

CHAPTER 8

Vehicles and Traffic

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ARTICLE I

Model Traffic Code

Sec. 8-1. Adoption.

Pursuant to Title 31, Article 16, Parts 1 and 2, C.R.S., there are hereby adopted by reference Articles I and II, inclusive, of the 2009 edition of the *Model Traffic Code for Colorado*, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver, CO 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Article and the code adopted herein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the State and the Nation. One (1) copy of the Model Traffic Code adopted herein is now filed in the office of the Town Clerk and may be inspected during regular business hours, and at least one (1) copy shall be available for purchase. (Ord. 2009-003 §1)

Sec. 8-2. Additions, deletions or modifications.

The 2009 edition of the Model Traffic Code is adopted as if set out at length, save and except the following articles and/or sections which are declared to be inapplicable to the Town and are therefore expressly deleted or amended as follows:

(1) Section 225 – Mufflers – prevention of noise, Subsection (1.5) of the Model Traffic Code, is deleted and reenacted as follows:

"225. Mufflers – prevention of noise.

"(1.5) No motor vehicle, commercial or passenger, shall use an engine compression brake or similar device anywhere upon the streets or highways in the Town of Kersey.

"(2) The penalty for use of an engine compression brake in violation of Section 225(1,5) shall be a fine in the amount of five hundred dollars (\$500.00)."

(2) Subsection (5) of Section 237 is hereby deleted.

(3) Section 239 – Misuse of a wireless telephone, is hereby amended by the addition of Sections 4, 5 and 6.

"239. Misuse of a wireless telephone.

"(4) A person who holds a temporary instruction permit or a minor's instruction permit, and any person under 18 years of age shall not use a wireless telephone while operating a motor vehicle.

"(5) A person 18 years of age or older shall not use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission while operating a motor vehicle.

"(6) The definitions set forth in Colorado Revised Statutes 42-4-239 shall apply to any prosecution of any violation of this section."

(4) Section 1701 – Municipalities – traffic offenses classified – schedule of fines, is hereby amended to read as follows:

"1701. Municipalities – traffic offenses classified – schedule of fines.

"(1) Except as set forth herein, it is a traffic infraction for any person to violate any of the provisions of this Code. Such a traffic infraction shall constitute a civil matter. The Colorado Rules of Municipal Procedure shall apply to traffic infraction proceedings, except that no warrant for arrest shall be issued for the defendant's failure to appear when the only violation charged would constitute a noncriminal traffic infraction and the defendant's driver's license is issued by the State of Colorado or any other state which participates in the Interstate Nonresident Violator Compact, as codified at Section 24-60-2101, C.R.S. Instead, the court may enter a judgment of liability by default against the defendant for failure to appear, assess any penalty and costs established by law and report the judgment to the appropriate state motor vehicle department, which may assess points against the defendant's driver's license and may take appropriate action to ensure that the judgment is satisfied. There is no right to a trial by jury for any noncriminal traffic infraction.

"(2) A violation of Section 1101(1) involving driving twenty (20) or more miles per hour in excess of the lawful speed limit is a criminal offense.

"(3) Any person who violates Sections 607, 705, 1105, 1401, 1402(2), 1409, 1413, 1703 or 1903 of this Code commits a criminal traffic offense.

"(4) Decriminalized traffic infractions as provided in this Code shall be subject to the following penalties:

"Minimum Penalty	Maximum Penalty
\$20.00	\$1,000.00

"(5) Criminal traffic offenses as provided in this Code shall be subject to the following penalties, which are authorized upon conviction.

"Minimum Penalty	Maximum Penalty
Fine of \$20.00 or one day imprisonment or both	Fine of \$1,000.00 or ninety days imprisonment or both

"(6) Court costs and surcharges as authorized by law or ordinance shall be added to the fine or penalty.

