

CITY OF CRIPPLE CREEK, COLORADO

ORDINANCE 2021-04

A BILL FOR AN ORDINANCE FOR THE REGULATION OF TRAFFIC BY THE CITY OF CRIPPLE CREEK COLORADO; ADOPTING BY REFERENCE THE 2020 EDITION OF THE "MODEL TRAFFIC CODE" REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF

WHEREAS, the City Council of the City of Cripple Creek determines that the City shall adopt the 2020 edition of the Model Traffic Code for Colorado ("Model Traffic Code"), as amended; and

WHEREAS, the City of Cripple Creek agrees with the recognition by the Colorado General Assembly that every driver should expect the rules of the movement of vehicles and pedestrians on streets and highways to be reasonably uniform throughout the State; and

WHEREAS, the City of Cripple Creek has an interest and desire to protect the public health, safety and welfare of its citizens and believes that adopting the 2020 Edition of the "Model Traffic Code" effectuates that purpose; and

NOW, THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CRIPPLE CREEK, COLORADO:

Section 1. Chapter 8, Article 1 Sections 8-1-10 through 8-1-60 of the Cripple Creek Municipal Code are repealed and reenacted to read as follows:

Sec. 8-1-10. Model Traffic Code adopted.

Pursuant to parts I and 2 of Article 16 of Title 31 and part 4 of Article 15 of Title 30, C.R.S., there is hereby adopted by reference the 2020 edition of the "Model Traffic Code" promulgated and published as such by the Colorado Department of Transportation, Traffic Engineering and Safety Branch, 2829 W. Howard Place, Denver, CO 80204, as modified in section 2 of this ordinance. 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.

Sec. 8-1-20. Amendments or modifications.

The 2020 edition of the *Model Traffic Code* is adopted as if set out at length save and except the following additions, deletions, or modifications:

- (1) Section 105 of the *Model Traffic Code* is hereby deleted in its entirety.
- (2) In Subsection 223(1) of the *Model Traffic Code*, all references to "section 235(1)(a)" are modified to read "section 42-4-235(1)(a), C.R.S."

- (3) In Subsection 225(3) of the *Model Traffic Code*, the reference to "section 205(5.5)(a)" is modified to read "section 43-4-205(5.5)(a), C.R.S."
- (4) In Subsection 228(5)(c)(III) of the *Model Traffic Code*, the reference to "section 235(1)(a)" is modified to read "section 42-4-235(1)(a), C.R.S."
- (5) In Subsection 237(3)(g) of the *Model Traffic Code*, the reference to "section 235(1)(a)" is modified to read "section 42-4-235(1)(a), C.R.S."
- (6) In Subsection 239(5) of the *Model Traffic Code*, all references to "section 42-4-1701(3)" are modified to read "section 42-4-1701(3), C.R.S."
- (7) Section 602 of the *Model Traffic Code* is hereby deleted in its entirety.
- (8) In Subsection 613 of the *Model Traffic Code*, the reference to "Code 4" is modified to read "Article 4."
- (9) Subsection 614(1)(a) of the *Model Traffic Code* is modified to read as follows: "If maintenance, repair, or construction activities are occurring or will occur within four hours on a portion of a state highway, the department of transportation may designate such portion of the highway as a highway maintenance, repair, or construction zone. Any person who commits the equivalent to certain State violations listed in section 42-4-1701(4), C.R.S., in a maintenance, repair, or construction zone that is designated pursuant to this section is subject to the increased penalties and surcharges imposed by section 42-4-1701(4)(c), C.R.S."
- (10) Subsection 614(1)(b) of the *Model Traffic Code* is modified to read as follows: "If maintenance, repair, or construction activities are occurring or will occur within four hours on a portion of a roadway that is not a state highway, the public entity conducting the activities may designate such portion of the roadway as a maintenance, repair, or construction zone. A person who commits the equivalent to certain State violations listed in section 42-4-1701(4), C.R.S., in a maintenance, repair, or construction zone that is designated pursuant to this section is subject to the increased penalties and surcharges imposed by section 42-4-1701(4)(c), C.R.S."
- (11) In Subsection 615(1) of the *Model Traffic Code*, the reference to "section 1701(4)(d)" is modified to read "section 42-4-1701(4)(d), C.R.S."
- (12) In Subsection 705(3)(b)(II) of the *Model Traffic Code*, the reference to "section 18-1.3-501" is modified to read "section 18-1.3-501, C.R.S." and in Subsection 705(3)(b)(III) of the *Model Traffic Code*, the reference to "section 18-1.3-401" is modified to read "section 18-1.3-401, C.R.S."
- (13) In Subsection 805(5) of the *Model Traffic Code*, the reference to "section 111" is modified to read "section 42-4-111, C.R.S." and the reference to "section 111(2)" is modified to read "section 42-4-111(2), C.R.S."
- (14) Subsection 1010(3) of the *Model Traffic Code* is modified to read as follows: "Local authorities may by ordinance consistent with the provisions of section 43-2-135(1)(g), C.R.S, with respect to any controlled-access highway under their respective jurisdictions, prohibit the use of any such highway by any class or kind of traffic which is found to be incompatible with the normal and safe

