

**ORDINANCE NO. 22**

**Series 2010**

August 3, 2010: Introduced as Council Bill 21, Series 2010 by Councilor Alex Brown, seconded by Councilor Mark Griffin, and considered in full text on first reading. Passed by a vote of 4 yes and 0 no.

September 8, 2010: Considered in full text on second reading. Passed by a vote of 6 yes and 0 no.

**A BILL FOR AN ORDINANCE OF THE CITY OF CHERRY HILLS VILLAGE REPEALING AND RE-ENACTING CHAPTER 8 OF THE CHERRY HILLS VILLAGE MUNICIPAL CODE, CONCERNING VEHICLES AND TRAFFIC, TO ADOPT BY REFERENCE THE 2010 MODEL TRAFFIC CODE FOR COLORADO, WITH CERTAIN AMENDMENTS, AND TO REPEAL ALL ORDINANCES IN CONFLICT THEREWITH AND PROVIDE PENALTIES FOR VIOLATION THEREOF.**

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CHERRY HILLS VILLAGE, COLORADO:

Section 1. Chapter 8 of the Cherry Hills Municipal Code, entitled "VEHICLES AND TRAFFIC," is hereby repealed and re-enacted to read as follows:

**ARTICLE I  
MODEL TRAFFIC CODE**

**Sec. 8-1-10.**

This article may be known and cited as the *Model Traffic Code*.

**Sec. 8-1-20. Adoption.**

Pursuant to Title 31, Article 16, Parts 1 and 2 (Section 31-16-101, et seq., and Section 31-16-201 et seq.) C.R.S., there is hereby adopted by reference Articles I and II, inclusive, of the 2010 edition of the *Model Traffic Code*, 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. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the City. The purpose of this Article 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. At least one (1) copy of the Model Traffic Code adopted herein is now filed in the office of the City Clerk and may be inspected during regular business hours.

**Sec. 8-1-30. Deletions and Amendments.**

The 2010 edition of the Model Traffic Code is adopted as if set out at length, save and except (i) the sections or subsections which are hereby declared to be inapplicable to the City and are therefore expressly deleted below; and (ii) the sections or subsections that shall be subject to the following amendments and additions:

(1) A new Section 104, Article I, is hereby added to the Model Traffic Code to read as follows:

"104. Authority of Police Department officials.

"(1) It shall be the duty of the officers of the Police Department, or such officers as are assigned by the Chief of Police, to enforce all traffic regulations of this municipality and all of the state laws applicable to street and highway traffic in the City.

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vehicle whose driver has violated Section 603 at that intersection;  
and

"(b) 'Peace officer' means an officer of the Police Department or a contractor designated by the City.

"(3) The photograph produced by a red-light camera shall depict the vehicle's location, license plate and driver. Printed on the photograph shall be the date of the violation, the approximate time of the violation and the approximate location of the violation.

"(4) When a peace officer, based on evidence obtained in whole or part by means of a red-light camera, has probable cause to believe that a vehicle has been driven in violation of Section 603, the peace officer may issue, or cause to be issued through a contractor designated by the City, a summons and complaint charging the person in whose name the vehicle is registered with a violation of Section 603. If, however, the vehicle is registered in more than one person's name, the summons and complaint shall be issued to the registrant who the issuing peace officer determines, under all the facts and circumstances, was the person most likely depicted in the photographs produced by the red-light camera. The summons and complaint shall contain the signature, or reasonable facsimile thereof, of the peace officer issuing the summons and complaint.

"(5) To obtain personal jurisdiction in the Municipal Court over the charged person, a copy of the summons and complaint must be personally served upon the charged person, or, in lieu of such personal service, by leaving a copy of the summons and complaint at the charged person's usual place of abode with some person over the age of eighteen (18) years residing therein, or by mailing a copy to the charged person's last known address by certified mail, return receipt requested, within ninety (90) days after the alleged violation occurred and not less than five (5) days prior to the time the charged person is required, pursuant to the summons and complaint, to appear in court. The person charged may waive service of the summons and complaint by voluntarily submitting to the Municipal Court's jurisdiction through payment of a fine or other affirmative act constituting a waiver of service.

