

**STATE OF COLORADO
COUNTY OF GILPIN
CITY OF BLACK HAWK**

COUNCIL BILL NUMBER: CB11

ORDINANCE NUMBER: 2019-11

TITLE: AN ORDINANCE REPEALING AND REENACTING SECTIONS 8-1 AND 8-2 OF THE BLACK HAWK MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2018 MODEL TRAFFIC CODE

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF BLACK HAWK, GILPIN COUNTY:

Section 1. Section 8-1 of the City of Black Hawk Municipal Code is hereby repealed and reenacted as follows:

Sec. 8-1. Adoption.

Pursuant to Title 31, Article 16, Part 2, C.R.S., there is hereby adopted by reference the 2018 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, as modified in Section 8-2 below. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the City Clerk and may be inspected during regular business hours, the same being adopted as if set out at length, save and except for the following sections, which are declared to be inapplicable to the City and are therefore expressly deleted or modified.

Section 2. Section 8-2 of the City of Black Hawk Municipal Code is hereby repealed and reenacted as follows:

Sec. 8-2. Additions, deletions, and modifications.

The adopted Model Traffic Code is subject to the following additions, deletions and modifications:

- (1) Section 105 is hereby deleted in its entirety.
- (2) Section 108 is amended by the addition of the following paragraph (5):

"(5) The provisions of this Section 108 shall be applicable solely and only to the drivers of vehicles that are owned and operated by the City of Black Hawk, the Gilpin County Sheriff, any authorized state or federal agency and any ambulance company licensed to provide emergency ambulance service in either the City of Black Hawk or in Gilpin County or the driver of any vehicle

authorized by the Black Hawk Chief of Police or designee. No driver of any private vehicle or any vehicle owned or operated by any other municipality or other governmental entity, except as specified herein, shall be entitled to rely on the provisions of this Section 108 while operating a motor vehicle upon a local street or other public way within the City of Black Hawk, it being the duty and obligation of all such drivers to comply with all traffic laws and regulations of the City while operating any vehicle within the boundaries of the City."

(3) [Reserved].

(4) Section 110(4) is modified to read as follows:

"(4) The appropriate local court shall have jurisdiction over violations of traffic regulations enacted or adopted by the Board of Aldermen."

(5) In Subsection 223(1), all references to "Section 235(1)(a)" are modified to read "Section 42-4-235(1)(a), C.R.S."

(6) In Subsection 225(3), the references to "Section 205(5.5)(a)" is modified to read "Section 43-4-205(5.5)(a), C.R.S."

(7) In Subsection 228(5)(c)(III), the reference to "Section 235(1)(a)" is modified to read "Section 42-4-235(1)(a), C.R.S."

(8) In Subsection 229(4), the reference to "Section 219" is modified to read "Section 42-3-219, C.R.S."

(9) In Subsection 236(1)(a), the reference to "Code 6" is modified to read "Article 6."

(10) In Subsection 237(3)(g), the reference to "Section 235(1)(a)" is modified to read "Section 42-4-235(1)(a), C.R.S."

(11) In Subsection 238(1), the reference to "Section 42-1-102(6)" is modified to read "Section 42-1-102(6), C.R.S."

(12) Section 239 is amended as set forth below:

(a) In Subsection (5), all references to "Section 42-4-1701(3)" are modified to reference "Section 42-4-1701(3), C.R.S."

(b) Subsection (6)(b) is modified to read as follows:

"(6)(b) An operator of a motor vehicle shall not be cited for a violation of subsection (3) of this Section unless a law enforcement officer saw the operator use a wireless telephone for the purpose of engaging in text

messaging or other similar forms of manual data entry or transmission in a manner that caused the operator to drive in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, as prohibited by Section 42-4-1402, C.R.S."

(13) In Subsection 504(4), the reference to "Section 42-4-510" is modified to read "Section 42-4-510, C.R.S."

(14) Section 602 is hereby deleted in its entirety.

(15) In Subsection 604(1)(a)(III), the reference to "Section 42-4-802" is modified to read "Section 42-4-802, C.R.S."

(16) In Subsection 608(1), the reference to "Section 42-4-903" is modified to read "Section 42-4-903, C.R.S.," and the reference to "Section 42-4-609" is modified to read "Section 42-4-609, C.R.S."

(17) In Subsection 613, the reference to "Code 4" is modified to read "Article 4."

(18) Subsection 614(1)(a) is modified to read as follows:

"(1)(a) If maintenance, repair, or construction activities are occurring or will occur within four (4) 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."

(19) Subsection 614(1)(b) is modified to read as follows:

"(1)(b) If maintenance, repair, or construction activities are occurring or will occur within four (4) hours on a portion of 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."

(20) In Subsection 615(1), the reference to "Section 1701(4)(d)" is modified to read "Section 42-4-1701(4)(d), C.R.S."

(21) In Subsection 705(3)(b), the reference to "Section 42-4-1402" is modified to read "Section 42-4-1402, C.R.S."

(22) In Subsection 805(5), 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."

(23) In Subsection 1010(1), the reference to "Section 42-4-902" is modified to read "Section 42-4-902, C.R.S."

(24) Section 1010(3) is modified to read as follows:

"(3) 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."

(25) In Subsection 1012(3)(b), the references to "Section 1701(4)(a)(I)(K)" is modified to read "Section 42-4-1701(4)(a)(I)(K), C.R.S."

(26) Subsections (1), (2), and (4) of Section 1101 are deleted in their entirety and the following Section 1101, subsection (1), is substituted totally therefor:

"1101(1). Speed laws applicable. The Board of Aldermen has determined that the following prima facie speed limits should be applicable on the streets and roadways in the City and speed in excess of such limits shall be prima facie evidence that such speed is unlawful and a violation of this Article.

(a) Upon the basis of engineering and traffic investigations and determinations made by the Colorado Department of Transportation on streets which are state highways, and the City concurring therein, it is hereby declared that standard signs now erected give notice of the reasonable and true prima facie speed limit on those portions of said highways within the corporate limits of the City. According the following reasonable and prima facie speed limits shall be:

Name of Street (State Highway)	Direction of Travel	Portion Affected (Terminal Limits)	Miles Per Hour Speed Limits
Black Hawk Street	Eastbound & Westbound	From Junction of Highway 117 to Gregory Street	20
Church Street	Northbound & Southbound	Entire length of road	10
Dory Hill Road	Northbound & Southbound	From North limit to Haul Road and beginning of Richman Street	25
Miners' Mesa Road	Eastbound & Westbound	From Main to Bobtail	15
Miners' Mesa Road	Eastbound & Westbound	From Bobtail to top of Miners' Mesa	25

(b) Signs shall be displayed on all other streets regarding either 'Speed Limit 15,' or 'all streets 15 M.P.H. unless otherwise posted.' The said 15 M.P.H. signs shall appear on all arterial entrances to the City, including state highway entrances. Colorado Department of Transportation shall establish the speed limits on State Highway 119 (Clear Creek Street) for the entire length of the highway.

(c) Except when a special hazard exists that requires lower speed than hereinabove set forth, the foregoing speed limits are reasonable and prima facie speed limits.

(d) Unless specifically provided to the contrary, all reference to 'City Limit' in Section 1101(1) shall mean the existing City limit. It is in the intention of the Board of Aldermen that the provisions of Section 1101(1) shall apply to the entire area within the City, including recently annexed territory and territory which may be annexed in the future upon the effective date of any annexation.

(27) Subsection 1105(7)(c) is modified to read as follows:

"(c) The failure of the owner of the immobilized motor vehicle to request removal of the immobilization device and pay the fee within fourteen (14) 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, 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."

(28) Subsection 1105(8) is modified to read as follows:

"(b) No person may remove the immobilization device at 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."

(29) Section 1204 shall be modified by the addition of Subsection 1204(1)(I) to read as follows:

"(I) 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 Black Hawk. 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 Black Hawk, 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."

(30) Section 1208 shall be modified by deleting 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 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; or

(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 Board of Aldermen of the City of Black Hawk 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."

(31) In Subsection 1210(1), the reference to "Section 42-1-102(64)" is modified to read "Section 42-1-102(64), C.R.S."

(32) In Subsection 1401(1), the reference to "Section 127" is modified to read "Section 42-2-127, C.R.S."

(33) In Section 1402(1), the reference to "Section 127" is modified to read "Section 42-2-127, C.R.S."

(34) In Subsection 1406(5)(b)(II), the reference to "Section 1701(4)(a)(I)(N)" is modified to read "Section 42-4-1701(a)(I)(N), C.R.S."

(35) In Subsection 1408(1), the reference to "Code 1" is modified to read "Article 1" and reference to "Code 20" is modified to "Article 20."

(36) In Subsection 1409(4)(a), all references to "Section 42-4-1701(3)(a)(II)(A)" are modified to read "Section 42-4-1701(3)(a)(II)(A), C.R.S."

(37) In Subsection 1409(6), all references to "Section 42-7-602" are modified to read "Section 42-7-602, C.R.S."

(38) In Section 1412, all references "Section 111" are modified to read "Section 42-4-111, C.R.S.;" the references to "Code 10" is modified to read "Article 10;" and all references to "Section 127" are modified to read "Section 42-4-127, C.R.S."

(39) In Section 1415, 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."

(40) Section 1701 is deleted in its entirety. Any references to Section 1701 shall be deemed to refer to Section 8-5 of this Article.

(41) Section 1706 shall be modified by deleting the existing Section 1706 and substituting in its place the following:

"1706. Juveniles—convicted—arrested and incarcerated—provisions for confinement.

(1) Notwithstanding any other provision of law, a child, as defined in Section 19-1-103 (18), C.R.S., convicted of a misdemeanor traffic offense under this Code, violating the conditions of probation imposed under this Code, or found in contempt of court in connection with a violation or alleged violation under this Code shall not be confined in a jail, lockup, or other place used for the confinement of adult offenders if the court with jurisdiction is located in a county in which there is a juvenile detention facility operated by or under contract with the department of human services that shall receive and provide care for such child or if the jail is located within forty miles of such facility. The court imposing penalties under this Section may confine a child for a determinate period of time in a juvenile detention facility operated by or under contract with the department of human services. If a juvenile detention facility operated by or under contract with the department of human services is not located within the county or within forty miles of the jail, a child may be confined for up to forty-eight hours in a jail pursuant to Section 19-2-508 (4), C.R.S.

(2)(a) Notwithstanding any other provision of law, a child, as defined in Section 19-1-103 (18), C.R.S., arrested and incarcerated for an alleged misdemeanor traffic offense under this Code, and not released on bond, shall be taken before a county judge who has jurisdiction of such offense within forty-eight (48) hours for fixing of bail and conditions of bond pursuant to Section 19-2-508 (4)(d), C.R.S. Such child shall not be

confined in a jail, lockup, or other place used for the confinement of adult offenders for longer than seventy-two (72) hours, after which the child may be further detained only in a juvenile detention facility operated by or under contract with the department of human services. In calculating time under this subsection (2), Saturdays, Sundays, and court holidays shall be included.

(b) In any case in which a child is taken before a county judge pursuant to paragraph (a) of this subsection (2), the child's parent or legal guardian shall immediately be notified by the court in which the county judge sits. Any person so notified by the court under this paragraph (b) shall comply with the provisions of Section 42-4-1716 (4), C.R.S."

(42) Section 1709 shall be modified by deleting the existing Section 1709 and substituting in its place the following:

"1709. Penalty assessment notice for traffic offenses—violations of provisions by officer—driver's license.

