

**ORDINANCE NO. 8  
SERIES 2003**

**AN ORDINANCE FOR THE REGULATION OF TRAFFIC BY THE CITY OF GUNNISON, COLORADO; ADOPTING BY REFERENCE THE 2003 EDITION OF THE "MODEL TRAFFIC CODE FOR COLORADO"; REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING PENALTIES FOR VIOLATION THEREOF.**

**NOW, THEREFORE, THE COUNCIL OF THE CITY OF GUNNISON, COLORADO, ORDAINS:**

Section 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 Articles I and II, inclusive, of the 2003 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, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the City. The purpose of this ordinance 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. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the Clerk of the City of Gunnison, Colorado, and may be inspected during regular business hours.

Section 2. Additions or Modifications. The said adopted Code is subject to the following additions or modifications:

Part 1, Section 109(9), Restricted Use of Snowmobiles, Skis, Toboggans, Coasters, Skates, and Similar Devices, is hereby amended to read as follows:

(a) Except as provided in subsection b of this section, it shall be lawful for persons to use any street or highway within this municipality for traveling on roller skis, coasters, roller skates, skateboards, or similar devices.

(b) It shall be unlawful for persons to use U. S. Highway 50, also known as Tomichi Avenue, and Colorado Highway 135, also known as Main Street, for traveling on roller skis, coasters, roller skates, skateboards, or similar devices, except while crossing these streets in a crosswalk, and when so crossing, such person shall be granted all the rights and shall be subject to all of the duties applicable to pedestrians.

(c) Every person traveling on roller skis, coasters, roller skates, skateboards, or similar devices upon a roadway where their travel is permitted shall be granted all of the rights and shall be subject to all of the duties and penalties applicable to the driver of a vehicle as set forth in this code, except those provisions of this code which, by their very nature, can have no application. Said persons shall also comply with special rules set forth in this article. Whenever the word "vehicle" is used in any of the driving rules set forth in this code that are applicable to users of roller skis, coasters, roller skates, skateboards, and other similar devices, such term shall include the aforementioned.

(d) Every person traveling on roller skis, coasters, roller skates, skateboards, or similar devices shall obey the instructions of official traffic control devices applicable to vehicles, unless otherwise directed by a police officer.

(e) Persons traveling on roller skis, coasters, roller skates, skateboards, or similar devices shall not impede the normal flow of traffic or travel in such a manner as to disrupt the normal flow of traffic.

(f) Every person traveling on roller skis, coasters, roller skates, skateboards, or similar devices upon a street or highway shall ride as close to the right side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.

(g) Persons traveling on roller skis, coasters, roller skates, skateboards, or similar devices shall not ride more than two abreast except on lanes or parts of roadways set aside for their use.

(h) No person traveling on roller skis, coasters, roller skates, skateboards, or similar devices shall attach the same or himself to any vehicle being operated upon the roadway.

(i) No person shall travel on roller skis, coasters, roller skates, skateboards, or similar devices on sidewalks or areas designated for pedestrian use.

(j) No person shall use any street or highway within this municipality for traveling on toboggans or coasting sleds, and it shall be unlawful for any person to use the roadways within this municipality as a sled course for the purpose of coasting on sleds or toboggans.

(k) A snowmobile may be operated on streets and highways under the jurisdiction of this municipality only when such operation is authorized by special ordinance or addition to this code and appropriate notice is given thereof, and then only in the manner and on such streets prescribed by such ordinance consistent with the provisions of State law.

Part 12, Section 1203, Parking Not to Obstruct Traffic or Maintenance, is amended by the addition of the following:

Parking Not to Obstruct Traffic or Maintenance. No person shall park any vehicle upon a street or highway in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance.

Part 12, Section 1205, Parking at Curb or Edge of Roadway, is amended by the addition of:

(3)(a). On those streets which have been approved and signed or marked for angle parking, no person shall stop, stand, or park a vehicle other than at an angle to the curb at the edge of the roadway indicated by such signs or markings with its right front wheel within twelve (12) inches of the curb or edge of the roadway.

Part 12, Section 1206, Unattended Motor Vehicles, is amended by the addition of:

(1) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition, and effectively setting the brake thereon, and when standing upon any grade, said person shall turn the front wheels to the curb or side of the highway in such a manner as to prevent the vehicle from rolling onto the traveled way.

(2) No person driving or in charge of a diesel engine motor vehicle shall permit it to idle, whether attended or unattended, for a period in excess of thirty (30) minutes in any one (1) hour period anywhere within the city, other than a location designated for such activities by either the City Manager or the Chief of Police.

Part 18, Towing and Storage, is amended by the addition of:

Section 1801. Authority to Impound Vehicles.

(a) Whenever any police officer or neighborhood services officer finds a vehicle, attended or unattended, standing upon any portion of a street or highway right-of-way within this munic-

ipality in such a manner as to constitute a violation of Section 1203

Ordinance No. 8  
Series 2003  
Page Three

of this Code, or left unattended for a period of forty eight (48) hours or more and presumed to be abandoned under the conditions described by 42-4-1802(1), C.R.S., as amended, such officer shall require such vehicle to be removed or cause the same to be removed and placed in storage in the nearest garage or place of safety designated or maintained by this municipality.