"(6) When a person is served with a summons and complaint under this Section, the person shall:

"(a) If admitting the charge, complete the summons and complaint form by providing his or her driver's license number and other information requested in the form, and return the completed form, together with payment of the fine assessed, to the Municipal Court on or before the time specified in the summons and complaint for the charged person to appear; or

"(b) If contesting the charge, appear on the date and time specified in the summons and complaint for arraignment.

"(7) Proof that a particular vehicle violated Section 603 as detected by a red-light camera and as shown by the photographs produced by the red-light camera, together with proof that the particular vehicle is registered in the charged person's name, shall raise the evidentiary presumption and constitute prima facie evidence of the fact that the charged person was the person driving the vehicle depicted in the photograph. However, such evidence and presumption may be rebutted by the presentation of any probative and competent evidence that the charged person was not the driver shown in the photograph. The City may not require a registered owner of a vehicle to disclose the identity of a driver who was detected by the use of the red-light camera. However, the owner may be required to

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or when a member of an ambulance service is responding to an emergency requiring the member's services. Except as authorized in subsection (3) of this section, neither such lights nor such signals shall be used for any other purpose than those set forth in this subsection (1). If used for any other purpose, such use shall constitute a violation of this subsection (1).

"(b) Notwithstanding the provisions of paragraph (a) of this subsection (1), a member of a volunteer fire department or a volunteer ambulance service may equip his or her private automobile with the equipment described in paragraph (a) of this subsection (1) only after receiving a permit for the equipment from the fire chief of the fire department or chief executive officer of the ambulance service through which the volunteer serves.

"(2) Deleted.

"(3) A fire engine collector or member of a fire department may use the signal system authorized by subsection (1) of this section in a funeral, parade or for other special purposes if the circumstances would not lead a reasonable person to believe that such vehicle is responding to an actual emergency."

(7) Subsection 225(3), Article 1, of the Model Traffic Code is hereby amended to read in its entirety as follows:

"225. Mufflers - prevention of noise.

"(3) Any person who violates subsection (1) of this section commits a class B traffic infraction. Any person who violates subsection (1.5) of this section shall, upon conviction, be punished by a fine of five hundred dollars."

(8) Section 234, Article I, of the Model Traffic Code is hereby amended to read in its entirety as follows:

"234. Slow-moving vehicles - display of emblem.

"(1) (a) All machinery, equipment, and vehicles, except bicycles, electrical assisted bicycles, and other human-powered vehicles, designed to operate or normally operated at a speed of less than twenty-five miles per hour on a public highway shall display a triangular slow-moving vehicle emblem on the rear. Bicycles and other human-powered vehicles shall be permitted but not required to display the emblem specified in this subsection (1).

"(2) Any person who violates any provision of this section commits a class B traffic infraction."

(9) Subsection 237(4)(a), Article 1 of the Model Traffic Code is hereby amended to read as follows:

"237. Safety belt systems – mandatory use - exemptions - penalty.

"(4) (a) Except as otherwise provided in paragraph (b) of this subsection (4), any person who operates a motor vehicle while such person or any passenger is in violation of the requirement of subsection (2) of this section commits a class B traffic infraction."

(10) Subsection 507(2)(b), 507(2)(b.5), and 507(2)(c), Article 1 of the Model Traffic Code are hereby amended to read as follows:

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moveable stand. The department of transportation or the City Manager or the City Manager's designee may place such a sign on a moving vehicle if required for certain activities, including but not limited to highway painting work."

(14) Section 615, Article I, of the Model Traffic Code is hereby amended to read in its entirety as follows:

"615. Designation of school zones – signs – increase in penalties for speeding violations.

"(1) Any person who commits a speeding violation on a portion of the state highway or municipal street designated as a school zone pursuant to the provisions of this section is subject to doubled penalties and charges.

"(2) The department of transportation or the City Manager or the City Manager's designee shall designate a school zone by appropriate signs. Such sign shall notify the public that increased penalties for speeding violations are in effect in such zone. The department of transportation or the City Manager or the City Manager's designee shall erect or place a second sign after such school zone indicating that the increased penalties for speeding violations are no longer in effect. A school zone begins at the location of the sign indicating that increased penalties are in effect and ends at the location of the sign indicating that the increased penalties are no longer in effect.

"(3) Signs used for designating the beginning and end of a school zone shall conform to department of transportation requirements. The department of transportation or the City Manager or the City Manager's designee may display such signs on any fixed, variable or moveable stand."