movement of traffic. After adopting such prohibitory regulations, local authorities, or their designees, shall install official traffic control devices in conformity with the standards established by section 601 at entrance points or along the highway on which such regulations are applicable. When such devices are so in place, giving notice thereof, no person shall disobey the restrictions made known by such devices."

(15) Subsection 1012(2.5)(c) of the *Model Traffic Code* is modified to read as follows: "Local authorities, with respect to streets and highways under their respective jurisdictions, shall provide information via official traffic control devices to indicate that ILEVs and, subject to subparagraph (I) of paragraph (a) of this subsection (2.5), hybrid vehicles may be operated upon high occupancy vehicle lanes pursuant to this section. Such information may, but need not, be added to existing printed signs, but as existing printed signs related to high occupancy vehicle lane use are replaced or new ones are erected, such information shall be added. In addition, whenever existing electronic signs are capable of being reprogrammed to carry such information, they shall be so reprogrammed."

(16) In Subsection 1012(3)(b) of the *Model Traffic Code*, the reference to "section 1701(4)(a)(I)(K)" is modified to read "section 42-4-1701(4)(a)(I)(K), C.R.S."

(17) Subsection 1101(1) of the *Model Traffic Code* shall be modified by deleting therefrom the existing Subsection 1101(1) and substituting in its place the following:

"No person shall drive a vehicle on a street or highway within this municipality at a speed greater than is authorized in this section 1101, and in no event greater than seventy (70) miles per hour."

(18) Subsection 1101(4) of the *Model Traffic Code* shall be modified by deleting therefrom the existing Subsection 1101(4) and substituting in its place the following:

"(4) The speed limits specified in Subsection 1101(2) hereof shall be considered maximum lawful speed limits and not prima facie speed limits."

(19) Subsection 1105(7)(c) of the *Model Traffic Code* is modified to read as follows: "The failure of the owner of the immobilized motor vehicle to request removal of the immobilization device and pay the fee within fourteen days after the end of the immobilization period ordered by the court or within the additional time granted by the court pursuant to paragraph (d) of this subsection (7), whichever is applicable, shall result in the motor vehicle being deemed an 'abandoned vehicle,' as defined in section 1802(1)(d) and section 42-4-2102(1)(d), C.R.S., and subject to the provisions of part 18 of this Code and part 21 of article 4 of Title 42, C.R.S., whichever is applicable. The law enforcement agency entitled to payment of the fee under this subsection (7) shall be eligible to recover the fee if the abandoned motor vehicle is sold, pursuant to section 1809(2)(b.5) or section 42-4-2108(2)(a.5), C.R.S."

(20) Subsection 1105(8)(b) of the *Model Traffic Code* is modified to read as follows: "No person may remove the immobilization device after the end of the immobilization period except the law enforcement agency that placed the immobilization device and that has been requested by the owner to remove the device and to which the owner has properly paid the fee required by subsection (7) of this section. Nothing in this subsection (8) shall be construed to prevent the removal of an immobilization device in order to comply with the provisions of part 18 of this Code or part 21 of Article 4 of Title 42, C.R.S."