(b) In the event of abandonment of a vehicle on property within this municipality other than public rights-of-way, the owner of such property may notify the police department, and said police shall, after a period of forty eight (48) hours, cause said vehicle to be removed and placed in storage in the nearest garage or other place of safety designated or maintained by this municipality.

(c) Vehicles removed from streets or highways and other property within this municipality and placed in storage as provided in Section 1801 of this Code shall be disposed of in accordance with the provisions of Title 42, Article 4, Part 18, C.R.S.

(d) Whenever a police officer or neighborhood services officer orders the towing of a vehicle, and the police officer knows or is able to ascertain the name and address of the owner thereof, such police officer shall give or cause to be given notice in writing to such owner of the fact of such removal, and the reasons therefor, and of the place to which such vehicle has been removed. In the event any such vehicle is stored in an authorized garage, a copy of such notice shall be given to the proprietor of such garage. The written notice shall also contain the following statement:

A police officer or neighborhood services officer has ordered the towing of your vehicle. If you feel that the impoundment of your vehicle was improper, you have ten (10) days from the date of this notice to file a written request with the Gunnison Municipal Court located at 201 West Virginia Avenue, Gunnison, Colorado 81230, for a hearing regarding the propriety of this impoundment. Such hearing shall be scheduled on the earliest regularly-scheduled Municipal Court date from the date your written request is received by the Gunnison Municipal Court. The Court shall be empowered to waive the towing and storage fees, if it is found that the impoundment was improper. The retrieval of your vehicle from impoundment does not waive your right to a subsequent hearing and reimbursement. In conjunction with a request for a hearing, you are encouraged to also contact the watch commander of the Gunnison Police Department for purposes of resolving a dispute concerning the impoundment of your vehicle without the necessity of having a formal hearing.

The written notice shall be deposited in the United States Mail within twenty-four (24) hours from the time of the impoundment of the vehicle, excluding Saturday, Sunday, and holidays. The written notice may also be personally handed to the owner.

(e) A hearing shall be conducted before the Gunnison Municipal Court on the earliest regularly-scheduled Municipal Court date from the date of receipt of a written demand therefor from the person seeking the hearing, unless such person waives the right to a speedy hearing in writing. Saturdays, Sundays, and City holidays are to be excluded from the calculation of the period. The sole issue before the Court shall be whether there was probable cause to

impound the vehicle in question.

Ordinance No. 8  
Series 2003  
Page Four

“Probable cause to impound” shall mean such a state of facts as would lead a person of ordinary care and prudence to believe that there was sufficient breach of law to grant legal authority for the removal of the vehicle.

The Court shall conduct the hearing in an informal manner and shall not be bound by technical rules of evidence. The person demanding the hearing shall carry the burden of establishing that such person has the right to possession of the vehicle. The City of Gunnison shall carry the burden of establishing that there was probable cause to impound the vehicle in question. The burden of proof shall be by a preponderance of the evidence. The decision shall be a final decision of the Gunnison Municipal Court. Failure of the registered or legal owner, or his agent, to request or attend a scheduled post-seizure hearing shall be deemed a waiver of the right to such hearing.

(f) Upon a determination by the Court that the subject vehicle was improperly towed, the City of Gunnison shall either fully reimburse the owner of the impounded vehicle for all towing and storage fees paid by the owner, or directly pay the towing and storage company for accrued fees.

(g) The hearing and reimbursement provisions contained in this section shall only be applicable to vehicles which have been impounded by order of a police officer or neighborhood services officer.

(h) The requirements contained within this section relating to compliance with time periods are directory in nature. Failure of the City to strictly comply with said time periods shall not cause an automatic forfeiture of the City's rights.

Section 3. Penalties. The following penalties, herewith set forth in full, shall apply to this ordinance:

A. It is unlawful for any person to violate any of the provisions adopted in this ordinance.

B. Every person convicted of a violation of any provision adopted in this ordinance shall be punished by a fine not exceeding One Thousand Dollars (\$1,000.00) or by imprisonment not exceeding ninety (90) days, or by both such fine and imprisonment.

Section 4. Application. This ordinance shall apply to every street, alley, sidewalk area, driveway, park, and to every other public way or public place or public parking area, either within or outside the corporate limits of this municipality, the use of which the municipality has jurisdiction and authority to regulate. The provisions of Sections 1401, 1402, 1413, and 606 of the adopted Model Traffic Code, respectively, concerning reckless driving, careless driving, eluding a police officer, and unauthorized devices, shall apply not only to public places and ways, but also throughout this municipality.

Section 5. Validity. If any part or parts of this ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

Section 6. Repeal. Existing or parts of ordinances covering the same matters as embraced in this ordinance are hereby repealed, and all ordinances or parts of ordinances inconsistent with the provisions of this ordinance are hereby repealed, except that 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 taking effect of this ordinance.

Section 7. Interpretation. This ordinance 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 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.

Ordinance No. 8  
Series 2003  
Page Five

Section 9. Certification. The City Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

**INTRODUCED, READ, PASSED, AND ORDERED PUBLISHED** this 24<sup>th</sup> day of June, 2003, on first reading, and introduced, read, and adopted on second and final reading this 22nd day of July, 2003.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk