

TITLE 10

Vehicles and Traffic

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CHAPTER 10.04

Model Traffic Code

10.04.010 Adoption; copies on file.

Pursuant to Title 31, Article 16, Parts 1 and 2, C.R.S. 1973, as amended, there is adopted by reference Articles I to XXVI, inclusive, of the 1977 Edition of the *Model Traffic Code for Colorado Municipalities*, promulgated and published as such by the State Department of Highways, 4201 E. Arkansas Ave., Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Chapter and the code adopted in this Section is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and the nation. Three (3) copies of the Model Traffic Code adopted in this Section are now filed in the office of the Town Clerk, and may be inspected during regular business hours. The 1977 Edition of the Model Traffic Code is adopted as if set out at length. (Ord. 164 §1, 1978)

10.04.020 Additions or modifications.

The code adopted in Section 10.04.010 is subject to the following additions and modifications: Section 4-1 of Article IV, Section 4-2 of Article IV, and Section 4-3 of Article IV of the Model Traffic Code are deleted and the following addition adopted in their place:

"Section 4-1(a). No person shall drive a vehicle on a street or highway within this municipality at a speed greater than is reasonable and prudent under the conditions existing.

"(b) Except when a special hazard exists that requires lower speed, and except as otherwise provided herein, the following speeds shall be lawful:

"(1) Thirty-five miles per hour on Highway 50 as it passes through the Town of Swink and on Second Street, as it comprises part of Highway 50;

"(2) Twenty miles per hour on that part of Columbia Avenue, Powars Avenue, and Sixth Street located within one block of any school, and such areas shall be so posted by the Town Administrator;

"(3) Twenty miles per hour in all other business and residential districts in the Town."

(Ord. 208, 1991; Ord. 164 §2, 1978)

10.04.030 Application.

This Chapter shall apply to every street, alley, sidewalk area, driveway, park and 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 5-1, 5-2, 15-12, 21-11 and 23-3 of the adopted Model Traffic Code respectively concerning reckless driving, careless driving, unauthorized devices, eluding officer and accident investigation shall apply not only to public places and ways but also throughout this municipality. (Ord. 164 §4, 1978)

10.04.040 Interpretation.

This Chapter 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 the ordinance codified in this Chapter and the adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof. (Ord. 164 §7, 1978)

10.04.050 Violation; penalty.

The following penalties, herewith set forth in full, shall apply to this Chapter:

- (1) It is unlawful for any person to violate any of the provisions stated or adopted in this Chapter.
- (2) Every person convicted of a violation of any provision stated or adopted in this Chapter shall be punished by a fine not exceeding three hundred dollars (\$300.00), or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment. (Ord. 164 §3, 1978)

CHAPTER 10.08

Impoundment of Vehicles

10.08.010 Notice and hearing procedures.

Notices of impoundment and hearings regarding the removal and towing and storage fee assessments for vehicles removed and impounded pursuant to the authority contained in Chapter 8.12 of this Code, and the Model Traffic Code or other state statute shall be provided as follows:

- (1) Whenever a vehicle is impounded as authorized in this Chapter, the officer or employee of the Town who removed the vehicle or caused it to be removed and impounded shall make a diligent effort to ascertain from the registration, other records in the vehicle or otherwise, the name and address of the owner or any other person legally entitled to possession of the vehicle and shall immediately give or cause to be given notice in writing to such owner or person legally entitled to possession, indicating the fact of such removal, the reason therefor, the place to which such vehicle has been removed and the right to a post-removal administrative hearing as set forth in this Section. Written notice shall be mailed within forty-eight (48) hours of the removal. Saturdays, Sundays and Town holidays shall be excluded from this compilation.
- (2) Any person demonstrating a legal entitlement to possession of an impounded vehicle has a right to a post-removal administrative hearing to determine whether there was probable cause to impound the vehicle, and shall be so advised at the time the vehicle is retrieved. Demands for a hearing must be filed in writing on forms provided for such a hearing, with the Mayor within ten (10) days after the vehicle has been impounded or within ten (10) days after the mailing of the written notice of impounded vehicle required in Subsection (a) above, whichever occurs first.
- (3) Upon written request, a hearing shall be conducted before a hearing officer designated by the Mayor within forty-eight (48) hours of the receipt of a written demand therefor from the person seeking the hearing unless such person waives the right to a speedy hearing. Saturdays, Sundays and Town holidays shall be excluded from the calculation of the forty-eight-hour period. The hearing officer shall be someone other than the person who directed the removal and impounding and storage

of the vehicle. The sole issue before the hearing officer shall be whether there was probable cause to impound the vehicle. *Probable cause to impound* means such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of local, state or federal law to grant legal authority for the removal of the vehicle.

(4) The hearing officer shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The officer or other person responsible for the removal and impounding of the vehicle shall carry the burden of establishing that there was probable cause to remove and impound the vehicle in question. At the conclusion of the hearing, the hearing officer 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 hearing officer's decision shall in no way affect any traffic or criminal proceedings in connection with the removal and impound in question, and any such traffic or criminal charges involved in such proceeding may only be challenged in the appropriate court. The decision of the hearing officer shall be final. Failure of the registered or legal owner or his or her agent to request or attend a scheduled post-removal hearing shall be deemed a waiver of the right to such hearing.

(5) The hearing officer shall only determine that, as to the vehicle in issue, either: a) there was probable cause to impound the vehicle; or b) there was no such probable cause. In the event that the hearing officer determines that there was no probable cause, the hearing officer shall prepare and date a certificate of no probable cause, copies of which shall be given to the possessor of the vehicle and the officer or employee who caused the vehicle to be removed or impounded. Upon receipt of the possessor's copy of such certificate, the Town or the official police garage having custody of the vehicle shall release the vehicle to its possessor. Upon a finding of no probable cause, towing and storage fees shall be assumed by the Town. If such towing and storage fees have already been paid, they shall be reimbursed by the Town. (Ord. 198 §2, 1986)

10.08.020 Charges.

No vehicle removed and stored or impounded as provided for in Chapter 8.12 of this Code, the Model Traffic Code or other state statute shall be released until the charge for towing or otherwise removing such vehicle, together with the charge for storage of the same, has been paid or exonerated. The charges for towing, removal, storage and impoundment of such vehicles shall be established by the Board of Trustees. (Ord. 198 §1, 1986)