

**CITY OF CENTRAL, COLORADO
ORDINANCE 12-11**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
CENTRAL, COLORADO REGULATING VEHICLES AND TRAFFIC; AMENDING
CERTAIN PROVISIONS OF ARTICLE I OF CHAPTER 8 OF THE MUNICIPAL CODE
CONCERNING THE MODEL TRAFFIC CODE; ADOPTING THE REVISED 2010
MODEL TRAFFIC CODE FOR COLORADO BY REFERENCE WITH
AMENDMENTS; SETTING FORTH IN FULL THE PENALTY CLAUSE; AND
SETTING FORTH DETAILS IN RELATION THERETO**

WHEREAS, by Ordinance No. 05-11, the City of Central adopted by reference the 2003 edition of the Model Traffic Code for Colorado, as promulgated by the Colorado Department of Transportation (the “2003 Model Traffic Code”); and

WHEREAS, in order to protect and preserve the health, safety and welfare of its residents, the City Council wishes to adopt by reference the 2010 edition of the Model Traffic Code for Colorado, as promulgated by the Colorado Department of Transportation (the “2010 Model Traffic Code”); and

WHEREAS, the City of Central has twice published notice of a public hearing as required by C.R.S. § 31-16-203, and such notice contained the information required by C.R.S. § 31-16-203; and

WHEREAS, in accordance with C.R.S. § 31-16-206, at least three (3) copies of the 2010 Model Traffic Code are on file in the office of the City Clerk and have been made available for public inspection at least fifteen (15) days prior to the public hearing for adoption of this ordinance; and

WHEREAS, the penalty clause is set forth in full herein and shall be published along with this adopting Ordinance in full upon adoption; and

WHEREAS, the City Council has determined that it is in the best interest of the citizens of the City to adopt by reference the 2010 Model Traffic Code, as set forth herein below; and

WHEREAS, the City finds that the adoption of this Ordinance is a proper exercise of the City’s police power and that it is in the best interest of the public health, safety, and welfare of the citizens of the City to regulate the use of the public rights-of-way and public property and to prescribe the penalties for violations thereof.

**BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF CENTRAL,
COLORADO THAT:**

Section 1. Article I of Chapter 8, currently titled “Model Traffic Code” is hereby repealed and replaced to read in its entirety as follows:

CHAPTER 8

Vehicles and Traffic

Article I Model Traffic Code

Sec. 8-1	Adoption
Sec. 8-2	Application
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Sec. 8-1. Adoption.

Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S., as amended, there is hereby adopted by reference the Revised 2010 Model Traffic Code for Colorado (“Model Traffic Code”) as 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 adopted Model Traffic Code relates primarily to comprehensive traffic control regulations of the City. The purpose of this Ordinance and those portions of the Model Traffic Code adopted herein is to provide a system of traffic control regulation consistent with State law and generally conforming to similar regulations throughout the State of Colorado and the nation. Copies of the Model Traffic Code adopted herein are on file in the office of the Clerk of the City of Central, and may be inspected during regular business hours.

Sec. 8-2. Application

This Article 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 without the corporate limits of the City, the use of which the City has jurisdiction and authority to regulate. This Article shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto. The provisions of Sections 1401, 1402, and 1413 of the adopted Model Traffic Code, respectively, concerning reckless driving, careless driving and eluding a police officer shall apply not only to public places and ways but also throughout the City.

Sec. 8-3. Definitions.

As used in this Article, unless the context clearly indicates otherwise, the words defined below shall have the respective meanings set forth for them:

City means City of Central, Colorado.

Law Enforcement Officers shall mean law enforcement personnel of the City including City Police Department personnel and any entity with whom the City may contract with to provide law enforcement services from time to time.

Official Traffic Control Device means any sign, signal, marking and/or device, placed or displayed by authority of a public body or official having jurisdiction, for the purpose of regulating, warning, or guiding traffic.

Owner means a person who holds the legal title of a vehicle, or, if a vehicle is the subject of an agreement for the conditional sale or lease thereof with the right of purchase upon performance of the conditions stated in the agreement and with an immediate right of possession vested in the conditional vendee or lessee or if a mortgagor of a vehicle is entitled to possession, then such conditional vendee or lessee or mortgagee shall be deemed the owner for purposes herein. The term also includes parties otherwise having lawful use or control or the right to use or control vehicle for a period of thirty (30) days or more.

Park or *parking* means the 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 passengers.