"(7) In accordance with provisions of sections 1101 and 1102 and when official signs are erected giving notice thereof, the speed limit shall be as herein specified for the following streets or portions thereof:

<i>"Name of Street or Intersection</i>	<i>Terminal Limits</i>	<i>Speed Limit (mph)</i>
Hill Street (East & West)	East Town Limit to West Town Limit	30
Klein Street	Entire Course	25
Clark Street	From 1 st Street to 9 th Street	25
Campbell Street	Previously one-way, now two-way, from 1 st Street to 9 th Street	25
McIntire Street	From 1 st Street to 5 th Street	25
Trumbell Street	From 1 st Street to 5 th Street	25
Latham Street	From 1 st Street to East Town Boundary	25
Centennial Drive	From 1 st Street to South Town Boundary	25
Elder Street	From Centennial Drive to 5 th Street	25
Kohler Farms Road	5 th Street to 9 th Street	25
1 st Street	North Town Boundary to 616 feet North of the South Town Boundary	25
1 st Street	616 feet North of the South Town Boundary to the South Town Boundary	40
2 nd Street	North Town Boundary to Trumbell Street	25
2 nd Street Court	Entire Course	25
3 rd Street	North Town Boundary to Trumbell Street	25
3 rd Street Court	Entire Course	25
4 th Street	North Town Boundary to Trumbell Street	25
5 th Street	North Town Boundary to Trumbell Street	25
5 th Street	From Centennial Drive to South Town Boundary	25
6 th Street	From Clark Street to Campbell Street	25
6 th Street	From Centennial Drive to Elder Street	25
7 th Street	From Clark Street to Campbell Street	25
7 th Street	From Centennial Drive to Elder Street	25
8 th Street	Entire Course	25
9 th Street	North Town Boundary to Campbell Street	25
School Zones (when posted with a proper school zone sign)		20
Campbell Street from 9 th Street to 5 th Street		
Clark Street from 9 th Street to 4 th Street		
5 th Street from Hill Street to Campbell Street		
6 th Street from Campbell Street to Clark Street		
7 th Street from Campbell Street to Clark Street		
9 th Street from Hill Street to Campbell Street"		

"(8) Any speed in excess of the speed limits herein stated shall be the absolute speed limit and shall not be subject to the provisions of Section 1101(4)."

(5) Section 1707 is amended by the addition of additional Sections (7), (8) and (9), which shall read as follows:

"(7) Payment of a penalty assessment notice by the person to whom the notice is tendered shall constitute an acknowledgment of liability by such person of his or her violation of the offense stated in such notice.

"(8) Payment of the prescribed fine within the time set forth upon the penalty assessment shall be deemed a complete satisfaction for the violation and the Town, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof. Checks tendered and accepted and on which payment is received shall be deemed sufficient receipt.

"(9) Should the defendant charged by a penalty assessment notice accept the notice but fail to pay the prescribed penalty thereon within twenty (20) days thereafter, he or she shall be allowed to pay such penalty thereon and up to the maximum court costs permitted for municipal courts under state law to the Clerk of the Kersey Municipal Court prior to the time for appearance as specified in the notice."

(Ord. 129 §2, 1978; Ord. 5-1997 §3; Ord. 2001-05 §1; Ord. 2004-003 §2; Ord. 2009-003 §2; Ord. 2011-004 §1)

Sec. 8-3. Automatic points reduction.

If a person receives a notice of penalty assessment for a violation and such person pays the fine and surcharge for such violation on or before the payment is due as set forth in the penalty assessment, the points assessed for the violation will be reduced as follows:

(1) For a violation having an assessment of four (4) points: points are reduced by two (2) points.

(2) For a violation having an assessment of three (3) points: points are reduced by two (2) points. (Ord. 2004-003 §3)

Sec. 8-4. Application.

This Article shall apply to every street, alley, sidewalk area, driveway, park and to every other public way, public place or public parking area, either within or outside the corporate limits of the Town, the use of which the Town or the County has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402, 1413, and Part 16 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving, eluding a police officer and accidents and accident reports, shall apply not only to public places and ways but also throughout the Town. (Ord. 129 §4, 1978; Ord. 5-1997 §4; Ord. 2004-003 §4; Ord. 2009-003 §3)

Sec. 8-5. Interpretation.

The ordinance codified herein shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for regulation of vehicles and traffic. Article and section headings of the ordinance 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. (Ord. 5-1997 §8; Ord. 2004-003 §7; Ord. 2009-003 §6)

Secs. 8-6—8-20. Reserved.

ARTICLE II

Motor Vehicles

Sec. 8-21. Purpose.

The purpose of this Article is to prevent the accumulation of inoperable or junk vehicles and abandoned vehicles and to provide for the orderly parking of trailers and commercial and recreational vehicles. (Ord. 2005-008 §3)

Sec. 8-22. Definitions.

As used in this Article, the following words shall be construed to have the meanings defined below:

(1) *Abandoned vehicle* means any vehicle left unattended on public property, including any portion of any highway, street, alley or other right-of-way, for twenty-four (24) hours or longer unless the owner or driver has conspicuously affixed a dated notice stating his or her intention to return or has otherwise notified the Police Department of his or her intention to remove the vehicle within seventy-two (72) hours.

(2) *Administrative authority* means the Town Manager, the Town Manager's designee or such other administrative official appointed to perform inspections, removal or other duties and to promote the enforcement of this Code.

(3) *Driveway* means an improved concrete or asphalt path leading directly to one (1) or more Town-approved parking spaces constructed with a concrete, asphalt or similar all-weather surface.

(4) *Inoperable* means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned or unable to perform the functions or purposes for which a vehicle was originally constructed, not bearing a valid, unexpired license plate, unless of a type specifically exempted from motor vehicle licensing laws of the State or being incapable of being moved under its own power in its existing condition, and not having all tires inflated.

(5) *Parking* means the parking or leaving of an operable, licensed vehicle, current in its registration, for a temporary period.

(6) *Parking space* means an area allowed for the parking of a vehicle.

(7) *Parking space, storage* means a space for the storage of operable, licensed vehicles, current in registration, including recreational vehicles or equipment, for a period of thirty (30) days or longer.

(8) *Recreational equipment* means equipment intended for outdoor recreational use, including but not limited to snowmobiles, jet skis, all-terrain vehicles (ATVs), canoes, boats and trailers for transporting such equipment.

(9) *Recreational vehicle* means a vehicle which is designed, intended and used for purposes of temporary living accommodation for recreation, camping and travel use, including but not limited to travel trailers, truck campers, camping trailers and self-propelled motor homes, horse trailers and bus campers. For the purposes of this definition, neither a pop-up trailer or a truck topper accessory (also known as a camper shell), which is not higher than eight (8) inches above the truck cab when installed, shall be considered a recreational vehicle. A horse trailer used primarily for transport of horses and/or livestock to or from the site it is stored upon shall not be considered a recreational vehicle under this definition.

(10) *Vehicle* means a machine designed to be propelled by power other than human power and includes campers, trailers and other equipment designed to be carried upon or towed behind such powered vehicle, designed to travel along the ground by use of wheels, treads, runners or slides, or upon such vehicle, and to transport persons or property or pull machinery, and shall include without limitation automobile, airplane, truck, trailer, camper, motorcycle, motor scooter, snow machine, recreational vehicle, tractor, buggy and wagon. (Ord. 141 §I, 1979; Ord. 2005-008 §3)

Sec. 8-23. Abandoned motor vehicles.

It is unlawful to abandon any vehicle in the Town on public or private property as defined in this Chapter. Any vehicle abandoned in violation of this Chapter may be towed by the Police Department to an appropriate facility for holding such vehicle without liability to the Police Department or any agent acting on behalf of the Police Department for disposal according to state law. (Ord. 141 §III, 1979; (Ord. 2005-008 §3)

Sec. 8-24. Inoperable vehicles prohibited.

It is unlawful for any person to permit an inoperable vehicle to be left upon any street, highway, alley or public property or for any owner or occupant in possession of any real property to cause or permit any inoperable vehicle to be kept upon any real property in the Town, except under the following conditions, which shall constitute an affirmative defense:

(1) A vehicle is kept for no more than sixty (60) days while waiting for parts or repair or awaiting settlement of an insurance claim.

(2) A vehicle is stored within a completely enclosed structure or, in nonresidential areas, the vehicle is screened by a concealing fence not less than six (6) feet in height, which fence otherwise

complies with ordinances applicable to fences rendering the vehicle not visible to persons on adjacent private or public property and not accessible by children.

(3) In a nonresidential area when the property is lawfully zoned for the storage of motor vehicles or vehicle repair.

(4) A maximum of one (1) vehicle per lot or parcel of real property shall be permitted if said vehicle is entirely covered with a one-piece, opaque, heavy tarp or commercial car cover securely fastened at all times so as to be inaccessible to children or vandals, and weeds or trash are not allowed to accumulate around the vehicle. Vehicles kept pursuant to this Paragraph may be kept for not more than one (1) year, or up to two (2) years if the vehicle is registered to and being held for a member of a military service on active duty.

(5) No inoperable vehicle as authorized in this Section shall be permitted unless such vehicle is owned by the owner or occupant of the premises upon which such vehicle is located or by members of the nuclear family of the owner or occupant.