(21) Section 1204 of the *Model Traffic Code* shall be modified by the addition of Subsection 1204(1)(l) to read as follows:

"(l) Within emergency access lanes designated pursuant to powers designated to the City under state law, so as to obstruct designated and marked emergency access lanes anywhere within the municipality of the City of Cripple Creek. This prohibition against stopping, standing or parking a vehicle within said designated emergency access lanes shall be applicable to all property, whether public or private within the City of Cripple Creek, and shall prohibit the parking, stopping or standing of any vehicle within said emergency access lanes except emergency vehicles (i.e., police cars, fire department vehicles, ambulances, EMT vehicles, etc.) during the answering of an emergency call."

(22) Section 1208 of the *Model Traffic Code* shall be modified by deleting therefrom the existing Section 1208 and substituting in its place the following:

"1208. Parking for persons with mobility handicaps.

"a. Any motor vehicle with distinguishing license plates or an identifying placard obtained by a person with a mobility handicap as prescribed by law, may be parked in a parking space identified as being reserved for use by the handicapped, whether on public property or private property available for public use; or in any public parking area along any public street in one and two-hour time limit zones or at parking meters during hours parking is permitted regardless of any time limitation imposed upon parking along such streets.

"b. It shall be unlawful for persons with mobility handicaps to be parked along public streets, or in designated parking spaces on public or private property:

"1. During such times when all stopping, standing or parking of all vehicles is prohibited;

"2. When only special vehicles may be parked;

"3. When parking is not allowed during specific periods of the day in order to accommodate heavy traffic.

"c. The owner of private property available for public use may install signs prescribed by the traffic engineer identifying parking spaces designated to specifications of the traffic engineer and reserved for use by the handicapped. Such installations shall be a waiver of any objection the owner may assert concerning enforcement of this section by officers, or parking control persons, and said persons are hereby authorized and empowered to enforce this section of the code.

"d. It shall be unlawful for any person who does not have a mobility handicap to exercise the parking privilege defined in this section.

"e. It shall be unlawful for any motor vehicle without distinguishing license plates or any identifying placard obtained by a person with mobility handicap as prescribed by law to be parked in a parking space identified as being reserved for use by the handicapped. Notwithstanding any other provision of the *Model Traffic Code*, the penalty resulting from conviction of a violation of this section 1208 or any subpart thereof shall be a fine of not less than fifty dollars (\$50.00) nor more than four hundred ninety-nine dollars (\$499.00). In enforcing this section 1208, the municipal court shall not have the authority to suspend all or any part of any fine or violation hereof so as to result in a fine of less than fifty dollars (\$50.00), it being the intent of the City Council of the City of Cripple Creek that section 1208 of this Code be strictly and diligently enforced so as to provide adequate parking of persons with mobility handicaps free from the interference of those not so handicapped."

(23) In Subsection 1406(5)(b)(II) of the *Model Traffic Code*, the reference to "section 1701(4)(a)(I)(N)" is modified to read "section 42-4-1701(a)(I)(N), C.R.S."

(24) In Subsection 1408(1) of the *Model Traffic Code*, the reference to "Code 1" is modified to read "Article 1" and the reference to "Code 20" is modified to read "Article 20."

(25) In Section 1412 of the *Model Traffic Code*, all references to "section 111" are modified to read "section 42-4-111, C.R.S."; all references to "section 221" are to read "section 42-4-221, C.R.S."; and the reference to "Code 10" is modified to read "Article 10"; and all references to "section 127" are modified to read "section 42-2-127, C.R.S."

(26) In Section 1415 of the *Model Traffic Code*, the reference to "section 42-4-1701(3)(a)(II)(A)" is modified to read "section 42-4-1701(3)(a)(II)(A), C.R.S."

(27) Section 1701 of the *Model Traffic Code* is deleted in its entirety. Any references to section 1701 in the Model Traffic Code shall be deemed to refer to Section 2, of this Ordinance, captioned "Penalties."

