

TITLE 7  
PARACHUTE MUNICIPAL COURT

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7.10.010 Municipal Court Established. In order to provide a simple and expeditious method for the prosecution of alleged violations of Town ordinances, but one which guarantees to the defendant a method of exercising his constitutional rights, the Board of Trustees hereby establishes a Municipal Court for the Town of Parachute, Colorado.

(Ord. 171 §1, 1981; Amended Ord. 440 §1, 2001)

7.10.020 Qualified Court of Record. Whenever a judge of the Municipal Court of Parachute has been admitted to, and is currently licensed in the practice of law in Colorado, the Municipal Court shall keep a verbatim record of the proceedings and evidence at trial by either electronic devices or stenographic means, and the Court thus shall be a qualified municipal court of record pursuant to the provisions of State law.

(Ord. 171 §1, 1981; Amended Ord. 440 §1, 2001)

7.10.030 Jurisdiction. The Municipal Court shall have original jurisdiction in all cases arising under the ordinances of the Town, with full power to punish violators thereof by the imposition of such fines and penalties as are prescribed by ordinance or court rule, and permitted pursuant to State law.

(Ord. 440 §1, 2001)

7.10.040 Sessions. There shall be regular sessions of the Municipal Court for the trial of cases. The Municipal Judge may hold a special session of Court at any time. All sessions of Court shall be open to the public, unless otherwise provided by law or Court rule.

(Ord. 440 §1, 2001)

7.10.050 Practice and Procedure. The practice and procedure in the Parachute Municipal Court shall be in accordance with the Colorado Municipal Court Rules of Procedure, as promulgated by the Colorado Supreme Court, and applicable statutes of the State of Colorado. The presiding Municipal Judge of the Court shall have authority to issue local rules of procedure consistent with the rules promulgated by the Supreme Court and State law.

(Ord. 440 §1, 2001)

7.10.060 Municipal Judges - Appointment; Qualifications. The Board of Trustees shall appoint the Municipal Judge, who shall have the same qualifications as a county judge in a Class D county, as set forth in §13-6-203(3), C.R.S., with preference given to those applicants who are licensed to practice law in the State of Colorado. The Municipal Judge need not be a resident of the Town of Parachute, or of Garfield County, and, subject to State law, may hold other judicial offices and may practice law. The term of office of the Municipal Judge shall be as provided in §13-10-105, C.R.S. Any vacancy in the office of the Municipal Judge shall be filled by appointment by the Board of Trustees. The Board of Trustees may appoint such additional associate municipal judges or assistant judges as may be necessary to act in case of temporary absence, sickness, disqualification, or other inability of the presiding Municipal Judge to act.

(Ord. 171 §1, 1981; Amended Ord. 440 §1, 2001)

7.10.070 Municipal Judges - Removal from Office. The Municipal Judge or any assistant or associate municipal judge may be removed by a majority of the Board of Trustees for cause as provided in §13-10-105(2), C.R.S.

(Ord. 171 §1, 1981; Amended Ord. 440 §1, 2001)

7.10.080 Municipal Judges - Compensation. The Board of Trustees shall provide by ordinance for the salary of the Municipal Judge. Such salary shall be a fixed annual compensation and payable on a monthly or other periodic basis. Payment of any fees or other compensation based directly on the number of individual cases handled or heard by the Municipal Judge is prohibited. If an assistant or associate municipal judge acts in the absence of the Municipal Judge, his salary may be adjusted so as to compensate the assistant or associate municipal judge.

(Ord. 440 §1, 2001)

7.10.090 Municipal Judges - Oath. Before entering upon the duties of his office, the Municipal Judge, or any assistant judge, shall take an oath or affirmation that he will support the Constitution of the United States and the Constitution of the State of Colorado and the ordinances of the Town of Parachute, and that he will faithfully perform the duties of his office.

(Ord. 440 §1, 2001)

7.10.100 Municipal Judges - Powers. The presiding Municipal Judge and any assistant or associate municipal judge shall have all judicial powers relating to the operation of the Municipal Court, subject to any rules of procedure governing the operation or conduct of municipal courts promulgated by the Colorado Supreme Court. In sentencing or fining a violator, a Judge shall not exceed the sentence or fine limitations established by an applicable ordinance. Except as may otherwise be provided by law, a Judge may defer the prosecution or a judgment and sentence of any violator, or suspend the sentence or fine of any violator, and place such violator on probation for a period not to exceed one (1) year. A Judge may impose as conditions of such probation any of the conditions set forth in Section 18-1.3-204, C.R.S., except that no probation supervision fee may be imposed. In addition, a Municipal Judge shall require restitution as a condition of any probation, as set forth in Sections 18-1.3-205 and 18-1.3-601 *et. seq.* C.R.S.