Stand or *standing* means the halting of a vehicle, whether occupied or not other than momentarily for the purpose of and while actually engaged in receiving or discharging passengers.

Stop or *stopping* means, when prohibited, any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a Law Enforcement Officer or Official Traffic Control Device.

Vehicle means any device which is capable of moving itself, or of being moved, from place to place upon wheels or endless tracks.

Sec. 8-4. Deletions, Additions or Modifications.

The Model Traffic Code is adopted as if set out at length save and except the following articles and/or sections are subject to the deletions, additions and/or modifications as set forth below. Articles and/or sections identified as “deleted” are hereby determined to be inapplicable to the City of Central, Colorado.

A. Section 103(2) and 103(2)(b) “Scope and effect of Code – exceptions to provisions” are repealed in their entirety and reenacted to provide:

(2) The provisions of this code relating to the operation of the vehicles and the movement of pedestrians shall apply to every street, alley, sidewalk, driveway, park and to every other public way or public place or public parking area within

or outside of the corporate limits of the municipality, the use of which the municipality has jurisdiction and authority to regulate except:

(b) For sections 1401, 1402, and 1413 of the code pertaining to reckless driving, careless driving and eluding a police officer shall apply to all land, areas, property (including private property) within or outside the corporate limits of the municipality, the use of which the municipality has jurisdiction and the authority to regulate.

B. Section 103(3) of the Model Traffic Code is enacted to provide:

(3) All provisions in this code establishing offenses as Class A or B traffic infractions or Class 1 or Class 2 misdemeanor offenses, and establishing fines and other sentencing conditions in relation to such offenses, shall be repealed in their entirety, it being the intent that any violation of this code be subject to the City's general penalty provision set forth in Section 1-72 of the Municipal Code.

C. Section 104 of the Model Traffic Code is enacted to provide:

(1) It shall be the duty of the Law Enforcement Officers to enforce all traffic regulations of the City and all of the State laws applicable to the City.

(2) Police officers are hereby authorized to direct all traffic by voice, hand or signal in conformance with State traffic laws and this code; provided that, in the event of fire or emergency, or to expedite traffic or protect pedestrians, Law Enforcement Officers may direct traffic as conditions may require notwithstanding the provisions of State traffic laws or this code.

(3) Fire department personnel, when at the scene of a fire or other emergency, may at the direction of authorized Law Enforcement Officers assist such Law Enforcement Officers with directing traffic.

D. Section 106(4) of the Model Traffic Code is enacted to provide:

(4) The use of certain streets and roadways by motorized vehicles, trucks or other commercial vehicles, bicycles or other non-motorized vehicles shall be restricted or prohibited when official signs giving notice thereof are erected thereon.

E. Section 110(4) "Provisions uniform throughout jurisdiction" is amended by deleting the phrase "City or Town Council or Board of County Commissioners" and replacing it with the phrase "the City."

F. Section 114(4) "Removal of traffic hazards" is enacted to provide:

If the City is not reimbursed within forty-five (45) calendar days after the property owner has been provided a demand for payment, the amount due shall

become a lien against the property and certified by the City's Finance Director and recorded with the Office of the Gilpin County Treasurer. Such lien shall have priority over all other liens except general taxes. The Gilpin County Treasurer shall collect and pay over to the City such charges in the same manner as the Treasurer is authorized to collect delinquent general property taxes.

G. Section 236 is deleted and replaced in its entirety with the following:

236. Child restraint systems required – definitions – exemptions.

(1) As used in this section, unless the context otherwise requires:

(a) "Child care center" means a facility required to be licensed under the "Child Care Licensing Act", Article 6 of Title 26, C.R.S.

(a.3) Deleted.

(a.5) "Child restraint system" means a specially designed seating system that is designed to protect, hold, or restrain a child in a motor vehicle in such a way as to prevent or minimize injury to the child in the event of a motor vehicle accident that is either permanently affixed to a motor vehicle or is affixed to such vehicle by a safety belt or a universal attachment system, and that meets the federal motor vehicle safety standards set forth in section 49 CFR 571.213, as amended.

(a.7) Deleted.

(a.8) "Motor vehicle" means a passenger car; a pickup truck; or a van, minivan, or sport utility vehicle with a gross vehicle weight rating of less than ten thousand (10,000) pounds. "Motor vehicle" does not include motorcycles, low-power scooters, motorscooters, motorbicycles, motorized bicycles, and farm tractors and implements of husbandry designed primarily or exclusively for use in agricultural operations.