(28) Subsection 1702(2) of the *Model Traffic Code* is modified to read as follows: "Violations of sections 238, 607(2)(b), 1402(2), and 1409 of this Code are class 1 traffic misdemeanors."

(29) Subsection 1702(3) of the *Model Traffic Code* is modified to read as follows: "Violations of sections 107, 233, 507 508, 509, 510, 1105, 1401, 1402(1), 1407, 1412, 1413, 1704, 1716(2) and 1903(1)(a) of this Code are class 2 traffic misdemeanors."

(30) Subsection 1702(6) of the *Model Traffic Code* is modified to read as follows: "The City Council may adopt a fine and surcharge schedule for penalty assessment violations."

(31) Subsection 1709(4) is deleted in its entirety.

(32) In Section 1805 of the *Model Traffic Code*, the reference to "part 1 of Code 6 of this title" is modified to read "part 1 of article 6 of title 42, C.R.S."; and the reference to "Code 6 of title 12, C.R.S." is modified to read "article 6 of title 12, C.R.S."

Sec. 8-1-30. Application of Model Traffic Code.

This Article shall apply to every street, alley, sidewalk area, driveway, park and to every other public way or public parking area, either within or outside the corporate limits of the City, the use of which the City 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 City.

Sec. 8-1-40. Interpretation.

This Article 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 this Article 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.

Sec. 8-1-50. Certification; copy on file.

The City Clerk shall certify to the passage of the ordinance codified herein and make not less than three (3) copies of the adopted code available for inspection by the public during regular business hours.

Sec. 8-1-60. Fine and surcharge schedule.

(a) Adoption. Pursuant to Part 17, Article 4 of Title 42, the City hereby adopts the following penalty assessments and surcharges for violations of the Colorado Model Traffic Code, as previously adopted in this Article.

(b) Fines.

(1) Every person convicted of a violation of any provision of the Model Traffic

Code shall be assessed a fine and a surcharge pursuant to Section 42-4-1701, C.R.S. and

(2) The fine and surcharge imposed for speeding violations under this Section shall be doubled if the violation occurs within a designated school zone.

(3) The fine and surcharge imposed for speeding violations under this Section shall be doubled if the violation occurs within a designated maintenance, repair or construction zone.

(c) **Surcharges.**

(1) To the extent permitted by law, every person convicted of a violation of any provision of the Model Traffic Code shall be assessed, in addition to any fines, a fifteen-dollar surcharge. This surcharge is to be collected by the Municipal Court Clerk and credited to the Police Department, to be used as necessary for equipment and training.

(2) To the extent permitted by law, every person convicted of a violation of any provision of the Model Traffic Code shall be assessed, in addition to any fines, a ten-dollar surcharge. This surcharge is to be collected by the Municipal Court Clerk and credited to the Municipal Court Clerk's office, to be used as necessary to defray the costs and expenses of information technology for a court management program.

Section 2. Penalties.

Chapter 8, Article 1, Sections 8-1-70 of the Cripple Creek Municipal Code is repealed and reenacted to read as follows:

Sec. 8-1-70. Penalties; penalty assessments; automatic points assessment reduction; parental notification; driver's license.

(a) It is unlawful for any person to violate any of the provisions of the MTC, or any other traffic or vehicle ordinances adopted by the City. The penalties set forth below shall apply to such violations. Fines, court costs and surcharges shall be paid to the Municipal Court Clerk.

(1) In criminal traffic offense actions, the penalty shall be a fine not to exceed one thousand dollars (\$1,000.00), or a term of imprisonment not to exceed one (1) year, or by both such fine and imprisonment.

(2) In civil traffic infraction matters, the penalty shall be a fine not to exceed one thousand dollars (\$1,000.00).