A Judge shall assess the costs and fees set forth in Section 7.10.200 of this Chapter.

(Ord. 440 §1, 2001; Amended Ord. 497 §1, 2004)

7.10.110 Court Clerk - Position Established. There is hereby established the position of Clerk of the Municipal Court. The Municipal Judge may serve as ex-officio clerk if the business of the Court is insufficient to warrant a separate full-time or part-time clerk.

(Ord. 440 §1, 2001)

7.10.120 Court Clerk - Appointment. The Clerk of the Municipal Court shall be appointed by the Municipal Judge. In addition, the Municipal Judge shall exercise supervisory powers concerning the job performance of the Clerk, and shall have the power to discipline or terminate the Clerk in accordance with the Town of Parachute's personnel policies and procedures.

(Ord. 440 §1, 2001)

7.10.130 Court Clerk - Duties. The Clerk of the Municipal Court shall have such duties as are delegated to him by ordinance, Court rule, or by the Municipal Judge. The Clerk shall file monthly reports with the Town Clerk of all fines and costs collected or received by the Municipal Court, and on the last day of each month shall pay to the Town Treasurer said fines and costs which shall be deposited in the general fund of the Town.

(Ord. 440 §1, 2001)

7.10.140 Court Clerk - Compensation. The Board of Trustees shall provide by ordinance for the salary of the Clerk of Municipal Court, except that if the Municipal Judge serves as ex-officio clerk, he shall not receive any additional compensation.

(Ord. 440 §1, 2001)

7.10.150 Court Clerk - Bond. As provided by §13-10-109, C.R.S., the requirement that the Clerk of the Court post a performance bond is hereby waived.

(Ord. 440 §1, 2001)

7.10.160 Court Facilities and Supplies; Appropriations. The Board of Trustees shall furnish the Municipal Court with suitable Courtroom facilities and sufficient funds for the acquisition of all necessary books, supplies, and furniture for the proper conduct of the business of the Court. The Board of Trustees shall, on an annual basis, budget and appropriate funds to pay the annual salary of the Municipal Court Judge and any assistant judges, the salary of the Municipal Court Clerk, together with the other expenses as may be necessary for the proper operation of the Municipal Court.

(Ord. 440 §1, 2001)

7.10.170 Penalty Assessments - Procedure. In order to provide for the expeditious handling of certain minor criminal offenses and noncriminal municipal and traffic offenses, the Parachute Municipal Court is authorized to accept penalty assessment fines and penalties in accordance with the provisions of this Section. This Section shall not be construed as limiting or otherwise modifying the Model Traffic Code, adopted by reference by the Town of Parachute.

A. At the time that any person is arrested or charged for the commission of a Class A or B criminal offense pursuant to Section 7.10.180 of this Chapter, or as set forth pursuant to Court order, or a noncriminal traffic offense as defined by the Model Traffic Code, the arresting officer may offer to give a Penalty Assessment Notice to the defendant. If any person is charged with a noncriminal municipal or traffic offense, the citing officer shall issue a Penalty Assessment Notice to the defendant, unless otherwise provided by law. This Notice shall be made by notation upon the

Summons and Complaint issued in conformance with law.

B. If a person charged with a criminal offense does not possess a valid Colorado driver's license, such person, in order to secure release, as provided in this Section, must give his written acknowledgment of guilt or give his written promise to appear in Court by signing the Penalty Assessment Notice prepared by the charging officer. Should the person to whom the Penalty Assessment Notice is tendered accept the Notice by acknowledging his guilt in writing, said acceptance shall constitute a promise on such person's part to pay the fine or penalty specified in the schedule issued pursuant to Section 7.10.180 of this Chapter, or specified in a schedule issued by Court order, for the violation involved at the office of the Clerk of the Municipal Court, Parachute, Colorado, either in person or by mail within twenty (20) days of the date of issuance. Any person who accepts a Penalty Assessment Notice for a criminal violation, by acknowledgment of guilt, but who does not furnish satisfactory evidence of identity, or who the officer has reasonable and probable grounds to believe will disregard a written promise to pay the specified fine, may be taken by the officer to the nearest post office facility, and required to remit the amount of the specified fine to the Town of Parachute immediately by mail in United States currency or legal tender, or by money order, or personal check. Refusal or inability to remit the specified fine by mail when required shall constitute a refusal to accept a Penalty Assessment Notice, by acknowledgment of guilt.

