

ORDINANCE NO. 1138 (2022)

AN ORDINANCE AMENDING TITLE 10 CHAPTER 10.04.020 OF THE CRAIG MUNICIPAL CODE TO MODIFY/EXEMPT THE PENALTY SECTION OF THE MODEL TRAFFIC CODE

WHEREAS, the City of Craig is a home rule municipality; and

WHEREAS, the City Council has previously adopted the 2020 Edition of the Model Traffic Code; and

WHEREAS, the City has historically maintained a penalty schedule that differs from the State of Colorado;

AND WHEREAS, the City Council deems it necessary to exempt/modify additional sections of the 2020 Edition of the Model Traffic Code as to not have conflicting provisions in the Code.

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL FOR THE CITY OF CRAIG, COLORADO:

Section 1. Title 10 Section 10.04.020 of the Craig Municipal Code is hereby amended to read as follows:

10.04.020 Deletions or additions.

The 2020 Edition of the Model Traffic Code is adopted as if set out at length, with Sections 1409(9), 1701, 1702 and 1705 specifically excepted therefrom.

A. The adopted code is subject to the addition of Section 1203 as follows:

1203. Towing by the city of certain parked or unattended vehicles. Any vehicle parked or left unattended may be towed by the city or its agent, the cost of which shall be collectable from the owner or driver, if any of the following circumstances exist:

1. The vehicle is parked in such a way as to block, impede or interfere with the flow of traffic.
2. The vehicle blocks lawful access to public or private;
3. The vehicle blocks or interferes with the maintenance of city streets for purposes such as repair of the streets or removal of snow. The city shall only be able enforce this subsection (3) after making reasonable efforts to notify all vehicle owners of the need to remove such vehicles for maintenance; or
4. Any other circumstance deemed by the chief of police, city manager or city attorney to be an emergency situation requiring removal of the vehicle due to an imminent danger caused by the location of a parked vehicle due to an imminent danger caused by the location of a parked vehicle and after all reasonable attempts have been made to locate the owner or driver of a vehicle.
5. Any vehicle, as defined in sections 8.12.010 F and L of the Craig municipal code, parked or left unattended on public or private property.

B. Section 109 is hereby amended to read as follows:

Section 109. Low-power electric vehicle or EPAMD, animals, skis, skates, and toy vehicles on highways.

- (1) A person riding a low-power electric vehicle or an Electric Personal Assisted Mobility Device ("EPAMD") upon a roadway where low-power electric vehicle or EPAMD 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 that, by their very nature, can have no application.
- (2) A person riding a low-power vehicle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- (3) No low-power electric vehicle or EPAMD shall be used to carry more persons at one time than the number for which it is designed and equipped.
- (4) No person riding upon any low-power electric vehicle or EPAMD, coaster, roller skates, sled, or toy vehicle shall attach the same or himself or herself to any vehicle upon a roadway.
- (5) A person operating a low-power electric vehicle or EPAMD upon a roadway shall ride as close to the side of the roadway as practicable, exercising due care when passing a standing vehicle or one proceeding in the same direction.
- (6) Persons riding low-power electric vehicle or EPAMD upon a roadway shall not ride more than two abreast.
- (6.5) A person under the age of eighteen years may not operate or carry a passenger who is under eighteen years of age on a low-power electric vehicle unless the person and the passenger are wearing protective helmets in accordance with the provisions of Section 1502(4.5) of this Code.
- (7) Persons riding or leading animals on or along any highway shall ride or lead such animals on the left side of said highway, facing approaching traffic. This shall not apply to persons driving herds of animals along highways.
- (8) No person shall use the highways for traveling on skis, toboggans, coasting sleds, skates, or similar devices. It is unlawful for any person to use any roadway of this state as a sled or ski course for the purpose of coasting on sleds, skis, or similar devices. It is also unlawful for any person upon roller skates or riding in or by means of any coaster, toy vehicle, or similar device to go upon any roadway except while crossing a highway in a crosswalk, and when so crossing such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This Subsection (8) does not apply to any public way which is set aside by proper authority as a play street and which is adequately roped off or otherwise marked for such purpose.
- (9) Every person riding or leading an animal or driving any animal-drawn conveyance upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this Code, except those provisions of this Code which by their very nature can have no application.
- (10) Where suitable bike paths, horseback trails, or other trails have been established on the right-of-way or parallel to and within one-fourth mile of the right-of-way of heavily traveled streets and highways, the Department of Transportation may, subject to the provisions of Section 43-2-135, C.R.S., by resolution or order entered in its minutes, and local authorities

may, where suitable bike paths, horseback trails, or other trails have been established on the right-of-way or parallel to it within four hundred fifty feet of the right-of-way of heavily traveled streets, by ordinance, determine and designate, upon the basis of an engineering and traffic investigation, those heavily traveled streets and highways upon which shall be prohibited any bicycle, electrical assisted bicycle, animal rider, animal-drawn conveyance, or other class or kind of non-motorized traffic that is found to be incompatible with the normal and safe movement of traffic, and, upon such a determination, the Department of Transportation or local authority shall erect appropriate official signs giving notice thereof; except that, with respect to controlled access highways, Section 1010(3) shall apply. When such official signs are erected, no person shall violate any of the instructions contained thereon.

- (11) The parent of any child or guardian of any ward shall not authorize or knowingly permit any child or ward to violate any provision of this Section.
- (12) (a) Except as otherwise provided in paragraph (b) of this Subsection (12), any person who violates a provision of this Section commits a Class B traffic infraction.

(b) Any person who violates subsection (6.5) of this Section commits a traffic offense.

C. Section 604(1)(c)(I)(A) is hereby amended to read as follows:

- (A) Such vehicular traffic, after coming to a stop and yielding the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection, may make a right turn, unless state or local road authorities within their respective jurisdictions have prohibited any such right turn by erecting an official sign at each intersection where such right turn is prohibited.

D. Section 614(1) is hereby amended to read as follows:

- (1) (a) 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 traffic violations in a maintenance, repair or construction zone that is designated pursuant to this section is subject to increased penalties.
- (b) 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. Any person who commits traffic violations in a maintenance, repair or construction zone that is designated pursuant to this section is subject to increased penalties.

E. Section 1203 is hereby amended to read as follows:

Section 1203. Angle-Parking.

- (1) On those streets where the city of Craig has approved and has signed or marked for angle parking, no person shall stop, stand or park a vehicle other than at the angle to the curb or edge of the roadway indicated by such signs or markings, and within lined markings, with the vehicle's appropriate front tire adjacent to the correspondent curb or edge of the roadway, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or other emergency services personnel.

- (2) Angle-Parking is approved for all cul-de-sacs within the City limits, but angle-parking shall only be permitted within the curved portion of such cul-de-sacs.

F. Section 1213 is hereby added to read as follows:

Section 1213. Prohibited uses. No person shall use any motor vehicle, bus, trailer, coach, or mobile home, self-propelled motor home, or recreational equipment for living, sleeping, housekeeping, or preparation of food except within a permitted recreational vehicle (RV) park/campground. This section shall not apply to such vehicles used to temporarily house guests of the property on which the vehicle is located, provided the vehicle is located on private residential property and such use does not exceed seven days within any calendar year. This section shall not apply to vehicles used for the temporary preparation and sale of food with a current County Health Department license and located in areas of the City other than those zoned residential.

G. Section 1416 is hereby added to read as follows:

Section 1416. 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 within the City by any person who has not been issued a currently valid driver's or minor driver's license or an 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.

H. Section 1417 is hereby added to read as follows:

Section 1417. Expired license plates/improper use of title or registration.

- (1) Pursuant to State law, § 42-3-114, C.R.S., as amended, every vehicle registration issued by the State of Colorado 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, by the payment of the fees required by law not later than the last day of the month following the date of expiration. No license plates other than those of the registration period to which they pertain shall be displayed on a motor vehicle operating on any street or highway within the City.
- (2) 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.

I. Section 1418 is hereby added to read as follows:

Section 1418. Driving without a current driver's license.

- (1) No person shall drive any motor vehicle upon a street, road or highway within the City unless such person has been issued a currently valid driver's or minor driver's license or an instruction permit by a State Department of Motor Vehicles.
- (2) No person shall drive any motor vehicle upon a street, road or highway within the City unless such person has in his or her immediate possession a current driver's or minor driver's license or an instruction permit issued by a State Department of Motor Vehicles.