(1) Whenever a penalty assessment notice for a traffic infraction is issued, the penalty assessment notice which shall be served upon the defendant by the peace officer shall contain the name and address of the defendant, the license number of the vehicle involved, if any, the number of the defendant's driver's license, if any, a citation of the statute alleged to have been violated, a brief description of the traffic infraction, the date and approximate location thereof, the amount of the penalty prescribed for such traffic infraction, the amount of the surcharge thereon pursuant to Section 24-4.2-104 (1), C.R.S., the number of points, if any, prescribed for such traffic infraction pursuant to Section 42-2-127, C.R.S., and the date the penalty assessment notice is served on the defendant; shall direct the defendant to appear in a specified county court at a specified time and place in the event such penalty and surcharge thereon is not paid; shall be signed by the peace officer; and shall contain a place for the defendant to elect to execute a signed acknowledgment of liability and an agreement to pay the penalty prescribed and surcharge thereon within twenty days, as well as such other information as may be required by law to constitute such penalty assessment notice to be a summons and complaint, should the prescribed penalty and surcharge thereon not be paid within the time allowed in Section 42-4-1701, C.R.S.

(1.5) A penalty assessment notice issued and served pursuant to subsection (1) of this Section on a minor under the age of eighteen (18) years shall also contain or be accompanied by a document containing:

(a) A preprinted declaration stating that the minor's parent or legal guardian has reviewed the contents of the penalty assessment notice with the minor;

(b) Preprinted signature lines following the declaration on which the reviewing person described in paragraph (a) of this subsection (1.5) shall affix his or her signature and for a notary public to duly acknowledge the reviewing person's signature; and

(c) An advisement to the minor that:

(I) The minor shall, within seventy-two hours after service of the penalty assessment notice, inform his or her parent or legal guardian that the minor has received a penalty assessment notice;

(II) The parent or legal guardian of the minor is required by this Code to review and sign the penalty assessment notice and to have his or her signature duly acknowledged by a notary public; and

(III) Noncompliance with the requirement set forth in subparagraph (II) of this paragraph (c) shall result in the minor and the parent or legal guardian of the minor being required to appear in court pursuant to sections 1710 (1)(b), 1710 (1.5), and 1716 (4).

(2) One copy of said penalty assessment notice shall be served upon the defendant by the peace officer and one copy sent to the clerk of the court and such other copies sent as may be required by ordinance or the court.

(3) The time specified in the summons portion of said penalty assessment notice must be at least thirty (30) days, but not more than ninety (90) days after the date such penalty assessment notice is served, unless the defendant shall demand an earlier hearing.

(4) The place specified in the summons portion of said penalty assessment notice must be a court within the county in which the traffic infraction is alleged to have been committed.

(5) Whenever the defendant refuses to accept service of the penalty assessment notice, tender of such notice by the peace officer to the defendant shall constitute service thereof upon the defendant."

(43) In Section 1805, all references to "part 1 of Code 6 of this title" is modified to read "part 1 of article 6 of title 42, C.R.S."

(44) In Section 1814, the reference to "Section 42-13-106" is modified to read "Section 42-13-106, C.R.S."

(45) Section 1412, subsection (6), is deleted in its entirety and substituting in its place the following language:

"(6) Persons operating bicycles or electrical assisted bicycles upon roadways shall ride single file, except that riding no more than two abreast is permitted when riding on paths or parts of roadways set aside for the exclusive use of bicycles."

Section 3. Safety Clause. The City Council hereby finds, determines, and declares that this Ordinance is promulgated under the general police power of the City of Black Hawk, 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. Severability. 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. Effective Date. The City Clerk is directed to post the Ordinance as required by the Charter. This Ordinance shall become effective upon posting by the City Clerk.

READ, PASSED AND ORDERED POSTED this 22nd day of May, 2019.


David D. Spellman, Mayor

ATTEST:


Melissa A. Greiner, CMC City Clerk

