

STANDING ORDER REGARDING PHOTO RADAR NOTICES OF VIOLATIONS

In order to facilitate the processing of NOTICES OF VIOLATIONS by the Municipal Court, issued pursuant to the AVIS photo radar system, and under the authority of the Town of Simla Ordinance authorizing the use of Photo Radar (Ordinance 350 adopted by the Town of Simla August of 2025), the Court issues this STANDING ORDER regarding the procedures that will be applied to all REGISTERED OWNERS who receive a NOTICE OF VIOLATION:

Under the Authority of subsection 5-6-6 of Ordinance 350, a registered owner who receives a NOTICE OF VIOLATION as described above may dispute the NOTICE as to the following issues: improper use of the license plate which is attached to the vehicle which was the subject of the NOTICE OF VIOLATION, and mistaken identity of the vehicle subject to the NOTICE, and by implication mistaken identity of the registered owner of the subject vehicle.

Any such contest pursuant to subsection 5-6-6 will be deemed to be a civil proceeding subject to the Colorado Rules of Evidence (CRE) with a burden of proof of preponderance of the evidence. The proponent of the dispute will bear the above- described burden of proof as to the relevant issues for such a contest as described above. The Court finds that the enabling State Statute (C.R.S 42-4-110.5) and the Town of Simla Ordinance deem such proceedings to be CIVIL in nature based on subsection 5-6-3 of the Town of Simla Ordinance 350 by the specific use of the term CIVIL PENALTY. Further, considering the enabling statute and the Town's Ordinance as a whole, it is clear that given the lack of any enforcement mechanisms, save collection efforts to collect unpaid civil penalties, the legislature intended that these proceedings be CIVIL in nature. Finally, the Court finds that the Town Board by bestowing jurisdiction upon the Municipal Court to hear such contests, the Town Board contemplated a judicial proceeding, not an administrative hearing

Further, the Court ORDERS that all such contested hearings described above, and contemplated in both the State Statute, and the Town's Ordinance must be conducted with an in-person appearance of the REGISTERED OWNER, and only the registered owner. The only manner in which a REGISTERED OWNER would be relieved of an in- person appearance would be if an attorney licensed in the State of Colorado appears on such person's or entity's behalf. The Court in issuing this ORDER relies on the Chief Justice Directive (23-03) issued by the Chief Justice of the Colorado Supreme Court regarding virtual proceedings in State Court. This directive which the Court incorporates by reference in this ORDER is not binding on Municipal Courts in the State of Colorado; however, this Court believes that it is persuasive authority this Court can use to issue this ORDER. The Court therefore notes that in the above referenced DIRECTIVE, there are categories of proceedings deemed to be presumptive in- person proceedings. One of the

categories for presumptive in- person proceedings is COURT TRIALS FOR ANY CASE TYPE. This Court again reiterates that the proceedings contemplated in the Town's Ordinance is essentially a TRIAL TO THE COURT, and thus presumptively an in-person proceeding.

The Court further concludes that presumptions are rebuttable and can be overcome, but only for good cause. Thus, the only manner in which the Court will vary from the requirement of an in-person appearance is if the proponent of the challenge (REGISTERED OWNER) demonstrates a complete inability to attend such a proceeding. To meet such a burden, the REGISTERED OWNER must submit a motion in writing to the Court demonstrating such good cause, together with supporting documentation. The Court will then review such documentation, and determine whether in the exercise of its discretion, the in-person appearance requirement will be waived.

The Court further ORDERS that no contest as contemplated in section 5-6-6 will be accepted by the Court unless the proponent of the contest (REGISTERED OWNER) submits the reason for contest in writing as described in the NOTICE OF VIOLATION, and facially demonstrates that one of the two issues for contest described above exist. Further, the proponent of the contest (REGISTERED OWNER) will be required to submit documentation in support of, and in addition to, the bare allegation raising one of the issues described above. Failure to comply with this requirement will result in a denial of the contest, and will result in a finding of liability by default.

Finally, in the event any (REGISTERED OWNER) wishes to raise any issue relating to the creation, and maintenance of the AVIS system all such issues must be raised in written form with attached documentation in support of the issue(s) raised. Any such claims must be raised at the same time, and in the same manner as the above- described notice of contest described in section 5-6-6 of the Town's Ordinance. Failure to follow this procedure will result in a finding by the Court that the issue raised has been abandoned, and will not be adjudicated. The Court notes that all the necessary documents needed for any such claims are contained on the Town of Simla's website. The Court will not be providing those documents as they can be readily accessed, viewed and copied from the website.

The Court concludes this ORDER with the following admonitions: All time frames outlined in the Town's Ordinance will be strictly adhered to by the Court, and a failure to comply will result in a denial of the CONTEST which will then result in a default ORDER finding liability for the CIVIL PENALTY. Further, if any registered owner interacts with the Court Staff in an angry, profane or otherwise vituperative manner, the Court will deem such interaction to constitute a FORFEITURE of the right to contest the NOTICE OF VIOLATION, and the Court will enter a default judgment finding liability ,and will reduce the penalty assessment to judgment, and will refer that amount for collection action.

By the Court Nunc Pro Tunc to January 1, 2026

Stephen Jones

Municipal Judge

Town of Simla

A handwritten signature in black ink, consisting of a stylized 'S' followed by a horizontal line that ends in a small dot.