- (3) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall drive a type or general class of motor vehicle upon a street, road or highway within the City for which such person has not been issued the correct type or general class of license or permit.
- (4) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall operate a motor vehicle upon a street, road or highway within the City without having such license or permit in such person's immediate possession.
- (5) A charge of a violation of subsection (4) of this section shall be dismissed by the court if the defendant elects not to pay the penalty assessment and, at or before the defendant's scheduled court appearance, exhibits to the court a currently valid driver's or minor driver's license issued to such person or an officially issued duplicate thereof if the original was lost, stolen or destroyed; provided that such currently valid driver's license or minor driver's license shall also have been valid on the date the defendant was issued the citation.
- (6) The conduct of a driver of a motor vehicle which would otherwise constitute a violation of this section is justifiable and not unlawful when:
 - (a) 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
 - (b) The applicable conditions for exemption, as set forth in § 42-2-102, C.R.S., as amended, exist.
- (7) The issue of justification or exemption is an affirmative defense. As used in this subsection, "affirmative defense" means that, unless the prosecutor'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 charge.

J. Section 1419 is hereby added to read as follows:

Section 1419. Open alcoholic beverage containers in motor vehicles prohibited.

- (1) Definitions. As used in this section, unless the context otherwise requires:
 - (a) "Alcoholic beverage" means a beverage as defined in § 12-47-013, C.R.S.
 - (b) "Motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads or highways but does not include a vehicle operated exclusively on a rail or rails.
 - (c) "Open alcoholic beverage container" means a bottle, can, or other receptacle that contains any amount of alcoholic beverage and:
 - (I) That is open or has a broken seal; or
 - (II) The contents of which are partially removed.

- (d) "Passenger area" means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.
- (2) Except as otherwise permitted in Subsection (3) below, a person while in the passenger area of a motor vehicle that is on a public street, road or highway within the City or the right-of-way of a public street, road or highway within the City may not knowingly:
 - (a) Drink an alcoholic beverage; or
 - (b) Have in his or her possession an open alcoholic beverage container.
- (3) The provisions of Subsection (2) shall not apply to:
 - (a) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;
 - (b) The possession by a passenger, other than the driver or a front seat passenger, of an open alcoholic beverage container in the living quarters of a house coach, house trailer, motor home, as defined in § 42-1-102(57), C.R.S., or trailer coach, as defined in § 42-1-102(106)(a), C.R.S.;
 - (c) The possession of an open alcoholic beverage container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or
 - (d) The possession of an open alcoholic beverage container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

K. Section 1420 is hereby added to read as follows:

Section 1420. Automatic point reduction. If a person receives a penalty assessment notice for a violation and such person pays the fine and surcharge for the violation on or before the date the payment is due, the points assessed for the violation shall be reduced as follows:

- (1) For a violation having an assessment of three (3) or more points, the points are reduced by two (2) points.
- (2) For a violation having an assessment of two (2) points, the points are reduced by one (1) point.

L. ~~Part 17 pertaining to penalties is adopted as the penalty assessment for municipal court violations, except to the extent that~~ The amount of the penalty assessment for each traffic infraction shall include the sum of the penalty and the surcharge where applicable; and all fines and costs collected hereunder shall belong to the city without a duty to submit any portion of such funds collected to the state courts or treasurer. Three (3) copies of the penalty schedule, consistent with Section 10.04.060 of this Code, for traffic infractions adopted herein are now filed in the office of the city clerk and the municipal court clerk and may be inspected during regular business hours.

(Ord. 1108 §2, 2020; Ord. 1005 §1, 2010; Ord. 1003 §2, 2009; Ord. 984 §1, 2008; Ord. 925 §1, 2003; Ord. 851 §1, 1997; Ord. 842 §1(part), 1997; Ord. 642 §1, 1984; Ord. 534 §2, 1979)

Section 2. If any subsection, sentence, clause, or phrase of this ordinance is for any reason held to be

invalid, such decision shall not affect the validity of the remaining portion of this Ordinance. All other provisions of Title 10 of the Craig Municipal Code shall remain in full force and effect.

Section 3. The City Council deems it appropriate to publish the title of this ordinance, together with a summary of the ordinance and with a statement that the text is available for public inspection and acquisition in the office of the City Clerk.

Section 4. This ordinance shall be effective immediately upon passage.

Section 5. This Ordinance is enacted pursuant to the City's authority to act under its police power to protect and preserve the general welfare of the City and its citizens.

READ, APPROVED AND ORDERED PUBLISHED ON FIRST READING THIS 13TH DAY OF DECEMBER, 2022, BY THE CITY COUNCIL OF THE CITY OF CRAIG, COLORADO.

Ryan Hess, Mayor

ATTEST:

Liz White, City Clerk

PASSED, APPROVED AND ADOPTED ON SECOND READING THIS ____ DAY OF _____, 2022, BY THE CITY COUNCIL OF THE CITY OF CRAIG, COLORADO.

Ryan L Hess, Mayor

ATTEST:

Liz White, City Clerk