(6) No vehicle moved pursuant to this Code or pursuant to the administrative authority section of this Code shall be returned to the property in an inoperable condition for a period of twelve (12) months from the date of the administrative removal notice. (Ord. 141 §IV, 1979; Ord. 2005-O08 §3)

Sec. 8-25. Repair prohibited.

No owner or occupant of any property shall be permitted to conduct any repair of a motor vehicle on any street, highway or alley, except minor emergency repair which can be completed in twenty-four (24) hours. (Ord. 141 §VI, 1979; Ord. 2005-O08 §3)

Sec. 8-26. Street parking.

(a) No vehicle shall be parked on any street for more than seventy-two (72) hours.

(b) No implement or attachment to a vehicle or unlicensed trailer, buggy or wagon shall be parked on any street for any period of time. (Ord. 2005-O08 §3)

Sec. 8-27. Oversized commercial vehicles.

For purposes of this Section, *oversized commercial vehicle* means any vehicle registered, licensed or used for commercial purposes or displaying advertisements for commercial enterprise and exceeding twenty (20) feet in length (twenty feet [20] in combined length for vehicles with trailers), eight (8) feet or more in height, or fifteen thousand (15,000) pounds or more in gross weight. Oversized commercial vehicles are prohibited from parking in any area in the Town zoned for residential use (single-family, multi-family or PUD residential) as defined in Chapter 16 of this Code, either on the street, traveled roadway, public right-of-way or private residential property, with the following exceptions:

(1) Loading or unloading moving vans or similar-type vehicles used for moving personal goods, for a period not to exceed twenty-four (24) hours;

(2) Temporary parking for purposes of pickup or delivery of a parcel or merchandise, for a period not to exceed two (2) hours; and

(3) Construction equipment or machinery employed in any authorized construction project, for a period not to exceed the completion of such construction or construction project. (Ord. 2005-008 §3)

Sec. 8-28. Measurements.

Measurements made in the enforcement of this Article shall be made as follows:

(1) The height of vehicles shall be measured perpendicular to the parking surface to the uppermost portion of the vehicles, including loads or any projections attached thereto, with the exception of radio antennae, exhaust pipes and vents.

(2) The length of vehicles shall be measured parallel to the long axis (length) of the vehicles and shall include any projections permanently or temporarily attached thereto. (Ord. 2005-008 §3)

Sec. 8-29. Detached trailers, pickup campers and boats.

For purposes of this Article, *trailer* means any wheeled vehicle without a motive power and designed to be drawn by a motor vehicle. A *pickup camper* means a camper body capable of being loaded or unloaded from or to the bed of a pickup truck

(1) No trailer shall be detached from a towing vehicle and left standing in any public right-of-way.

(2) No pickup camper shall be unloaded from a pickup truck and left standing in any public right-of-way.

(3) No boat, whether standing on a trailer or standing by itself, shall be left standing on any public right-of-way unless attached physically to a motor vehicle. (Ord. 2005-008 §3)

Sec. 8-30. Recreational vehicles.

(a) No recreational vehicle shall be parked, attached or detached, or left standing on any street or public right-of-way within the Town. A recreational vehicle may be parked on a street for a period of time not to exceed forty-eight (48) hours within any seven-day period, provided that the recreational vehicle is being parked for the purpose of loading and unloading during such period and not for storage. No recreational vehicle shall be used for living, sleeping or temporary or permanent residential purposes on any street or public right-of-way within the Town

(b) In areas where the principal use is either single-family residential or two-family residential, recreational vehicles shall be permitted in the front side yard if located at least three (3) feet behind the sidewalk. If no sidewalk exists, recreational vehicles shall be located at least three (3) feet behind the property line. For the purpose of this Article, *behind the sidewalk or property line* means the property line or edge of a sidewalk opposite the street. On corner lots, recreational vehicles shall not

interfere with the clear vision zones described in Chapter 16. Recreational vehicles may be parked in driveways for loading, unloading or emergency repairs for a period of time not to exceed forty-eight (48) hours within any seven-day period

(c) Guests traveling in recreational vehicles shall be permitted to park their recreational vehicle in such front yard driveways for a maximum period of seven (7) consecutive days if: (1) the RV exterior is located at least three (3) feet back from the sidewalk or the front property line where no sidewalk exists; and (2) no clear vision zone is adversely affected by the parking of said recreational vehicle. Guest RV parking shall be limited to one (1) seven-day period per vehicle in twelve (12) consecutive months. Extensions to this period may be granted by an administrative variance for one (1) additional week where unusual circumstances warrant. In no event shall a variance be granted more than one (1) time in a three-hundred-sixty-five-day period of a single property unless there is a change in ownership or occupancy of the property. (Ord. 2005-008 §3; Ord. 2006-001 §1)

Sec. 8-31. Registration and condition of recreational vehicles.

