

TITLE 12
VEHICLES AND TRAFFIC

Chapters:

- 12.01 Traffic Code.
- 12.02 Abandoned and Inoperable Vehicles.

CHAPTER 12.01

Traffic Code.

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12.01.010 Short Title. This Chapter may be known and cited as the "Municipal Traffic Ordinance," or the "Model Traffic Code."

(Ord. 202, §1, 1982; Amended Ord. 484 §1, 2003)

12.01.020 Adoption by Reference. Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S., as amended, there is hereby adopted by reference Articles I and II, inclusive, of the 2003 edition of the "Model Traffic Code for Colorado," and appendices thereto, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 E. Arkansas Avenue, EP 700, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic and vehicle control regulations for the Town of Parachute. The purpose of this Ordinance 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. 202, §1, 1982; Amended Ord. 484 §1, 2003)

12.01.030 Amendments/Modifications. Except as expressly modified in this Chapter, the Model Traffic Code for Colorado, 2003 Edition, is adopted as if set forth in full.

(Ord. 202, §1, 1982; Amended Ord. 484 §1, 2003)

12.01.040 Application. This Ordinance shall apply to every street, alley, sidewalk area, driveway, park, and to every other public way or 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 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 this municipality. Pursuant to Section 1102(5) of the Model Traffic Code, all stop sign regulations and speed limits shall be enforced upon any way which is open to travel by motor vehicles and which is privately maintained when appropriate signs giving notice of such enforcement are erected at the entrances to such ways. In addition, as authorized by Section 1210 of the Model Traffic Code, the owner or lessee of any private property available for public use in this Town may request in writing that specified areas on such property be designated for use only by authorized vehicles or only at specified times, or may prohibit parking entirely, and upon acceptance by motion of the Board of Trustees, these private rights-of-way shall be clearly marked by the owner or lessee with official traffic control devices as defined in Section 42-1-12(65), C.R.S. It is unlawful for any person to park any vehicle in violation of any such sign or marking.

(Ord. 202, §1, 1982; Amended Ord. 484 §1, 2003; Amended Ord. 534 §1, 2006)

12.01.050 Penalties for Violation. Section 1701 of the Model Traffic Code is amended to read as follows:

A. 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 non-criminal traffic offense. Every person who is convicted of, who admits liability for, or against whom a judgment is entered for, a non-criminal traffic offense shall be penalized by imposition of a fine in an amount not less than five dollars (\$5.00) and not greater than one thousand dollars (\$1,000.00). The presiding Judge of the Municipal Court shall promulgate a schedule of penalties for all non-criminal traffic offenses contained in the Model Traffic Code. Said schedule shall be prominently posted in the office of the Municipal Court Clerk.

(Ord. 202, §1, 1982; Amended Ord. 616 §1, 2010)

B. A violation of any of the following provisions of the Model Traffic Code shall be a Class B municipal offense, as defined in Section 11.01.030 of the Parachute Municipal Code. Every person convicted of violating any of the following provisions of the Model Traffic Code shall be punished by a fine and/or imprisonment as set out more fully in Section 11.01.030 of the Parachute Municipal Code (a fine not to exceed \$500.00 or imprisonment not to exceed six months).

1. Section 1903 - Stopping for school buses

2. Section 1101 - Speeding (the alleged violator is accused of exceeding the maximum lawful or reasonable and prudent speed by more than 19 miles per hour)
3. Section 1105 - Speed contests
4. Section 1401 - Reckless driving
5. Section 1402 - Careless driving, in which the violation is caused or contributed to the cause of an accident resulting in damage to property of another in excess of one hundred dollars (\$100.00) or an injury to or death of any person
6. Section 1413 - Eluding or attempting to elude police officer
7. Section 1409 - Compulsory insurance
8. Any other offense resulting in an accident causing personal injury or property damage in excess of one hundred dollars (\$100.00).