(b) "Safety belt" means a lap belt, a shoulder belt, or any other belt or combination of belts installed in a motor vehicle to restrain drivers and passengers, except any such belt that is physically a part of a child restraint system. "Safety belt" includes the anchorages, the buckles, and all other equipment directly related to the operation of safety belts. Proper use of a safety belt means the shoulder belt, if present, crosses the shoulder and chest and the lap belt crosses the hips, touching the thighs.

(c) "Seating position" means any motor vehicle interior space intended by the motor vehicle manufacturer to provide seating accommodation while the motor vehicle is in motion.

(2) (a) (I) Unless exempted pursuant to subsection (3) of this section and except as otherwise provided in subparagraphs (II) and (III) of this paragraph (a), every child who is under eight (8) years of age and who is being transported in this State in a motor vehicle or in a vehicle operated by a child care center, shall be properly restrained in a child restraint system, according to the manufacturer's instructions.

(II) If the child is less than one (1) year of age and weighs less than twenty (20) pounds, the child shall be properly restrained in a rear-facing child restraint system in a rear seat of the vehicle.

(III) If the child is one (1) year of age or older, but less than four (4) years of age, and weighs less than forty (40) pounds, but at least twenty (20) pounds, the child shall be properly restrained in a rear-facing or forward-facing child restraint system.

(b) Unless excepted pursuant to subsection (3) of this section, every child who is at least eight (8) years of age but less than sixteen (16) years of age who is being transported in this state in a motor vehicle or in a vehicle operated by a child care center, shall be properly restrained in a safety belt or child restraint system according to the manufacturer's instructions.

(c) If a parent is in the motor vehicle, it is the responsibility of the parent to ensure that his or her child or children are provided with and that they properly use a child restraint system or safety belt system. If a parent is not in the motor vehicle, it is the responsibility of the driver transporting a child or children, subject to the requirements of this section, to ensure that such children are provided with and that they properly use a child restraint system or safety belt system.

(3) Except as provided in section 42-2-105.5(4), C.R.S., subsection (2) of this section does not apply to a child who:

(a) Repealed.

(b) Is less than eight (8) years of age and is being transported in a motor vehicle as a result of a medical or other life-threatening emergency and a child restraint system is not available;

(c) Is being transported in a commercial motor vehicle, as defined in Section 42-2-402 (4)(a), C.R.S., that is operated by a child care center;

(d) Is the driver of a motor vehicle and is subject to the safety belt requirements provided in Section 42-4-237, C.R.S.;

(e) Deleted.

(f) Is being transported in a motor vehicle that is operated in the business of transporting persons for compensation or hire by or on behalf of a common carrier or a contract carrier as those terms are defined in Section 40-10.1-101, C.R.S., or an operator of a luxury limousine service as defined in Section 40-10.1-301, C.R.S.

(4) Deleted.

(5) No person shall use a safety belt or child restraint system, whichever is applicable under the provisions of this section, for children under sixteen (16) years of age in a motor vehicle unless it conforms to all applicable federal motor vehicle safety standards.

(6) Any violation of this section shall not constitute negligence per se or contributory negligence per se.

(7) (a) Except as otherwise provided in paragraph (b) of this subsection (7), any person who violates any provision of this section 236 commits a violation of the model traffic code, as adopted by this Ordinance.

(b) A minor driver under eighteen (18) years of age who violates this section shall be punished in accordance with Section 42-2-105.5(5)(b), C.R.S.

(8) The fine may be waived if the defendant presents the court with satisfactory evidence of proof of the acquisition, purchase, or rental of a child restraint system by the time of the court appearance.

H. Section 1101(1) “Speed limits” is amended by deleting the phrase “is reasonable and prudent under the conditions then existing,” and replacing it with the phrase “the maximum lawful speed limit.”

I. Section 1101(5) “Speed limits” is amended by deleting the phrase “alleged reasonable and prudent speed,” and replacing it with the phrase “maximum lawful speed limit.”

J. Section 1204(2)(b) “Stopping, standing or parking prohibited in specified places” is amended by deleting the phrase “fifteen feet” and replacing it with the phrase “seven and one-half feet”.

On those streets which have been designated and signed or marked for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings.

K. Section 1209 “Owner liability for parking violations” is amended by the addition of the following sentence:

In any prosecution charging a violation of any provision of this Part 12 governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute an evidentiary prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

L. Section 1210 “Designated areas on private property for authorized vehicles” is deleted in its entirety.

M. Section 1409 is deleted and replaced in its entirety with the following:

1409. Compulsory insurance – penalty.

(1) No owner of a motor vehicle or low-power scooter required to be registered in this State, or of a low-speed electric vehicle, shall operate the vehicle or permit it to be operated on the public highways of this State when the owner has failed to have a complying policy or certificate of self-insurance in full force and effect as required by law.

(2) No person shall operate a motor vehicle, low-power scooter or low-speed electric vehicle on the public highways of this State without a complying policy or certificate of self-insurance in full force and effect as required by law.

(3) When an accident occurs, or when requested to do so following any lawful traffic contact or during any traffic investigation by a law enforcement officer, no owner or operator of a motor vehicle, low-power scooter or low-speed electric vehicle shall fail to present to the requesting officer immediate evidence of a complying policy or certificate of self-insurance in full force and effect as required by law.

(4) (a) Any person who violates the provisions of subsection (1), (2), or (3) of this section commits a traffic offense. The defendant shall be punished by a minimum mandatory fine of not less than five hundred dollars (\$500.00). The court may suspend up to one half of the fine upon a showing that appropriate insurance as required pursuant to Section 10-4-619 or 10-4-624, C.R.S., has been obtained. Nothing in this paragraph (a) shall be construed to prevent the court from imposing a fine greater than the minimum mandatory fine.

(b) Upon a second or subsequent conviction under this section within a period of five (5) years following a prior conviction under this section, in addition to any imprisonment imposed pursuant to law, the defendant shall be punished by a minimum mandatory fine of not less than one thousand dollars (\$1,000.00), and the court shall not suspend such minimum fine. The court or the court collections’ investigator may establish a payment schedule for a person convicted

of the provisions of subsection (1), (2), or (3) of this section, and the provisions of Section 16-11-101.6, C.R.S., shall apply. The court may suspend up to one half of the fine upon a showing that appropriate insurance as required pursuant to Section 10-4-619 or 10-4-624, C.R.S., has been obtained.

(c) In addition to the penalties prescribed in paragraphs (a) and (b) of this subsection (4), any person convicted pursuant to this section may, at the discretion of this court, be sentenced to perform not less than forty (40) hours of community service, subject to the provisions of Section 18-1.3-507, C.R.S.

(5) Testimony of the failure of any owner or operator of a motor vehicle, low-power scooter or low-speed electric vehicle to present immediate evidence of a complying policy or certificate of self-insurance in full force and effect as required by law, when requested to do so by a law enforcement officer, shall constitute prima facie evidence, at a trial concerning a violation charged under subsection (1) or (2) of this section, that such owner or operator of a motor vehicle violated subsection (1) or (2) of this section.

(6) No person charged with violating subsection (1), (2), or (3) of this section shall be convicted if the person produced in court a bona fide complying policy or certificate of self-insurance that was in full force and effect as required by law at the time of the alleged violation.

(7) The owner of a motor vehicle, low power scooter or low-speed electric vehicle, upon receipt of an affirmation of insurance as described in Section 42-3-113(2) and (3), C.R.S., shall sign and date such affirmation in the space provided.

N. The Model Traffic Code is further amended by the addition of a new section 1416 entitled “Minor driver restrictions” to read as follows in its entirety:

1416. Minor driver restrictions.

(1) Occupants in motor vehicles driven by persons under seventeen (17) years of age shall wear safety belts or be secured in a child restraint system as required by sections 236 and 237 of this code.

(2) No more than one (1) passenger shall occupy the front seat of the motor vehicle driven by a person under seventeen (17) years of ages and the number of passengers in the back seat of such vehicle shall not exceed the number of safety belts.

O. The preface to Part 17, Penalties and Procedures, is deleted in its entirety.

P. Section 1701 “Traffic offenses and infractions classified – penalties – penalty and surcharge schedule – repeal” is deleted and replaced in its entirety to read as follows:

(1) Except as set forth herein, it is a traffic infraction for any person to violate any of the code provisions set forth herein, as may specifically be amended by this Ordinance. Such a traffic infraction shall constitute a civil matter. The Colorado municipal court rules of procedure shall apply to traffic infraction proceedings, except that no bench warrant for arrest shall be issued for a defendant's failure to appear when the only violation charged is a non-criminal traffic infraction. Instead, the court may enter 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 Colorado Department of Revenue, Motor Vehicle Division, or to the motor vehicle department of any other State which participates in the Interstate Non-Resident Violator Compact, as codified at Section 24-60-2101, C.R.S., 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 trial by jury for any non-criminal traffic infraction.