Recreational vehicles, trailers or equipment that requires registration and/or a license by law shall be current in license or registration and shall be operable. Any such recreational vehicles, trailers or equipment not licensed or those not current in registration or that are inoperable in any area for any purpose are not allowed. Such vehicles and equipment must be legally registered to and/or owned by the owner or tenant of the dwelling on which the recreational vehicle or equipment is stored. (Ord. 2005-008 §3; Ord. 2006-001 §1)

Sec. 8-32. Prohibited uses.

(a) No motor vehicle, bus, trailer, coach, mobile home, self-propelled motor home or recreational equipment shall be used by any person for living, sleeping, housekeeping or preparation of food, while parking on any public right-of-way within the Town for which the principal use is residential, and may not be used for temporary or permanent living purposes on the site.

(b) No recreational vehicle or equipment stored or parked on a property in any zoning district shall be used for temporary or permanent living purposes for more than fifteen (15) days during any calendar year.

(c) No vehicle described in this Article shall be stopped, stored or parked so as to obstruct traffic sight lines or cause any safety hazard. (Ord. 2005-008 §3)

Sec. 8-33. Use for storage prohibited.

No motor vehicle as described in this Chapter, including trailers or recreational vehicles, whether operable or inoperable, shall be parked and used as storage facilities on any public or private property for more than forty-eight (48) hours in any area of the Town except in the Industrial Zone. Trailers or motor vehicles may be used for storage in the Industrial Zone only upon approval by the Planning Commission, if the Planning Commission finds that such use is compatible with the industrial neighborhood, the use will not have an adverse affect on the property values of adjoining or neighboring properties and the use will not result in an unsightly collection of inoperable vehicles or trailers or become rodent- or weed-infested and unsightly. (Ord. 2005-008 §3)

Sec. 8-34. Administrative authority.

The administrative authority is authorized and directed to inspect and supervise premises within the Town and if it is found that any vehicle, implement or attachment exists on any property in violation of this Chapter, the administrative authority may, in addition to any other action permitted under this Code, remove or cause to be removed from the property such vehicle, implement or attachment found on the premises or in the streets or alleys and assess and collect a reasonable charge from the owner or occupant in accordance with the notice, removal and assessment provisions of Section 8-35 below. (Ord. 2005-008 §3)

Sec. 8-35. Removal and assessment.

(a) If any person fails to comply with the provisions of this Chapter, in addition to the penalty provided therefor, a written notice may be served upon the owner or agent in charge of such property, such notice to be served personally or by mail, requiring the removal of the inoperable vehicle, abandoned vehicle or other vehicle in violation of this Code from the premises or the adjoining streets and alleys. Such notice shall require removal of the inoperable vehicle, abandoned vehicle or other vehicle within seven (7) days after mailing or delivery of such notice, except that if such vehicle may create a fire, health or safety hazard or harborage for rodents, such notice shall require removal within seventy-two (72) hours. If the inoperable vehicle, abandoned vehicle or other vehicle is not removed within the stated time and maintained within compliance for the remainder of the calendar year, the Town may remove or cause to be removed from the property such vehicles found on the premises or in the adjoining streets and alleys and assess the whole cost thereof, including fifteen percent (15%) of the costs for inspection and other incidental costs in connection therewith, upon the land. The costs and any charges assessed by the Town pursuant to this Chapter associated with removal of the vehicle shall be paid by the owner of the property or agent for such owner within thirty (30) days after mailing of the bill or assessment of such cost by the Town to said owner or agent. The Town shall have the right to proceed for the collection of any unpaid charges for vehicle removal in the manner provided by law for collection of debts and claims on behalf of the Town, including without limitation, collection and lien procedures provided in this Section.

(b) In addition to any other means provided by law for collection, if any such assessment is not paid within thirty (30) days after it is made and notice thereof is mailed, the same may be certified by the Town Clerk to the proper county authority and placed upon the tax list for the current year, and thereby collected in the same manner as other taxes are collected, with a fifteen-percent penalty thereon to defray the cost of collection, as provided by the laws of the State.

(c) Failure to pay, within ten (10) days after mailing or delivery to the owner of the property, the amount assessed for vehicle removal as described in this Section shall cause such assessment to become a lien against such lot, block or parcel of land associated with and benefiting from said services, and said lien shall have priority over all liens, except general taxes and prior special assessments, and the same may be effected at any time after such failure to so pay by recordation with county land records of a certification by the Town, setting forth the costs to be charged against the property, the dates of service and descriptions of services giving rise to such charges. This lien and collection procedure is supplementary and additional to any collection procedures described elsewhere within this Section or this Code. (Ord. 2005-008 §3)

Sec. 8-36. Appeal of assessment.

(a) Any owner or occupant who disputes the amount of such assessment made against the property may, within thirty (30) days of receipt of the notice of assessment, appeal the assessment and request a revision or modification of the assessment.

(b) The appeal shall be made in writing and delivered to the Town Clerk and shall set forth such information as the applicant believes appropriate. Such appeal shall be heard by the Board of Adjustment within thirty (30) days after the appeal is filed with the Town Clerk. Notice of such hearing and proceedings shall be given to the applicant at least ten (10) days prior to the hearing date. The petitioner shall have the burden of proof that revision or modification is necessary to preserve substantial justice.

(c) Within ten (10) days after the hearing, the Board of Adjustment shall make findings of fact based upon information presented, shall make a decision based upon such findings and may revise or modify such assessment, confirm the assessment or reject the assessment to promote substantial justice. The decision of the Board of Adjustment shall be in writing, shall be final and shall be served upon the applicant within ten (10) days after the date of such decision, personally or by certified mail, return receipt requested. (Ord. 2005-008 §3)

Sec. 8-37. Violation; penalty.

Any person, firm, corporation or other entity violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and each such person, firm, corporation or entity, upon conviction of any violation of this Article, shall be punished by a fine of not more than one thousand dollars (\$1,000.00) or be imprisoned for not more than ninety (90) days, or both such fine and imprisonment for each offense. Each day that a violation of this Article exists or continues to exist shall constitute a separate violation. The penalty herein set forth may be in addition to any administrative charge imposed. (Ord. 2005-008 §3)

Sec. 8-38. Certain vehicles prohibited.

(a) The operation on any public street, alley, sidewalk or other public right-of-way of any vehicle described as a motorized play vehicle or motorized skateboard is prohibited. This Section shall not apply to a children's play vehicle used by children under the age of ten (10) years when used on sidewalks, and when accompanied by an adult eighteen (18) years of age or older.

(b) Yard implements and all-terrain vehicles shall only be operated upon the public streets or alleys by a person who holds valid driving privileges pursuant to Title 42, C.R.S., shall display a slow-moving vehicle emblem as required by Section 234 of the Model Traffic Code and shall be operated only during daylight hours and pursuant to the requirements of Section 8-41 below regarding golf cars. Operation of yard implements and all-terrain vehicles shall only be operated in public streets or alleys incident to yard work. (Ord. 2011-001 §2)

Sec. 8-39. Golf car defined.

A *golf car* is a self-propelled vehicle not designed primarily for operation on roadways and that:

- (1) Has a design speed of less than twenty (20) miles per hour;
- (2) Has at least three (3) wheels in contact with the ground;
- (3) Has an empty weight of not more than one thousand three hundred (1,300) pounds; and
- (4) Has a carrying capacity of not more than four (4) persons.
- (5) Is a low-speed electric vehicle as defined in Section 42-1-102(48.6), C.R.S. A low-speed electric vehicle also includes low-speed vehicles, regardless of the power source. (Ord. 2011-001 §2)

Sec. 8-40. Operation of golf cars authorized.

Subject to the provisions of this Article, and except as prohibited herein, the operation of golf cars within the Town shall be lawful, except:

