section 1101 involving driving twenty-five (25) or more miles in excess of the lawful speed limit.

"(b) A violation of section 1101(8)(a) involving driving twenty- five (25) miles or more in excess of the speed limit on any interstate highway.

"(c) Violations of sections 1105 (speed contests), 1401 (reckless driving), 1402 (careless driving), 1409 (failure to show compulsory insurance), 1413 (eluding a police officer), 1703 (aiding and abetting a traffic offense) and 1903 (failing to stop for a school bus) of the Model Traffic Code, as amended.

"(3) Notwithstanding any other provision of this code or of the Nederland Municipal Code to the contrary, traffic infractions as provided in this code shall be subject to the following maximum penalty: a fine of \$2,650.00. Court costs as authorized by state and local law shall be added to the fine.

"(4) Notwithstanding any other provision of this code or of the Nederland Municipal Code to the contrary, criminal traffic offenses as provided in this code shall be subject to the following maximum penalties: one hundred eighty (180) days imprisonment or a fine of \$2,650.00 or both; except that any person who, at the time of commission of the offense, was less than eighteen (18) years of age shall be subject to a maximum penalty of a fine of \$2,650.00. Court costs as authorized by state and local law shall be added to any penalty imposed."

(7) Section 1709 of the adopted code is amended by the addition of new subsections (6) and (7) to read in their entirety as follows:

"(6) 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.

"(7) Payment of the prescribed fine shall be deemed a complete satisfaction for the violation, and the Town, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof if requested. Checks tendered and accepted and on which payment is received shall be deemed sufficient receipt."

(Ord. 717 §3, 2013)

Sec. 8-3. Application.

This Article shall apply to every public and private street, alley, sidewalk area, driveway, park and every other public way, place or parking area, either within or outside the corporate limits of the Town, the use of which the Town has jurisdiction and authority to regulate. The provisions of Sections 606, 1401, 1402 and 1413 of the adopted Model Traffic Code respectively concerning unauthorized devices, reckless driving, careless driving and eluding officers, shall apply not only to public places and ways but also throughout the Town. (Ord. 186 §4, 1980; Ord. 435 §1, 1996)

Sec. 8-4. Certification.

The Town Clerk shall certify to the passage of this Article and make not less than one (1) copy of the adopted Code available for inspection by the public during regular business hours. (Ord. 186 §8, 1980; Ord. 435 §1, 1996)

Sec. 8-5. Reserved.

Sec. 8-6. Motor vehicle registration requirements.

It shall be unlawful for any owner of a motor vehicle to drive or park on a public street or way of the Town a motor vehicle which is not registered or which does not have attached thereto and displayed thereon the number plate or plates assigned thereto by the State Department of Motor Vehicles or the county in which the car is registered for the current registration year. (Ord. 451 §1, 1997)

Sec. 8-7. Motor vehicle emission requirements.

It shall be unlawful for any person to operate a motor vehicle registered or required to be registered in the State, or any vehicle otherwise required to display a valid verification of emissions test, nor shall any person allow such a motor vehicle to be parked on public property or on private property available for public use within the Town, without such vehicle displaying a valid verification of emissions test. (Ord. 451 §2, 1997)

Sec. 8-8. Use of restricted roadways prohibited.

It is unlawful for any person to operate a motor vehicle on a restricted roadway unless the person has been duly authorized to do so and is using the roadway for its intended purpose. As used in this Section, *restricted roadway* means any roadway, right-of-way or easement that is not intended for use by the general public and has been posted with signs indicating such restrictions, including but not limited to emergency access ways, utilities easements and other similar ways. (Ord. 573 §1, 2003)

Secs. 8-9—8-20. Reserved.

ARTICLE II

Parking Regulations

Sec. 8-21. Parking prohibited where.

Parking of any motor vehicle is prohibited at any location on any public street, alley or any public way which has less than twenty-six (26) feet of open and maintained width of traveled roadway, alley or other public way at such location, and which has been plowed to at least twenty-six (26) feet in width at such location. (Ord. 253 §1, 1984; Ord. 565 §1, 2003; Ord. 593 §1, 2004)

Sec. 8-22. Vehicle subject to towing.

Any vehicle found to be in violation of any provisions of this Article shall be subject to immediate towing and the owner of such vehicle and the operator thereof shall be subject to a fine as set forth in this Article. (Ord. 253 §2, 1984)

Sec. 8-23. Applicability.

This Article shall apply to every street, alley, public sidewalk, public driveway, public park and every other public way or public place within the corporate limits of the Town. (Ord. 253 §3, 1984)

Sec. 8-24. Intention.

This Article is intended to add to the requirements of the Model Traffic Code for Colorado Municipalities as adopted by the Town and is not intended to repeal, alter, modify, amend or reduce other parking requirements of said Code. (Ord. 253 §4, 1984)

Sec. 8-25. Penalties.

The following penalties shall be assessed against any person found to have violated any provision of this Article:

- (1) First offense: fifty dollars (\$50.00) and towing and storage charges, if any, incurred by the Town.
- (2) Second offense: one hundred dollars (\$100.00) and towing and storage charges, if any, incurred by the Town.
- (3) Third offense and each subsequent offense: three hundred dollars (\$300.00) and towing and storage charges, if any, incurred by the Town.

The full fine so listed shall be assessed by the Municipal Court, and the Court shall have no discretion to reduce or suspend any portion of such fine. (Ord. 253 §7, 1984)

Sec. 8-26. "For sale" signs prohibited along public rights-of-way.

It is unlawful for any person to park on or along any public right-of-way within the Town, for longer than a twenty-four-hour period, a motor vehicle displaying "for sale" or similar signs indicating the willingness of the owner to sell the vehicle. (Ord. 566 §1, 2003)

Secs. 8-27—8-40. Reserved.

ARTICLE III

Snow Emergency Routes

Sec. 8-41. No parking or stopping along snow routes.

During any accumulation of snow in excess of six (6) inches, whether such accumulation is because of falling, drifting or blowing snow, it shall be unlawful to park or abandon a vehicle for any period of time along a public right-of-way. (Ord. 437 §1, 1996)

Sec. 8-42. Authority to impound vehicle.

A police or code enforcement officer is authorized to remove or cause to be removed a vehicle from any street along a designated snow route if there is an accumulation of snow in excess of six (6) inches and the person in possession of the vehicle is not present or is unwilling or unable to provide for its immediate removal. (Ord. 437 §2, 1996)

Sec. 8-43. Notice to vehicle owner.

(a) Within forty-eight (48) hours of the time that a motor vehicle is impounded pursuant to this Article, the Town shall give notice by first-class mail to the registered owner of such motor vehicle:

- (1) That the motor vehicle has been removed and impounded;
- (2) Of the reason therefor;
- (3) Of the location of the vehicle;

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

(5) That, if the vehicle is not claimed by the owner or the owner's authorized agent and any accrued removal and storage charges are not paid in full within thirty (30) days of the date on which the notice is mailed, the vehicle will be sold.

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

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

(c) The total amount of fines, late fees and administrative impound fees must also be paid before the vehicle may be reclaimed.

(d) If the vehicle was reclaimed from impoundment or a hearing concerning the impoundment was set before the notice required by this Section was sent, no such notice need be given. (Ord. 437 §3, 1996)

Sec. 8-44. Seizure of vehicle.

Nothing in this Chapter shall be deemed to restrict the authority possessed by any peace officer under other provisions of law to seize any motor vehicle or part thereof if it is or contains evidence or is an instrumentality of a crime. Such provisions include, without limitation, the authority to seize a vehicle when there is probable cause to believe that a vehicle has been involved in a hit-and-run accident or contains stolen parts, or when a search of a vehicle has been authorized by court order. The release of any vehicle so seized shall be governed by the provisions of law under which it was seized. (Ord. 437 §4, 1996)

Sec. 8-45. Release of vehicle.

A vehicle or parts impounded pursuant to this Section shall be released to its owner upon payment to the Town of an administrative impoundment fee of twenty-five dollars (\$25.00) and payment to the towing carrier of the costs of towing and storage, unless ordered released as a result of a hearing held pursuant to this Article. (Ord. 437 §5, 1996)

Sec. 8-46. Lien of towing carrier.

A towing carrier that has removed or impounded a vehicle pursuant to this Article has a possessory lien upon such vehicle for all costs of towing and storage unless a hearing officer orders the vehicle released pursuant to this Chapter. (Ord. 437 §6, 1996)

Sec. 8-47. Hearing.

(a) The owner of a vehicle impounded by or at the request of the Town pursuant to this Article or a person in possession of a vehicle at the time it was so impounded is entitled to a hearing regarding the impoundment, if such person requests a hearing within fifteen (15) days from the date the notice of impoundment was mailed or within fifteen (15) days of reclaiming the vehicle from impoundment if no notice was mailed and if such person had no hearing prior to the time of the impoundment. The hearing shall be conducted before the Municipal Judge or a hearing officer appointed by the Municipal Judge within one (1) business day of the time of request for the hearing, unless the person requesting the hearing waives the one-day requirement. If a person requests a hearing and secures the release of the vehicle pursuant to this Article, and a summons and complaint or parking ticket has been issued which alleges a violation of this Article which formed the basis of the impoundment, the hearing officer may schedule the hearing provided by this Section to coincide with the trial of the infraction or may continue the hearing to such time. Otherwise, the hearing officer may continue a

next-business-day hearing on a completed impoundment at the request of the Town only after determining that probable cause existed for the impoundment. Probable cause may be determined solely from records kept by the Town.

(b) A person who requests a post-impoundment hearing may obtain the release of the vehicle prior to the hearing by posting a bond in the amount of the towing and storage charges due as of the date of the request plus twenty-five dollars (\$25.00) in administrative costs. If such person fails to appear at the date and time of the scheduled hearing, the hearing request shall be dismissed with prejudice, and the bond amount shall be forfeited to the Town.

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

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

(e) At a hearing following the impoundment of a vehicle, the hearing officer shall determine whether the vehicle was subject to impoundment under this Article. If the hearing officer so finds, the officer shall assess the costs of removal and impoundment, including without limitation any administrative impound fee, against the vehicle. If the hearing officer does not so find, the officer shall order the vehicle released immediately to the person entitled to possession and shall assess the costs of removal and impoundment against the Town. (Ord. 437 §7, 1996)

Sec. 8-48. Failure to claim vehicle.

If a vehicle that has been impounded is still under impoundment seventy-two (72) hours from the time at which notice prescribed by this Article has been mailed to the registered owner and the owner has not requested a hearing, or obtained the release of the vehicle by paying accumulated removal and impoundment charges, the vehicle shall be deemed abandoned, and the Town shall dispose of such vehicle as provided by law. (Ord. 437 §8, 1996)

Secs. 8-49—8-60. Reserved.

ARTICLE IV

Traffic Violations

Sec. 8-61. Safety sensitive zones.

(a) The following are hereby designated as safety sensitive zones:

- (1) Highway 119 between mile marker 26 and Big Springs Drive; and
- (2) Highway 72 between Highway 119 and Jefferson Street.

(b) Safety sensitive zones shall be indicated by signage with the following language: "SAFETY SENSITIVE ZONE FINES DOUBLED."

(c) Any fine stated on a penalty assessment issued for a moving traffic violation in the safety sensitive zone shall double the amount of the fine set for such violation.

(d) In the event a summons and complaint or penalty assessment for a moving traffic violation in a safety sensitive zone is issued, that violation will be subject to the following enhanced fine structure:

(1) The fine assessed for a moving violation in the safety sensitive zone shall be imposed at twice the rate of the customary fine for a violation had it not occurred in a safety sensitive zone.

(2) The fine assessed for a moving violation in the safety sensitive zone shall be mandatory and may not be subject to a plea bargain; provided, however, that the points assessed against a traffic violator's Colorado driver history may be reduced based on the automatic plea bargain available for penalty assessments or based on the discretion of the municipal prosecutor to offer a plea bargain.

(e) In no event may the total civil penalty assessed for a traffic offense in a safety sensitive zone exceed four hundred ninety-nine dollars (\$499.00) for a single offense.

(f) If the Court finds that a traffic violator is financially unable to pay the enhanced fine imposed for a violation in a safety sensitive zone, the Court may impose a penalty of useful community service to be calculated at a rate of five dollars (\$5.00) per hour, not to exceed a total amount of one hundred (100) hours of community service for a single offense. (Ord. 457 §1, 1997)

Secs. 8-62—8-80. Reserved.