(Ord. 202, §1, 1982; Amended Ord. 484 §1, 2003)

12.01.060 Procedure - Non-criminal Traffic Offenses. Section 1702 of the Model Traffic Code is amended to read as follows:

- A. 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 non-criminal traffic offense. In addition, no person charged with a non-criminal traffic offense shall be afforded the right of Court-appointed counsel.
- B. The Colorado Municipal Court Rules of Procedure shall apply to any hearing where the cited person is charged with a non-criminal traffic offense, unless any of the rules are clearly inapplicable. The burden of proof shall be upon the People beyond a reasonable doubt.
- C. An appeal from final judgment on a non-criminal traffic offense shall be made in accordance with Rule 237 of the Colorado Municipal Court Rules of Procedure and Article 10, Title 13, C.R.S.
- D. Except as otherwise provided in this subsection, no person against whom a judgment has been entered for a non-criminal traffic offense shall collaterally attack the validity of that judgment unless such attack is commenced within three (3) months after the date of entry of the judgment. The only exceptions to the time limitations shall be:
 1. A case in which the Court entering judgment did not have jurisdiction over the subject matter of the alleged infraction;

2. A case in which the Court entering judgment did not have jurisdiction of the person of the violator;

3. Where the Court finds by a preponderance of the evidence that the failure to seek relief within the applicable time period was caused by and adjudication of incompetence or by commitment of the violator to an institution for treatment as a mentally ill person; or

4. 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.

E. At any time that a person is cited for the commission of any non-criminal 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.

F. The Penalty Assessment Notice tendered by the citing officer shall contain the name and address of such person, the license number of the vehicle involved, if any, the number of such person's driver's license, 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 (20) 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.

G. One copy of the Notice shall be given to the violator by the citing officer.

H. The time specified in the Notice to appear shall be at least twenty one (21) days, but not more than forty-five (45) days after such citation, unless the person cited shall demand an earlier hearing.

I. 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.

J. In the event a person who has been cited for a non-criminal 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.

K. In the event a person who has been cited for a non-criminal 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. The Clerk of the Municipal Court may proceed to collect this judgment as provided by law, and shall certify the same to the Department of Revenue as provided in Section 42-4-1709(7), C.R.S.

L. 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 non-criminal traffic offense and directing the owner/operator of the vehicle to remit the penalty assessment to the Municipal Court within twenty (20) days. If the penalty assessment is not paid within twenty (20) days of the issuance of such Notice, the Court shall mail a Notice to the registered owner of the vehicle, setting forth the non-criminal traffic offense and the time and place where it occurred and directing the payment of the penalty assessment within twenty (20) days from the issuance of the Notice. If the penalty assessment is not paid within such twenty (20) days from the date of mailing of such Notice, the Court shall request the police officer who issued the original Penalty Assessment Notice to file a Complaint with the Court and issue and serve upon the registered owner of the vehicle a Summons to appear in Court at a time and place specified therein.

M. If the alleged violator is cited for a non-criminal 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.

N. The provisions of this Section shall not apply to violation specified in subsection 12.01.050(B), 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 12.01.050(B), and has also violated one or more of the other provisions of the Model Traffic Code.

O. If a person receives a Penalty Assessment Notice for a violation under this Chapter 12.01 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, in the manner and to the extent permitted by Sections 42-2-127(5.5) and (5.6), C.R.S.:

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. 202, §1, 1982; Amended Ord. 484 §1, 2003)

12.01.070 Parking in Alleys. Section 1204(1) of the Model Traffic Code, as adopted by reference herein, is amended to add a subsection (1) to read as follows:

(1) 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 thirty (30) minutes.

(Ord. 202, §1, 1982; Amended Ord. 484 §1, 2003)

12.01.080 Illegal Parking on Private Property. Section 1204 of the Model Traffic Code, 2003 Edition, is hereby amended to add a new subsection (6) to read as follows:

(6) Obedience to Parking Regulations on Private Property. 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. 202, §1, 1982; Amended Ord. 484 §1, 2003)

12.01.090 Copies on File and Available for Sale. Repealed. (Ord. 539 §2, 2006)

12.01.100 Notice and Procedure for Parking Violations.

A. Whenever any motor vehicle without a driver is found parked or stopped in violation of any of the parking, standing or stopping provisions of the Model Traffic Code, the officer finding such vehicle shall take its registration number and any other information displayed on the vehicle which may identify its user and shall conspicuously affix to the vehicle a penalty assessment notice directing the driver to respond and answer the charge at a place and time specified in said notice.