(2) The following violations constitute criminal traffic offenses:

(a) A violation of section 1101(1) of the Model Traffic Code as adopted by this Ordinance involving driving twenty-five (25) or more miles per hour in excess of the maximum lawful speed limit or in excess of the lawful speed limit that is a criminal traffic offense.

(b) A violation of any of the following sections of the Model Traffic Code as adopted by this Ordinance: 107 (obedience to police officers), 507 (wheel and axle loads), 508 (gross weight of vehicles and loads), 705(2), 705(2.5) and 705(2.6) (operation of vehicle approached by emergency vehicle), 1105 (speed contests), 1208 (parking privileges for persons with disabilities), 1401 (reckless driving), 1402 (careless driving), 1409 (failure to show compulsory insurance), 1413 (eluding or attempting to elude police officer), 1703 (aiding or abetting a traffic offense), 1704 (offenses by persons controlling vehicles), and 1903 (failure to stop for a school bus).

(3) (a) Traffic infractions shall be subject to the following penalties:

Minimum Penalty	Maximum Penalty
A fine of \$25.00	A fine of up to \$1,000.00

Traffic offenses shall be subject to the following penalties:

Minimum Sentence / Penalty	Maximum Sentence / Penalty
1 day imprisonment, or fine of \$25.00, or both	Up to 1 year imprisonment, or a fine of up to \$1,000.00, or both

Subject to the minimum and maximum penalty limitations as set forth in this subsection (P)(3)(a) for each and every violation of this Article, and pursuant to C.M.C.R. 210(b)(4), the municipal court of the City may, by order, publish a suggested fine schedule (the “Fine Schedule”), which may from time to time be amended, supplemented, or repealed. The court may also designate the traffic offenses and infractions, the penalties for which may be paid at the office of the court clerk, and is therefore vested with jurisdiction to amend the Fine Schedule. The fines and penalties imposed by the municipal court will be within the limits set forth in this subsection (P)(3)(a).

In addition, the City Council of the City of Central may, from time to time, amend, repeal or supplement the Fine Schedule by resolution duly adopted following a public hearing thereon. Any changes to the Fine Schedule approved by the City Council shall be prominently posted in the municipal court, in a place where fines are to be paid, and in the office of the City Clerk.

(b) Court costs as authorized by State law and the municipal court shall be added to the fines and penalties set forth in the Fine Schedule.

(c) Any person convicted of a traffic infraction may be required to pay restitution as required by Article 18.5 of Title 16, C.R.S., and may be sentenced to perform a certain number of hours of community or useful public service in addition to any other sentence provided by subsection (3)(a) of this section.

(d) Every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this code shall be fined or penalized, and have a surcharge levied thereon, pursuant to any surcharge that has been or may be lawfully enacted by the City Council from time to time.

(e) All fines, costs and surcharges shall be paid to, receipted by, and accounted for by the violations clerk or court clerk. Nothing in this Article shall affect the jurisdiction of the municipal court to waive certain fines, costs and surcharges, based upon the particular facts of the case presented.

Q. Section 1702 “Counties - traffic offenses classified - schedule of fines” is deleted in its entirety.

R. Section 1705 “Person arrested to be taken before the proper court” is hereby added as follows:

1705. Person arrested to be taken before the proper court.

(1) Whenever any person is arrested by a police officer for any violation of this code, the arrested person shall, in the discretion of the officer, either be given a written notice or summons to appear in court as provided in section 1707 or be taken without unnecessary delay before a municipal or county judge who has

jurisdiction of such offense when the arrested person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court or will disregard a summons to appear. The court shall provide a bail bond schedule and available personnel to accept adequate security for such bail bonds.

(2) Any other provision of law to the contrary notwithstanding, a police officer may place a person who has been arrested and charged with a violation of Section 42-4-1301, C.R.S., and who has been given a written notice or summons to appear in court as provided in section 1707 in a State-approved treatment facility or alcoholism even though entry or other record of such arrest has been made. Such placement shall be governed by Part 3 of Article 1 of Title 25, C.R.S., except where in conflict with this section.

