

# COUNCIL COMMUNICATION

<b>Meeting Date:</b> July 27, 2010	1 <sup>st</sup> Reading _____ 2 <sup>nd</sup> Reading <u>  X  </u>	<b>Legal Review:</b>	<b>Agenda Location:</b> Action Items	<b>Agenda Item:</b> 10B
<b>Subject:</b> AN ORDINANCE AMENDING SUBSECTION 14-7(d) OF THE THORNTON CITY CODE PERTAINING TO THE TRAFFIC VIOLATIONS BUREAU AND CLASSIFICATION OF PARKING VIOLATIONS.				
<b>Prepared by:</b> Tom Manka		<b>Approved by:</b> Jack Ethredge		<b>Ordinance previously introduced by:</b> <u>Fox _____</u>
<b>Reviewed by:</b> Jim Nursey		<b>Presented by:</b> Jim Nursey		

**KEY CONSIDERATIONS:**

- Currently, Subsection 14-7(d) of the Code classifies parking violations as municipal ordinance offenses, which are punishable by a fine and jail.
- The 2010 Model Traffic Code to be considered for adoption, classifies all parking violations as traffic infractions, which are punishable only by a fine.
- This ordinance revises Subsection 14-7(d) of the Code to allow parking tickets to be prosecuted as infractions to be consistent with the 2010 MTC.
- Classifying parking tickets as infractions will allow the Judge to enter a default judgment, meaning a guilty plea will be entered against the defendant and the judgment will be entered against the defendant in the amount of the fine and the court costs.
- This process is unavailable if the parking ticket is not classified as an infraction and is used for all other types of traffic infractions.
- The Court may send default judgments to collections for the full amount of the fines and costs to be collected against the registered owner.

**BUDGET/STAFF IMPLICATIONS:**

- None.

**RECOMMENDATION:**

- Staff recommends approval of the Ordinance reclassifying Thornton parking violations as a traffic infraction to provide consistency in the application of the law between state and local jurisdictions.

**HISTORY:**

- Historically, arrest warrants have been issued when persons receiving a parking ticket fail to appear for their arraignments. Arrest warrants are authorized when the violation is a municipal ordinance offense. These arrest warrants are not placed in the Colorado Crime Information System because parking tickets are not personally served to the owner/operator and they lack the specific identifying information necessary to enter an arrest warrant. Traffic infractions are not eligible for warrants but can be adjudicated, if the defendant fails to pay or appear, by entering the default judgment.
- The State recently clarified the classification of parking violations through the adoption of the 2010 Model Traffic Code.

INTRODUCED BY: Fox

AN ORDINANCE AMENDING SUBSECTION 14-7(d) OF THE THORNTON CITY CODE PERTAINING TO THE TRAFFIC VIOLATIONS BUREAU AND CLASSIFICATION OF PARKING VIOLATIONS.

WHEREAS, the City of Thornton ("City") currently classifies parking violations as municipal ordinance offenses; and

WHEREAS, the Police Department and Courts have determined that parking violations should be treated as infractions to mirror the 2010 Model Traffic Code; and

WHEREAS, it is necessary to amend Section 14-7(d) to classify parking violations as infractions in the City to promote the public safety and welfare.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF THORNTON, COLORADO, AS FOLLOWS:

1. Subsection 14-7(d) of the Code is hereby amended by the deletion of the words stricken to read as follows:

*Sec 14-7. Traffic Violations Bureau*

(d) For purposes of this section, a traffic infraction is any violation of Article XII of Chapter 38 of this Code which is not punishable by imprisonment, ~~but shall not include parking violations.~~

2. If any portion of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the constitutionality or validity of the remaining portions of this ordinance. City Council hereby declares that it would have passed this ordinance and each part hereof irrespective of the fact that any one part be declared unconstitutional or invalid.

3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.

4. The repeal or amendment of any provision of the Code by this ordinance shall not release, extinguish, alter, modify, or change in whole or in part any penalty, forfeiture, or liability, either civil or criminal, which shall have been incurred under such provision, and each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings, and prosecutions for the enforcement of the penalty, forfeiture, or liability, as well as for the purpose of sustaining any judgment, decree, or order which can or may be rendered, entered, or made in such actions, suits, proceedings, or prosecutions.

5. This ordinance shall take effect on July 27, 2010.

INTRODUCED, READ, PASSED on first reading, ordered posted in full, and title ordered published by the City Council of the City of Thornton, Colorado, on July 13, 2010.

PASSED AND ADOPTED on second and final reading on \_\_\_\_\_, 2010.

CITY OF THORNTON, COLORADO

\_\_\_\_\_  
Erik Hansen, Mayor

ATTEST:

\_\_\_\_\_  
Nancy A. Vincent, City Clerk

THIS ORDINANCE IS ON FILE IN THE CITY CLERK'S OFFICE FOR PUBLIC INSPECTION.

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
Margaret Emerich, City Attorney

PUBLICATION:

Posted in six (6) public places after first and second readings.

Published in the Northglenn-Thornton Sentinel after first reading on July 22, 2010, and after second and final reading on \_\_\_\_\_, 2010.