B. In any prosecution charging a violation of any provision of this Section, proof that the vehicle described in the notice was parked or stopped in violation of such provision, together with proof that the defendant named in the notice was at the time of such violation the registered owner of the vehicle, shall constitute prima facie evidence that the registered owner was the person who parked or stopped the vehicle at the time and place of the violation.

C. In addition to any other liability provided for in the Model Traffic Code, the owner of a motor vehicle who is engaged in the business of leasing or renting motor vehicles is liable for payment of a parking violation fine unless the owner of the leased or rented motor vehicle can furnish sufficient evidence that the vehicle was, at the time of the parking violation, in the care, custody or control of another person. To avoid liability for payment, the owner of the motor vehicle is required, within a reasonable time after notification of the parking violation, to furnish to the prosecutorial division of the appropriate jurisdiction the name and address of the person or company who leased, rented or otherwise had the care, custody or control of such vehicle. As a condition to avoid liability for payment of a parking violation, any person or company who leases or rents motor vehicles to another person shall attach to the leasing or rental agreement a notice stating that, pursuant to the requirements of this Section, the operator of the vehicle is liable for payment of a parking violation fine incurred when the operator has the care, custody or control of the motor vehicle. The notice shall inform the operator that the operator's name and address shall be furnished to the prosecutorial division of the Town when a parking violation fine is incurred by the operator.

D. Any person charged with a parking, stopping or standing violation under the Model Traffic Code for which a penalty assessment notice may be issued and for which payment of a fine may be made to the Municipal Court shall have the option of paying such fine within the date, time and at the place specified in said notice upon entering a plea of guilty and upon waiving appearance in Court; or may have the option of depositing any required lawful bail, and upon a plea of not guilty shall be entitled to a trial to the Court before the Municipal Judge.

E. 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.

F. Payment of the prescribed fine shall be deemed a complete satisfaction for the violation, and the Municipal Court, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof. Checks tendered and accepted and on which payment is received shall be deemed sufficient receipt.

(Ord. 202, §1, 1982; Amended Ord. 539 §1, 2006)

CHAPTER 12.02

Abandoned and Inoperable Vehicles.

Sections:

- 12.02.010 Definitions.
- 12.02.020 Abandonment of Vehicles Prohibited; Penalty.
- 12.02.030 Inoperable Vehicles Prohibited; Penalty.
- 12.02.040 Limitations on Parking on Residential Streets.
- 12.02.050 Abandoned and Inoperable Vehicles; Public Tow.
- 12.02.060 Post-storage Hearing Procedure.
- 12.02.070 Release of Impounded Vehicles.
- 12.02.080 Abandoned and Inoperable Vehicles; Private Tow.
- 12.02.090 Impoundment Fees.
- 12.02.100 Disposition of Abandoned Vehicles.
- 12.02.110 Advertisement Prior to Public Sale.
- 12.02.120 Proceeds of Sale.
- 12.02.130 Disposal of Unsold Abandoned Vehicles.
- 12.02.140 Entry upon Private Property.
- 12.02.150 Waiver of Liability.
- 12.02.160 Authority for Immediate Towing.
- 12.02.170 Impoundment Notice.
- 12.02.180 Post-storage Hearing Request.
- 12.02.190 Disposition of Unclaimed Vehicles.

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

A. "Abandoned vehicle" means:

1. 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;
2. Any vehicle left unattended on public property, including any portion of a public right-of-way, within the Town for a period of seventy-two (72) hours or longer, unless the owner of the vehicle has been granted permission by the Town Administrator to park it for an extended period;
3. 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 12.02.050 below shall apply as of

the time of abandonment. Otherwise, the private tow provisions contained in Section 12.02.080 below shall apply as of the time of abandonment.

B. "Disabled vehicle" means any vehicle which is stopped or parked, either attended 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 damage, temporarily inoperable under its own power.

C. "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:

1. Absence of an effective registration plate upon such vehicle;
2. Placement of the vehicle or parts thereof upon jacks, blocks, chains or other supports; or
3. Absence of one (1) or more parts of the vehicle necessary for the lawful operation of the vehicle upon the streets and highways.

D. "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.

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

F. "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.

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

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

I. "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.

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

K. "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.

(Ord. 558 §1, 2007)

12.02.020 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 violation of this Section in any consecutive twelve (12) month period is a noncriminal municipal offense, as defined by Section 11.01.030 of the Parachute Municipal Code; the procedures set out in Section 7.10.190 shall apply, and the Board of Trustees shall promulgate a schedule of fines as required by Section 7.10.180. Any second and subsequent violation of this Section in a consecutive twelve (12) month period is a Class B municipal offense, which shall be punished as provided by Section 11.01.030 of the Parachute Municipal Code. Each day or portion thereof during which such violation continues shall be deemed to constitute a separate offense.

(Ord. 558 §1, 2007)

12.02.030 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 Town.

B. It is unlawful for any person who is the owner of any vehicle or any person who is in charge or control of any property within the Town, 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 Town.

C. The first violation of this Section in any consecutive twelve (12) month period is a noncriminal municipal offense, as defined by Section 11.01.030 of the Parachute Municipal Code; the procedures set out in Section 7.10.190 shall apply, and the Board of Trustees shall promulgate a schedule of fines as required by Section 7.10.180. Any second and subsequent violation of this Section in a consecutive twelve (12) month period is a Class B municipal offense, which shall be punished as provided by Section 11.01.030 of the Parachute Municipal Code. Each day or portion thereof during which such violation continues shall be deemed to constitute a separate offense.

(Ord. 558 §1, 2007)

12.02.040 Limitations on Parking on Residential Streets.

A. No trailer or hauling device, unless attached to a vehicle, may 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 Town or an authorized contractor of the Town 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 by the Town for purposes of construction or excavation 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. The first violation of this Section in any consecutive twelve (12) month period is a Class B municipal offense, which shall be punished as provided by Section 11.01.030 of the Parachute Municipal Code. Any second and subsequent violation of this Section by in a consecutive twelve (12) month period shall be deemed a Class A municipal offense, which shall be punished as provided by Section 11.01.030 of the Parachute Municipal Code. Each day or portion thereof during which such violation continues shall be deemed to constitute a separate offense.

(Ord. 558 §1, 2007)

12.02.050 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 Town Attorney indemnifying and holding the Town 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 12.02.090 below.

B. Upon ordering 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 ten (10) working days after having an abandoned or inoperable vehicle towed, the Police Department shall report the same to the Department of Revenue by first class or certified mail, by personal delivery or by internet

communication, which report shall be on a form prescribed and supplied by the Department of Revenue. The report shall contain the information required in Section 42-4-1804(1)(c), C.R.S.

D. The Police Department, upon receipt of an ownership report from the Department of Revenue, 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 procedure to be followed by the Police Department following receipt of the ownership report from the Department of Revenue shall comply with the provisions of Section 42-4-1804(4), C.R.S. A request for hearing shall be made in writing to the Police Department within ten (10) days of the postmark date of sending notice. Such hearing, if requested, shall be conducted pursuant to Section 12.02.060.

(Ord. 558 §1, 2007)

12.02.060 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 Chapter 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 Municipal Judge may conduct this hearing by telephone, internet or other method of electronic communication. 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 not 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, subject only to the right to appeal the decision to the District Court as provided by Colorado law.

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 Town. 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.

(Ord. 558 §1, 2007)

12.02.070 Release of Impounded Vehicles. Except as provided for in Section 12.02.100, 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.

(Ord. 558 §1, 2007)

12.02.080 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 Revenue by first class or certified mail, by personal delivery or by internet communication, which report shall be on a form prescribed and supplied by the Department of Revenue. The report shall contain the information required in Section 42-4-1804(1)(c), C.R.S.