- (1) No golf car shall be operated by any person under the age of sixteen (16) years.
- (2) No golf car shall be operated by any person unless such person holds valid driving privileges pursuant to Title 42, C.R.S., or the equivalent under the law of any other jurisdiction within the United States.
- (3) No golf car shall be operated upon any sidewalk, pedestrian trail, park or recreational facility which is operated under authority of the Town.
- (4) Golf cars shall not be operated upon or across any portion of U.S. Highway 34, including Hill Street.
- (5) The operator of a golf car must obey all traffic and parking regulations otherwise applicable to motor vehicles.
- (6) No golf car shall be operated between sunset and sunrise or at any other time when, due to insufficient light or unfavorable atmospheric conditions, persons and vehicles on the highway are not clearly discernible at a distance of one thousand (1,000) feet ahead, unless such golf car is equipped and illuminated with headlamps, tail lamps, stop lamps and turn signals as required under Title 42, Article 4, Part 2, C.R.S.
- (7) No golf car shall be operated upon any portion of a roadway which is posted for a maximum speed of greater than forty (40) miles per hour, except that a golf car may be operated to directly cross a roadway that has a speed limit greater than forty (40) miles per hour at an at-grade crossing in order to continue traveling upon a roadway with a speed limit equal to or less than forty (40) miles per hour. Nothing in this Paragraph shall, however, be deemed to authorize the operation of a golf car upon or across any portion of U.S. Highway 34 or Hill Street.
- (8) Every golf car in operation upon any roadway within the Town shall at all times display the slow-moving vehicle emblem as required by Section 234 of the Model Traffic Code. (Ord. 2011-001 §2)

Sec. 8-41. Golf cars, operation within roadway.

The operation of golf cars shall be operated as close to the right side of the roadway as practicable, exercising due care when approaching, overtaking or passing a standing vehicle or one proceeding in the same direction, or when approaching, overtaking or passing a pedestrian or bicyclist. (Ord. 2011-001 §2)

Sec. 8-42. Violations.

Violations of Sections 8-38 through 8-41 above shall be punished as set forth in Section 8-37 of this Article. (Ord. 2011-001 §2)

Secs. 8-43—8-60. Reserved.

ARTICLE III

Reserved

ARTICLE IV

Drivers' Licenses and Vehicle Registration

Sec. 8-61. Definition.

Streets or highways, as used in this Article, shall also include any street, highway, alley, public right-of-way or public parking lot within the Town. (Ord. 3-98 §6, 1998)

Sec. 8-62. Licenses for drivers required.

(a) Except as otherwise provided by Colorado law for commercial drivers, no person shall drive any vehicle upon a street or highway in the Town unless such person has been issued and has in his or her possession a currently valid driver's, minor driver's or provisional driver's license or instructional permit.

(b) No person shall drive any motor vehicle upon a street or highway in the Town if such person's driver's, minor driver's or provisional driver's license has been expired for one (1) year or less or such license has been suspended, revoked or otherwise under restraint, and such person has not been issued another such license by the State of Colorado or by another state or country subsequent to such expiration.

(c) No person shall drive any motor vehicle upon a street or highway in the Town unless such person has been issued a currently valid driver's, provisional driver's or minor driver's license or instruction permit and has such license or permit in his or her immediate possession at the time of such driving. A charge of a violation of this Subsection shall be dismissed by the Court if the defendant elects not to pay the fine and at or before the defendant's scheduled court appearance, the

defendant exhibits to the Court a currently valid driver's license, provisional driver's license or minor driver's license which was valid on the date of the alleged offense.

(d) No person who has been issued a currently valid driver's, minor driver's or provisional driver's license or instruction permit shall drive a type or general class of motor vehicle upon a street or highway in the Town for which such person has not been issued a correct type or general class of license or permit.

(e) The conduct of a driver of a motor vehicle which would otherwise constitute a violation of this Section is justifiable and not unlawful when:

(1) It is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of said driver and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by this Section; or

(2) The issue of justification or exemption is an affirmative defense. As used in this Section, *affirmative defense* means that, unless the Town's evidence raises the issue involving the particular defense, the defendant, to raise the issue, shall present some credible evidence on that issue. If the issue involved in an affirmative defense is raised, then the liability of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the traffic infraction.

(f) Notwithstanding any law to the contrary, a second or subsequent conviction under Subsection (a) or (d) above, when a person receiving such conviction has not subsequently obtained a valid Colorado driver's license or the correct type or general class of license, shall result in the assessment by the State of six (6) points against the driving privilege of the person receiving such second or subsequent conviction. (Ord. 3-98 §1, 1998)

Sec. 8-63. Persons exempt from license.

The following persons need not obtain a Colorado driver's license:

(1) Any person who operates a federally owned military motor vehicle while serving in the Armed Forces of the United States.

(2) Any person who temporarily drives or operates any road machine, farm tractor or other implement of husbandry on a street or highway.