(b) Except as otherwise specifically provided, a peace officer shall issue a penalty assessment for all traffic infractions. Whenever a peace officer issues a summons and complaint for an alleged criminal traffic offense, the officer, in his or her discretion, may instead offer a penalty assessment notice. Notwithstanding the foregoing, no penalty assessment notice shall be issued or offered when:

(1) A violator exceeds the reasonable and prudent speed by more than nineteen (19) miles per hour;

(2) The violation caused, or contributed to the cause of, an accident resulting in damage to property of another in an amount not less than two hundred dollars (\$200.00), or in injury or death to any person;

(3) More than one (1) violation is alleged, one (1) or more of which constitutes a criminal traffic offense;

(4) The violation is for failure to comply with motor vehicle compulsory insurance laws; and

(5) When the officer issuing the notice knows, or reasonably believes, that the alleged violator or vehicle has been involved in a criminal violation of any law of the City for which there has been a conviction in a court of competent jurisdiction and for which the sentence or judgment (be it fine or imprisonment) remains as yet unsatisfied.

No person shall be entitled to elect to pay a penalty assessment unless an offer of a penalty assessment notice has been made under this Subsection.

(c) Any person offered a penalty assessment notice may elect to pay the penalty assessment and appropriate surcharge instead of proceeding to trial on the alleged violation. The amount of the penalty assessment and surcharge shall be as provided on the penalty assessment notice. Payment of a penalty assessment and corresponding surcharge constitutes complete satisfaction of the alleged violation if the prescribed payment is postmarked or received by the City within twenty (20) days following service of the penalty assessment on the person charged with the violation. Payment of a penalty assessment and surcharge constitutes an acknowledgment of liability for the violation described in the notice. If the person offered a penalty assessment notice elects not to make full and timely payment thereunder, an action on the alleged violation shall proceed as otherwise provided by law.

(d) If a person receives a penalty assessment notice of a violation of the MTC and such person pays the fine and surcharge for the violation on or before the date the payment is due, the points assessed for such violation under the point system schedule adopted at Section 42-2-127. C.R.S., as amended, shall be reduced as follows:

(1) For a violation having an assessment of three (3) or more points, the points shall be reduced by two (2) points.

(2) For a violation having an assessment of two (2) points, the points shall be reduced by one (1) point.

(3) The point reductions as provided for in this Section shall only be valid in accordance with the authority provided to municipalities under Section 42-2-127(5.6),

C.R.S., and in the event such statute is amended and/or repealed, this Section shall, correspondingly, be amended and/or repealed.

(e) Whenever a minor driver receives a summons or penalty assessment notice for a traffic offense or traffic infraction, the minor's parent or legal guardian or, if the minor is without parents or guardian, the person who signed the minor driver's application for a license shall immediately be notified by the officer issuing the summons of such summons or penalty assessment notice. A failure to provide such notice shall not in any way diminish or limit the jurisdiction of the court over the juvenile or the traffic violation or infraction.

(f) The Municipal Court shall notify the Colorado Department of Revenue whenever a judgment entered against a person for a violation of the MTC, excluding violations related to parking, remains outstanding, or a bench warrant issued against any person for a failure to appear to answer for an alleged violation of the MTC, excluding violations relating to parking, remains outstanding, in order that such person shall not be allowed or permitted to obtain or renew a driver's license as provided for in Section 42-4-1709(7)(a), C.R.S.

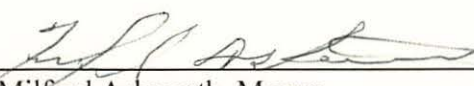
Section 3. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police powers of the City of Cripple Creek, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

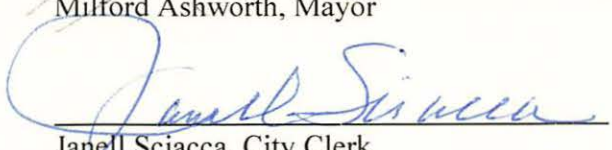
Section 5. This ordinance shall become effective on May 1, 2021.

PASSED ON THE FIRST READING AND ORDERED PUBLISHED THIS 3rd DAY
OF March, 2021.

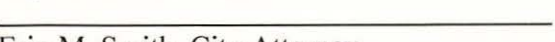
Approved:


Milford Ashworth, Mayor

Attest:


Janell Sciacca, City Clerk

Approved as to form:


Erin M. Smith, City Attorney