Should a person cited for a criminal violation refuse to give his written acknowledgment of guilt or give his written promise to appear in Court by signing the Penalty Assessment Notice, the officer shall proceed to issue a Summons in accordance with Colorado law. Should such person accept the Notice, by acknowledgment of guilt, but fail to pay the prescribed penalty within twenty (20) days thereafter, the Notice shall be construed to be a Summons and Complaint, and the prosecution for said violation shall thereafter be heard in the Municipal Court, in which event such person shall be privileged to answer the charge made against him in the same manner as if he had not been tendered a Penalty Assessment Notice. In such event, the maximum penalty which may be imposed may exceed the penalty assessment amount.

C If the person cited for a criminal violation does possess a valid Colorado driver's license, the person shall not be required to give his written acknowledgment of guilt or written promise to appear on the Penalty Assessment Notice. For the purposes of this Section, tender by an arresting officer of the Penalty Assessment Notice to such a person shall constitute notice to the violator to appear in Court at the time specified on such notice or to pay the required fine. Should such person fail to pay the prescribed penalty within twenty (20) days thereafter, the Notice shall be construed to be a Summons, and the prosecution for said violation shall thereafter be heard in the Municipal Court, in which event such person shall be privileged to answer the charge made against him in the same manner as if he had not been tendered a Penalty Assessment Notice. In such event, the maximum penalty which may be imposed may exceed the penalty assessment amount.

D. Payment of the prescribed penalty assessment within twenty (20) days shall be deemed a complete satisfaction for the violation. Checks tendered by the violator to, and accepted by the Municipal Court, and upon which payment is received by the Municipal Court, shall be

deemed sufficient receipt.

E. Penalty Assessment Notices issued for noncriminal violations shall also be in accordance with Section 7.10.190 of this Chapter.

F. Nothing contained herein shall be construed as requiring a law enforcement officer to issue a Penalty Assessment Notice for a criminal violation. Penalty Assessment Notices for criminal violations shall not be issued in the event of an offense involving property damage, injury to any person, or in the event the complaint is made by a private party. Penalty Assessment Notices shall be issued in all cases involving noncriminal municipal or traffic offenses, unless otherwise provided by law.

(Ord. 171 §1, 1981; Amended Ord. 440 §1, 2001; Amended Ord. 497 §2, 2004)

7.10.180 Penalty Assessment Schedule for Criminal and Traffic Offenses. A penalty assessment schedule for criminal offenses may be established by the Parachute Board of Trustees. In the event the Board of Trustees has not established such a schedule, the Court, by order of the Court may promulgate such a schedule. A penalty assessment schedule for non-criminal traffic offenses shall be promulgated by the Municipal Judge as provided in the Model Traffic Code.

(Ord. 440 §1, 2001)

7.10.190 Noncriminal Municipal or Traffic Offenses - Procedure.

A. Pursuant to Section 16-10-101, C.R.S., and Section 16-10-109, C.R.S., the right of a trial by jury shall not be available at a hearing where the cited person is charged with a noncriminal municipal or traffic offense. In addition, no person charged with a noncriminal municipal or 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 noncriminal municipal or traffic offense, unless any of the rules are clearly inapplicable. The burden of proof shall be upon the People, and the Court shall dismiss charges against an alleged violator if the alleged violator is not proven to be liable or guilty beyond a reasonable doubt.

C. An appeal from final judgment on a noncriminal municipal or traffic offense shall be made in accordance with Rule 237 of the Colorado Municipal Court Rules of Procedure.

D. Except as otherwise provided in this Section, no person against whom a judgment has been entered for a noncriminal municipal or 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 such time limitations shall be:

1. A case in which the Court did not have jurisdiction over the subject matter of the alleged noncriminal municipal violation;

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

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

4. Where the Court finds that 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 noncriminal municipal or traffic offense, the citing officer shall give a Notice to such person, which Notice shall be in the form of a Penalty Assessment Notice as described in Section 7.10.170 of this Chapter.