D. Within five (5) working days of the receipt of an ownership report from the Department of Revenue, 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 Revenue;

2. The claim, if any, of a lien under Section 42-2-1806, 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.

(Ord. 558 §1, 2007)

12.02.090 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 12.02.050 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 Chapter 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, based on weight classification, shall not exceed any amount as may be allowed by statute.

(Ord. 558 §1, 2007)

12.02.100 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 Town Administrator 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 subsection 12.02.050(E) above.

B. If the appraised value of an abandoned vehicle sold pursuant to this Chapter 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 Town Administrator shall cause to be executed and delivered a bill of sale, together with a copy of the report described in subsection 12.02.050(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 Town Administrator 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 Town Administrator shall cause to be executed and delivered a duly executed bill of sale, together with a copy of the report described in subsection 12.02.050(E) above, and a duly signed application for a Colorado certificate of title 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.

(Ord. 558 §1, 2007)

12.02.110 Advertisement Prior to Public Sale. Before any public sale conducted by the Town Administrator disposing unclaimed abandoned vehicles, the Town Administrator shall prepare a notice which shall be published in the official newspaper of the Town 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:

A. 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;

B. 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 Town Administrator prior to the date of the sale, or such claims shall be forever barred;

C. A statement of the time and place where all unclaimed abandoned vehicles shall be sold by the Town Administrator;

D. 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; and

E. If they apply, the provisions of subsections 12.02.100(B) or (C) above relative to the limitations on the vehicle.

(Ord. 558 §1, 2007)

12.02.120 Proceeds of Sale.

A. If the sale of any vehicle and its attached accessories or equipment under the provisions of Section 12.02.100 above produces an amount less than or equal to the sum of all the charges of the Town, the Town 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 12.02.100 above produces an amount greater than the sum of all charges of the Town plus any liens, any balance then remaining shall be credited to the General Fund of the Town.

(Ord. 558 §1, 2007)

12.02.130 Disposal of Unsold Abandoned Vehicles. The Town Administrator is authorized to dispose of any and all abandoned vehicles not sold at public sale conducted as provided in this Chapter, at any reasonable time thereafter, as determined in his or her sole discretion to be in the best interests of the Town. 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.

(Ord. 558 §1, 2007)

12.02.140 Entry Upon Private Property. The Chief of Police, any police officer, or the code enforcement official is authorized to go on private property for the purpose of making an investigation of any violation of this Chapter 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 Chapter.

(Ord. 558 §1, 2007)

12.02.150 Waiver of Liability. Neither the Chief of Police, the Town Administrator, 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 Chapter.

(Ord. 558 §1, 2007)

12.02.160 Authority for Immediate Towing. The Chief of Police, a police officer or the Code Enforcement Official 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 Board of Trustees finding and determining that such vehicle under such circumstances constitutes an immediate hazard, obstruction to traffic or a public nuisance:

- A. When a vehicle is left unattended upon any bridge or viaduct, or when such vehicle constitutes an obstruction to traffic;
- B. 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;
- C. 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;
- D. 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;
- E. 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;

F. 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;

G. 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;

H. 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, or drives a vehicle while his or her operator's or chauffeur's license is denied, suspended, canceled or revoked by the State;

I. 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;

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

K. When any vehicle is reasonably suspected of being stolen or parts thereof to be stolen;

L. 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; or

M. When the officer has reasonable grounds to believe that the vehicle contains any booby trap, bomb or incendiary device.

(Ord. 558 §1, 2007)

12.02.170 Impoundment Notice. Whenever, as authorized in this Chapter, an officer or employee of the Town 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 subsection 12.02.050(E). Impoundment fees shall be as provided in Section 12.02.090 above.

(Ord. 558 §1, 2007)

12.02.180 Post-storage Hearing Request. Upon request, the owner of a vehicle removed pursuant to Section 12.02.160 above shall be entitled to a hearing as provided in Section 12.02.060 above.

(Ord. 558 §1, 2007)

12.02.190 Disposition of Unclaimed Vehicles. Vehicles removed pursuant to this Chapter shall be disposed of in a manner provided for in Section 12.02.100. Vehicles towed or removed by reason of the provisions of Section 12.02.170(M) may be destroyed.

(Ord. 558 §1, 2007)