S. Section 1707 “Summons and complaint for traffic violations” is hereby added as follows:

1707. Summons and complaint for traffic violations.

(1) Whenever a person commits a violation of this Ordinance, and such person is not required by the provisions of section 1705 to be arrested and taken without unnecessary delay before a municipal judge, the law enforcement officer may issue and serve upon the defendant a summons and complaint which shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant’s driver’s license, if any, a citation of the statute or Model Traffic Code section alleged to have been violated, a brief description of the offense, the date and approximate location thereof, and the date the summons and complaint is served on the defendant; shall direct the defendant to appear in or otherwise respond to the City municipal court, at a specified time and place; shall be signed by the law enforcement officer; and shall contain a place for the defendant to execute a written promise to appear at the time and place specified in the summons portion of the summons and complaint.

(2) The City of Central may offer or extend to a defendant the opportunity for the defendant to pay a penalty assessment for a non-criminal traffic infraction prior to the date and time scheduled for the defendant’s appearance in City municipal court. Whenever a penalty assessment is made available for a traffic infraction, the defendant shall be required to execute a signed acknowledgment of guilt and shall pay the penalty prescribed by the City within a specified period of time, as well as provide such other information as may be required by the City. 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 and shall be deemed a complete satisfaction for the violation, and the City, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof, if requested.

T. Section 1709(1) “Penalty assessment notice for traffic offenses – violations of provisions by officer – driver’s license” is amended by inserting the phrase “or code provision,” after the phrase “citation of the statute” and by inserting the phrase “or municipal” after the phrase “in a specified county court.”

U. Section 1710(3) “Failure to pay penalty for traffic offenses – failure of parent or guardian to sign penalty assessment notice – procedures” is amended by adding the phrase “or Rule 248(b) of the Colorado Municipal Court Rules” after the phrase “in Section 18-1-405, C.R.S.”

V. Section 1710(5) “Failure to pay penalty for traffic offenses – failure of parent or guardian to sign penalty assessment notice – procedures” is enacted to provide:

(5) (a) Upon the date and at the time for appearance, if the defendant fails to appear and if the prosecution proves to the satisfaction of the Judge that venue is property and that defendant was served a summons and complaint at least ten (10) calendar days prior to the appearance date, the Judge may, for traffic offenses of not more than four (4) points (except for compulsory insurance), or a six (6) point offense of speeding, not more than twenty-four (24) miles over the posted speed limit, enter judgment and impose sentence, including costs against the defendant.

(b) Failure to appear on any date scheduled for trial shall constitute cause for entering a default judgment for all traffic offenses of not more than four (4) points (except for compulsory insurance) or a six (6) point offense of speeding not more than twenty four (24) miles over the posted speed limit, and upon entry of such default, the Judge may impose sentence including costs against the defendant.

(c) On the grounds of excusable neglect, the Judge may by motion of the defendant set aside an entry of default and the judgment entered thereon. Such motion must be filed with the court within seven (7) calendar days of the entry of judgment for such matter. A motion under this section shall not affect the finality of a judgment or suspend its operation.

(d) Any default entered in accordance with this section shall be certified to the State Motor Vehicle Division for enforcement.

(e) The court shall not issue a warrant for the arrest of any defendant against whom a default is entered and upon which a sentence is imposed thereon.

Sec. 8-5. Citation to State Statutes.

All references to provisions of the Colorado Revised Statutes (C.R.S.) that contain counterpart provisions to the adopted Model Traffic Code as contained in this Ordinance shall be deemed proper references to the counterpart provisions of the adopted Model Traffic Code. When enforcing the adopted Model Traffic Code, the City’s law enforcement officers and the City’s prosecuting attorneys and officials are authorized to cite to equivalent counterparts contained in

the Colorado Revised Statutes. Any citation by such persons to a State statute containing the substantially same or identical provisions as those found in counterpart sections of the adopted Model Traffic Code is equivalent to a citation to the relevant provisions of the adopted Model Traffic Code for purposes of notifying, designating, charging, prosecuting and penalizing violations of the adopted Model Traffic Code pursuant to this Ordinance.

Sec. 8-6. Violation and Penalties.

(a) It shall be unlawful for any person to violate any provision of this Article or to disobey any Official Traffic Control Device referenced herein. In any prosecution for any violation of this Article wherein the identity of violator is in question (such as parking citations issued when the driver of the vehicle is not present), there shall be a rebuttable presumption that the violation was committed by the Owner of the motor vehicle in which the violation occurred.