(15) Subsections 901(1)(a) and (b), Article I, of the Model Traffic Code are hereby amended to read as follows:

"901. Required position and method of turning.

"(a) Right Turns. Both the approach for a right turn and the right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. Unless double-turn lanes are clearly marked by official signs, it shall be unlawful for the driver of a vehicle to make a right turn into any traffic lane other than the right-most lane of traffic of the road onto which the turn is made.

"(b) Left Turns. The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Unless double-turn lanes are clearly marked by official signs, it shall be unlawful for the driver of a vehicle to make a left turn into any traffic lane other than the left-most lane of traffic lawfully available to traffic moving in the direction of travel of such vehicle."

(16) Section 1012 (High occupancy vehicle (HOV) and high occupancy toll (HOT) lanes), Article I, of the Model Traffic Code is hereby deleted.

(17) Subsection 1101(2)(c), Article I, of the Model Traffic Code is hereby amended to read as follows, and Subsection 1101(2)(e), Article I, of the Model Traffic Code is hereby deleted:

"1101. Speed limits.

"(2)(c) Twenty-five miles per hour in any residence district, as defined in section 42-1-102(80), C.R.S.

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"(6) No person shall park any vehicle upon a street or highway in such a manner or under such conditions as to interfere with the free movement of vehicular traffic or proper street or highway maintenance."

(20) Section 1204, Article I, of the Model Traffic Code is hereby amended by adding the following new Subsections (6) and (6.5):

"(6) It shall be unlawful for any person to park or stand a vehicle, whether occupied or not, other than temporarily for the purpose of, and while actually engaged in, loading or unloading in a private driveway or on private property without the express or implied consent of the owner or person in lawful possession of such driveway or property.

"(6.5) Parking of travel homes.

"(a) It shall be unlawful for any person to park or store one or more travel homes in the front yard area of property or on any public street, highway, road, alley or other right-of-way for a period of time in excess of twenty-four (24) hours. It is lawful to park or store travel homes, trailers or boats in other areas of the property if they are screened from view from public thoroughfares. Screening may be in the form of fencing, landscaping or other opaque materials. For purposes of this section, 'travel home' shall mean and shall include, but not be limited to, a vehicular portable structure built of a chassis, either towed or self-propelled, designed to be used as a temporary dwelling for travel and recreational purposes, having a body width not exceeding eight (8) feet.

"(b) It shall be unlawful for any person to relocate or otherwise move a travel home to a new location from the travel home's original parked location in an attempt to circumvent or evade the provisions of (6.5)(a) above."

(21) Subsections 1208(1)(a), 1208(1)(b), 1208(2), 1208(3)(a), 1208(5)(b), 1208(7), 1208(10)(a) and 1208(10)(b), Article I, of the Model Traffic Code are hereby amended to read as follows:

"1208. Parking privileges for persons with disabilities.

"(1)(a) 'License plate or placard' means a license plate or placard issued pursuant to section 42-3-204(2), C.R.S.

"(1)(b) 'Person with a disability' has the meaning provided for such term in section 42-3-204(1), C.R.S.

"(2) In a jurisdiction recognizing the privilege defined by this subsection (2), a vehicle with a license plate or a placard obtained pursuant to section 42-3-204, C.R.S., or as otherwise authorized by subsection (4) of this section, may be parked in public parking areas along public streets regardless of any time limitation imposed upon parking in such area; except that a jurisdiction shall not limit such a privilege to park on any public street to less than four hours. The respective jurisdiction shall clearly post the appropriate time limits in such area. Such privilege need not apply to zones in which:

"(3)(a) A person with a disability may park in a parking space identified as being reserved for use by persons with disabilities, whether on public property or private property available for public use. A license plate or placard obtained pursuant to section 42-3-204, C.R.S., or as otherwise authorized by subsection (4) of this section shall be displayed at all times on the vehicle while parked in such space.

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vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred."(23) Subsection 1402(2), Article I, of the Model Traffic Code is hereby deleted.

(24) Subsection 1406(5), Article I, of the Model Traffic Code is hereby deleted.

(25) Subsections 1407.5(3)(a) and 1407.5(3)(b), Article I, of the Model Traffic Code are hereby amended to read as follows:

"1407.5. Splash guards – when required.