F. The Penalty Assessment Notice tendered by the citing officer shall contain the name and address of the alleged violator, the license number of the vehicle involved, if any, the number of such person's driver's license if applicable, 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 and sign the acknowledgment of guilt or liability and an agreement to pay the penalty prescribed within ten (10) 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, if the prescribed penalty is not paid within the time period.

G. One (1) 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 fourteen (14) days, but not more than forty-five (45) days after such citation, unless otherwise provided by law or the person cited requests 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. If an alleged violator is cited for a noncriminal municipal or traffic offense, he shall be privileged to answer the Complaint made against him in the manner provided in the Colorado Municipal Court Rules and Procedure. The maximum penalty which may be imposed shall not exceed the penalties set forth in the Penalty Assessment Notice.

K. In the event a person who has been cited for a noncriminal municipal or traffic offense fails to pay the Penalty Assessment Notice, he shall make an appearance and answer the Complaint against him. If the alleged violator answers that he is guilty or liable, judgment shall be entered against him and he shall be assessed the appropriate penalty and applicable court costs and fees. 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, a default judgment shall be entered against him, and he shall be assessed the appropriate penalty and applicable court costs and fees.

L. In the event a person who has been cited for a noncriminal municipal or 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, a default judgment shall be entered against him and he shall be assessed the appropriate penalty and Court costs.

M. Whenever the judge of the Municipal Court imposes a monetary penalty for a noncriminal municipal or traffic offense, if the person who committed the offense is unable to pay the amount at the time of the Court hearing or if he fails to pay any penalty imposed for the commission of such offense within the time permitted by the Court, in order to guarantee the payment of such penalty, the judge may compel collection of the penalty in the manner provided in §18-1-110, C.R.S.

N. An officer coming upon an unattended vehicle which is an apparent violation of any provision of the Model Traffic Code may place upon the vehicle a Penalty Assessment Notice indicating the noncriminal traffic offense and directing the owner/operator of the vehicle to remit the penalty assessment to the Municipal Court within ten (10) days. If the penalty assessment is not paid within ten (10) days of the issuance of such Notice, the Court shall mail a notice to the registered owner of the vehicle, setting forth the noncriminal traffic offense and the time and place where it occurred and directing the payment of the penalty assessment within twenty (20) days from the issuance of such notice. If the penalty assessment is not paid within such twenty (20) days, the Court shall request the officer who issued the original Penalty Assessment Notice to file a Complaint with the Court and serve upon the registered owner of the vehicle a Summons to appear in Court at a time and place specified therein.

O. The provisions of this Section shall not apply when it appears the alleged violator has, in the course of the same transaction or episode, committed one (1) or more noncriminal municipal or traffic offenses and has also committed one or more criminal municipal offenses and the charging officer charges such alleged violator with two (2) or more violations, any one of which is a noncriminal municipal or traffic offense.

P. If a person receives a Penalty Assessment Notice as provided in this Section for a violation of a noncriminal traffic offense, and such person pays the fine and any applicable surcharge

for the violation on or before the date the payment is due, and the violation falls within the parameters of §42-2-127(5.6)(a), C.R.S., the points assessed for the violation are reduced as follows:

1. For a violation having an assessment of three or more points under §42-2-127(5), C.R.S., the points are reduced by two points.
2. For a violation having an assessment of two points under §42-2-127(5), C.R.S., the points are reduced by one point.

(Ord. 440 §1, 2001)

7.10.200 Court Fees and Costs. All Court fees and costs lawfully assessed shall be paid to the Town. If any private person complainant, in any action before the Municipal Court, requests dismissal of the prosecution of said action, or is willfully absent from trial or fails to appear at trial after being subpoenaed and said action is dismissed, the Court may enter judgment against the private person complainant for all applicable fees and costs.

A docket fee in the amount of twenty dollars (\$20.00) shall be charged in all proceedings before the Municipal Court, which shall be paid by the Defendant upon conviction or if the Defendant is granted a deferred judgment and sentence or a deferred prosecution. A separate docket fee shall be charged upon the filing of a complaint alleging violation of probation or a deferred sentence and judgment.