(b) Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this Article shall be paid into the treasury of the City of Central, Colorado.

(c) In addition to the fines and penalties prescribed in this Article and authorized by the Municipal Code, any person convicted of a violation of this Article, whether such person acknowledges guilt or liability, is found guilty by the municipal court, or has judgment entered against such person, shall be subject to a municipal court cost surcharge of thirty dollars (\$30.00). This surcharge shall be paid to the Clerk of the Court. Once paid into the treasury of the City, said moneys shall be segregated by the Finance Director, separately accounted for, and thereafter used by the City exclusively for funding necessary costs and expenses associated with the following: (1) victim services; (2) law enforcement training; and (3) prisoner expenses.

(d) The following penalties, herewith set forth in full, shall apply to this Article:

- (1) It is unlawful for any person to violate any of the provisions of this Article or of the 2010 edition of the Model Traffic Code, as adopted by the City of Central.
- (2) Every person convicted of a violation of any provision of this Article or of the Model Traffic Code shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment, pursuant to and in accordance with the Fine Schedule, as the same may be amended from time to time.
- (3) In the case of multiple traffic offenses involving aggressive driving, the applicable penalty or penalty assessment shall be doubled for each traffic offense. For purposes of this subsection, "aggressive driving" means committing any two (2) or more of the following violations in a single act or series of acts in close proximity to another motor vehicle: (1) exceeding the speed limits (section 1101); (2) following too closely (section 1008); (3) failure to obey official traffic control devices (section 603); (4) passing on

shoulder of road (section 1004); (5) failure to give an adequate signal (section 903); (6) failure to yield right-of-way (section(s) 701, 702, 703); and/or (7) unsafe lane change (section 1007).

- (4) Unless otherwise set forth in the Fine Schedule, the applicable penalty, penalty assessment or surcharge imposed for any moving traffic violation shall be doubled if the violation occurs within a school zone (section 615) or construction zone (section 614).

Sec. 8-7. Interpretation.

This Article shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and Section headings of this Article and adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or Section thereof.

Sec. 8-8. Certification.

The City Clerk shall certify to the passage of this Article and make not less than three (3) copies of the adopted Model Traffic Code available for inspection by the public during regular business hours.

Secs. 8-9----8-20. Reserved.

Section 2. Remaining provisions. Except as specifically amended hereby, all other provisions of the Central City Municipal Code and the various secondary codes adopted by reference therein, shall continue in full force and effect.

Section 3. Severability. Should any one or more sections or provisions of this Ordinance or of the "Model Traffic Code for Colorado" adopted hereby be judicially determined invalid or unenforceable, such judgment shall not affect, impair or invalidate the remaining provisions of this Ordinance or of the "Model Traffic Code for Colorado", the intention being that the various sections and provisions are severable.

Section 4. Repeal. Any and all ordinances or codes or parts thereof in conflict or inconsistent herewith are, to the extent of such conflict or inconsistency, hereby repealed; provided, however, that the repeal of any such ordinance or code or part thereof shall not revive any other section or part of any ordinance or code heretofore repealed or superseded and this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the effective date of this Ordinance.

Section 5. Authorization. The officers of the City are authorized and directed to take actions necessary and appropriate to effect the provisions of this Ordinance.

Section 6. **Effective Date.** This Ordinance shall become effective immediately following publication, public hearing and the approval of City Council following second reading in accordance with Sections 5.9 and 5.10 of the City Charter.

INTRODUCED AND READ by title only on first reading at the regular meeting of the City Council of the City of Central on the 2nd day of October, 2012, at Central City, Colorado.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

Approved as to form:

Linda C. Michow, City Attorney

ATTEST:

Reba Bechtel, City Clerk

PASSED AND ADOPTED on second reading, at the regular meeting of the City Council of the City of Central on the 6th day of November, 2012.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel, City Clerk

POSTED IN FULL AND PUBLISHED BY TITLE AND SUMMARY in the Weekly Register Call newspaper on October 11 & 25, 2012.

POSTED AND PUBLISHED BY TITLE [AND SUMMARY IF AMENDED ON SECOND READING] in the Weekly Register Call newspaper on November 8, 2012.

CITY OF CENTRAL, COLORADO

Ronald E. Engels, Mayor

ATTEST:

Reba Bechtel City Clerk