"(3) This section does not apply to:

"(a) Passenger-carrying motor vehicles registered pursuant to section 42-3-305(2), C.R.S.;

"(b) Trucks and truck tractors registered pursuant to section 42-3-305(4) or (5), C.R.S., having an empty weight of ten thousand pounds or less;"

(26) Section 1409(4)(a), Article I, of the Model Traffic Code is hereby amended to read as follows, and Subsection 1409(9) is deleted:

"1409. Compulsory insurance – penalty.

"(4)(a) Any person who violates the provisions of subsection (1), (2) or (3) of this section commits a traffic offense.

"(9) Deleted"

(27) Section 1701, Article I, of the Model Traffic Code is hereby amended to read as follows:

"1701. Traffic offenses and infractions classified – penalties.

"(1) Except as set forth herein, it is a traffic infraction for any person to violate any of the provisions stated or adopted in this Chapter. Such a traffic infraction shall constitute a civil matter. The Colorado Rules of Municipal Procedure shall apply to traffic infraction proceedings, except that no bench warrant for arrest shall be issued for a defendant's failure to appear when the only violation charged is a non-criminal traffic infraction. Instead, the court may enter judgment of liability by default against the defendant for failure to appear, assess any penalty and costs established by law and report the judgment to the Colorado Department of Revenue, Motor Vehicle Division, or to the motor vehicle department of any other state which participates in the Interstate Non-Resident Violator Compact, as codified at Section 24-60-2101, C.R.S., which may assess points against the defendant's driver's license and may take appropriate action to ensure that the judgment is satisfied. There is no right to trial by jury for any non-criminal traffic infraction.

"(2) The following violations constitute criminal traffic offenses:

"(a) A violation of Section 1101(1) of the Model Traffic Code adopted by this Chapter involving driving twenty-five (25) or more miles per hour in excess of the reasonable and prudent speed or in excess of the lawful speed limit is a criminal traffic offense.

"(b) A violation of Section 1101(8)(a) of the Model Traffic Code adopted by this Chapter involving driving twenty-five (25) miles or

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arrested and taken without unnecessary delay before a municipal judge, the peace officer may issue and serve upon the defendant a summons and complaint which 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 or Model Traffic Code section alleged to have been violated, a brief description of the offense, the date and approximate location thereof, and the date the summons and complaint is served on the defendant; shall direct the defendant to appear in or otherwise respond to the City Municipal Court or Arapahoe County Court, at a specified time and place; shall be signed by the peace officer; and shall contain a place for the defendant to execute a written promise to appear at the time and place specified in the summons portion of the summons and complaint.

"(2)(a) The City of Cherry Hills Village may offer or extend to a defendant the opportunity for the defendant to pay a penalty assessment for a non-criminal traffic infraction prior to the date and time scheduled for the defendant's appearance in the City Municipal Court or Arapahoe County Court. Whenever a penalty assessment is made available for a traffic infraction, the defendant shall be required to execute a signed acknowledgment of guilt and shall pay the penalty prescribed by the City within a specified period of time, as well as provide such other information as may be required by the City. Payment of a penalty assessment notice by the person to whom the notice is tendered shall constitute an acknowledgement of guilt by such person of his or her violation of the offense stated in such notice and shall be deemed a complete satisfaction for the violation, and the City, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof, if requested."

(30) Section 102, Article II, of the Model Traffic Code is amended to add the following definitions to read as follows:

"102. Definitions.

"(11.5) 'City Manager' means the City Manager of the City of Cherry Hills Village or his or her designee.

"(17.5) 'Department of Transportation' means the Department of Transportation of the State of Colorado."

**Sec. 8-1-40. Application.**

This Chapter shall apply to every highway, street, road, avenue, alley, sidewalk, driveway, park and to every other public place or public parking area, either within or outside of the corporate limits of the City, the use of which the City has jurisdiction and authority to regulate. Any other provision of the Model Traffic Code adopted in Section 8-1-20 notwithstanding, the provisions of Sections 1401, 1402, 606, 1211 and 1413 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving, unauthorized devices, limitations on backing and eluding an officer, shall apply not only to public places and ways but also throughout the City.

**Sec. 8-1-50. Interpretation.**

This Chapter shall be so interpreted and construed as to effectuate its general purpose to make uniform the local traffic regulations contained herein. Chapter and section headings of this Article and 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. 8-1-60. Violation; penalty.**