All other fees shall be approved by Resolution of the Board of Trustees upon recommendation of the Municipal Judge. These additional fees and charges are intended to recoup the cost and expenses to the Town for the handling of criminal cases, and may include, but are not limited to, jury fees, witness fees, fees and mileage for jurors, costs for the preparation of a deferred judgment and sentence or deferred prosecution, costs for preparation of appeal documents, the issuance of a bench warrant, an incarceration fee, and the cost for any returned check or a convenience fee for any alternative form of payment such as the use of a credit or debit card.

(Ord. 440 §1, 2001; Amended Ord. 602 §1, 2009)

7.10.210 Collection of Restitution, Fines and Fees.

A. If the defendant does not pay all amounts assessed at the time that an order for payment of a fine or costs is entered, the defendant shall pay to the clerk of the court an additional time payment fee of \$10.00. Such time payment fee may be assessed once per case. In addition, there may be assessed against a defendant a late penalty fee of \$25.00 each time a payment of a fine or fee is not received on or before the date due. If the Court determines that the defendant does not have the financial resources to pay a time payment fee or a late penalty fee, the Court may waive or suspend a time payment fee or a late penalty fee. Amounts collected shall be credited first against the time payment and any late penalty fees assessed under this subsection (A), then against any fines,

and finally against any costs.

B. All time payment fees and late penalty fees collected shall be credited to the General Fund.

C. To collect on past due orders of fines or fees, the Town may employ any method available to collect receivables including assigning such accounts to private counsel or private collection agencies. Any fees or costs of the private counsel or collection agency shall also be added to the amount due, but such fees and costs shall not exceed twenty-five percent (25%) of the amount collected. If applicable, the Court may also utilize the procedure set forth in §42-2-1709(7)(a)(II), (III), (IV) or (V) and certify the amount of the judgment to the Colorado Department of Revenue.

(Ord. 440 §1, 2001)

7.10.220 Juveniles in Municipal Court.

A. Confinement of Juvenile Offenders. A child, as defined in Section 19-1-103(18), C.R.S., arrested for an alleged violation of a municipal ordinance, convicted of violating a municipal ordinance or probation conditions imposed by the Municipal Court, or found in contempt of court in connection with a violation or alleged violation of a municipal ordinance shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders but may be held in a juvenile detention facility operated by or under contract with the Department of Human Services or a temporary holding facility. The Municipal Court imposing penalties for violation of probation conditions imposed or for contempt of court in connection with a violation or alleged violation of a municipal ordinance may confine a child pursuant to Section 19-2-508, C.R.S., for up to forty-eight hours in a juvenile detention facility operated by or under contract with the Department of Human Services. In imposing any jail sentence upon a juvenile for violating any municipal ordinance when the municipal court has jurisdiction over the juvenile pursuant to Section 19-2-104(1)(a)(II), C.R.S., the Municipal Court does not have the authority to order a child under eighteen years of age to a juvenile detention facility operated or contracted by the department of human services.

B. Requirement that Juvenile Attend School. If, as a condition of or in connection with any sentence imposed by the Municipal Judge requires a juvenile who is younger than eighteen (18) years of age to attend school, the Municipal Court shall notify the school district in which the juvenile is enrolled of such requirement.

(Ord. 440 §1, 2001)

7.10.230 Witness Immunity.

A. Whenever a witness refuses, on the basis of his privilege against self-incrimination, to testify or provide other information in a proceeding before the Municipal Court, and the judge presiding over the proceeding communicates to the witness an order as specified in subsection (B) of

this Section, the witness may not refuse to comply with the order on the basis of his privilege against self-incrimination; except that no testimony or other information compelled under the order, or any information directly or indirectly derived from such testimony or other information, may be used against the witness in any criminal case, except for prosecution for perjury, for false statement or otherwise failing to comply with the order.

B. In the case of any individual who has been or may be called to testify or provide other information in any proceeding before the Municipal Court, the Municipal Court may issue, upon request of the prosecuting attorney, an order requiring such individual to give testimony or provide other information which he refuses to give or provide on the basis of his privilege against self-incrimination, such order to become effective as provided in subsection (A) above.

C. The prosecuting attorney may request an order as specified in subsection (B) above when, in his judgment, the testimony or other information from any individual may be necessary to the public interest and such individual has refused or is likely to refuse to testify or provide other information on the basis of his privilege against self-incrimination.

(Ord. 440 §1, 2001)