(3) Any nonresident who is at least sixteen (16) years of age and who has in his or her immediate possession a valid driver's license issued to such nonresident by his or her state or country of residence. A nonresident who is at least sixteen (16) years of age and whose state or country of residence does not require the licensing of drivers may operate a motor vehicle as a driver for not more than ninety (90) days in any calendar year if said nonresident is the owner of the vehicle driven and if the motor vehicle so operated is duly registered in such nonresident's state or country of residence and such nonresident has in his or her immediate possession a registration card evidencing such ownership and registration in his or her own state or country.

(4) A nonresident on active duty in the Armed Forces of the United States if that person has in his or her possession a valid driver's license issued by such nonresident's state of domicile or, if returning from duty outside the United States, has a valid driver's license in his or her possession issued by the Armed Forces of the United States in foreign countries, but such Armed Forces license shall be valid only for a period of forty-five (45) days after the licensee has returned to the United States.

(5) The spouse of a member of the Armed Forces of the United States who is accompanying such member on military or naval assignment to this State, who has a valid driver's license issued by another state, and whose right to drive has not been suspended or revoked in this State.

(6) Any nonresident who is temporarily residing in the State for the principal purpose of furthering such nonresident's education, is at least sixteen (16) years of age, has a valid driver's license from his or her state of residence and is considered a nonresident for tuition purposes by the educational institution at which such nonresident is furthering his or her education.

(7) Any person who has in his or her possession a valid driver's license issued by such person's previous state of residence shall be exempt for thirty (30) days after becoming a resident of the State from obtaining a license. (Ord. 3-98 §2, 1998)

Sec. 8-64. Instruction permits and temporary licenses.

Any minor or any person who, except for such person's lack of instruction in operating a motor vehicle, a motorcycle or a motor-driven cycle, has obtained a Colorado temporary instruction permit shall be accompanied by a licensed driver, twenty-one (21) years of age or over, who is actually occupying the seat beside the driver or, in the case of a motorcycle or a motor-driven cycle, under the immediate supervision of a licensed driver twenty-one (21) years of age or over, authorized pursuant to Colorado statutes to drive a motorcycle or motor-driven cycle. (Ord. 3-98 §3, 1998)

Sec. 8-65. Permitting unauthorized person to drive.

No person shall authorize or knowingly permit a motor vehicle owned by such person or under such person's hire or control to be driven upon any street or highway by any person who has not been issued a currently valid driver's, minor driver's or provisional driver's license or instruction permit or shall cause or knowingly permit such person to drive a motor vehicle upon any street or highway in violation of the conditions, limitations or restrictions contained in a license or permit which has been issued to such other person. (Ord. 3-98 §4, 1998)

Sec. 8-66. Expired license plates.

(a) Every vehicle registration issued by the State shall expire on the last day of the month at the end of each twelve-month registration period and shall be renewed, upon application by the owner and the payment of the fees required by law, not later than thirty (30) days after the date of expiration.

(b) No person shall lend to or knowingly permit the use by one not entitled thereto any certificate of title, registration card or registration number plate issued to the person so lending or permitting the use thereof.

(c) No person shall drive a motor vehicle upon the streets and highways within the Town without a valid certificate of title, registration card or registration number plate in the driver's immediate possession. (Ord. 3-98 §5, 1998)

Sec. 8-67. Penalties.

(a) It shall be unlawful for any person, firm, corporation or other entity to violate any of the provisions of this Article.

(b) Any person, firm, corporation or other entity violating any of the provisions of this Article shall be deemed guilty of a misdemeanor and each such person, firm, corporation or entity upon conviction of any violation of this Article shall be punished by a fine of one hundred dollars (\$100.00) for the first offense and two hundred dollars (\$200.00) for the second offense. The fine herein established shall be considered a minimum fine and any person may be punished by a fine of not more than one thousand dollars (\$1,000.00) or be imprisoned for not more than ninety (90) days, or both such fine and imprisonment for each offense.

(c) Any person who is under the age of eighteen (18) years shall be punished by a fine as set forth in Subsection (b) above, but in no event shall the fine be more than one thousand dollars (\$1,000.00), nor shall imprisonment be a penalty for any person under the age of eighteen (18) years. Notwithstanding this Section, the application of imprisonment penalties which may otherwise be applicable to such offenses and as are allowed by state law may be imposed at the discretion of the Municipal Judge. (Ord. 3-98 §7, 1998)

Secs. 8-68—8-80. Reserved.