

**TOWN OF EMPIRE**  
**Clear Creek County, Colorado**  
**Ordinance 251**

**AN AMENDMENT TO THE ORDINANCE ADOPTING BY REFERENCE THE 2010  
EDITION OF THE "MODEL TRAFFIC CODE FOR COLORADO" FOR THE  
REGULATION OF TRAFFIC IN THE TOWN OF EMPIRE, COLORADO**

**WHEREAS**, pursuant to section 42-4-110(1)(b), C.R.S., municipalities may, in the manner prescribed by Article 16 of Title 31, C.R.S., adopt by reference all or any part of a model municipal traffic code that embodies the rules of the road and vehicle requirements as set out in the state traffic laws; and

**WHEREAS**, the Colorado Department of Transportation has prepared and adopted a 2010 revised edition of the Model Traffic Code for Colorado; and

**WHEREAS**, the Board of Trustees desires to adopt by reference the 2010 Model Traffic Code for Colorado and has provided notice of the adoption of such Code by reference in the manner required by Colorado Revised Statutes § 31-16-203; and

**WHEREAS**, the Board of Trustees passed Ordinance 215, on June 4, 2003, adopting the 2003 Model Traffic Code for Colorado.

**WHEREAS**, the Board of Trustees now seeks to adopt Ordinance 251 and supersede Ordinance 215.

***WHEREAS, the Board of Trustees now seeks to amend Ordinance 251 to include procedures for advising defendants of possible penalties, failure to appear and default judgment.***

**NOW THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES OF  
THE TOWN OF EMPIRE, COLORADO, AS FOLLOWS:**

**Section 1. Adoption**- Town of Empire Ordinance 215 is hereby repealed and Ordinance 251 is passed as follows:

Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S. there is hereby adopted by reference Parts 1 through 19 and Appendix I, of the 2010 edition of the Model Traffic Code for Colorado, (the "Code") promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 2829 Howard Place, Denver, Colorado 80204. The subject matter of the Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Ordinance and the Code adopted herein is to provide a system of traffic regulations consistent with the State law and generally conforming to similar regulations throughout the State and the Nation. Three (3) copies of the Code adopted herein are now filed in the office of the Clerk of the Town of Empire, Colorado, and may be inspected during regular business hours.

**Section 2. Deletions** – The 2010 edition of the Code is adopted as if set out at length save and except the following articles and/or sections which are declared to be inapplicable to this municipality and are therefore expressly deleted: None.

**Section 3. Amendments and Additions** – The said adopted Code is subject to the following amendments or modifications:

(a) **Part 11 Sec. 1101 (2)(f)** of the Code is amended to read as follows: “(f) Except when a special hazard exists that requires a lower speed, the following speed shall be lawful: thirty-five (35) miles per hour on U.S. Highway 40, also known as Park Avenue, from the easterly boundary of the Town of Empire to the westerly boundary of the Town of Empire and for the full event thereof.”

(b) **Part 12 Sec 1209** of the Code is amended to read as follows: “In addition to any other liability provided for in this Code, the owner of an unattended motor vehicle, to which a penalty assessment has been attached, is liable for making payment of a parking violation fine unless the owner of the motor vehicle can furnish sufficient evidence that the vehicle was, at the time of the parking violation, in the case, custody or control of another person. To avoid liability for payment, the owner of the motor vehicle is required, within a reasonable period of time after notification of the parking violation to furnish to the prosecutorial division of the appropriate jurisdictions the name and address of the person or company who had the case, custody or control of such vehicles. As a condition to avoid liability for payment of a parking violations, any person or company who leases or rents motor vehicles to another person shall attach to the leasing agreement a notice stating that, pursuant to the requirements of this section, the operator of the vehicle is liable for the payment of a parking violation fine incurred when the operator has care, custody or control of the motor vehicle. The notice shall inform the operator that the operator’s name and address shall be furnished to the prosecutorial division of the appropriate jurisdiction when a parking violation fine is incurred.”

(c) **Part 17 Sec 1701(1)** of the Code is amended to read, “All violations of any provision of this Code, as adopted or amended by the Town, are hereinafter referred to as traffic infractions and are hereby deemed civil matters.

(d) **Part 17 Sec 1701.5** is added. **Part 17 Sec. 1701.5. Trial of Traffic Matters: Penalties for Violations—**

i. Traffic infractions are not criminal violations of a code or ordinance provision. Trial of civil traffic infractions shall be by the municipal Court. No defendant found civilly liable for a traffic infraction shall be punished by imprisonment for said infraction.

(e) **Part 12 Sec 1203** is added. **Part 12 Sec. 1203. Semi-tractor parking: Idling prohibited.**

i. It shall be unlawful for any person to park or leave standing an idling semi-tractor, whether attended or unattended, within the corporate boundaries of the Town of Empire, except as necessary to render services in the immediate area.

ii. This section applies to all areas of the municipality, public and private.

(f) **Part 12 Sec 1203.5** is added. **Part 12 Sec 1203.5 Semi-Trailer Parking – Restrictions, Exceptions and Penalties**

(i) As used in this Section "Semi-Trailer" means vehicle without internal motive power designed for carrying property, for being drawn by a motor vehicle, and so constructed that some of its weight and that of its load rests upon or is carried by the towing vehicle.

(ii) Semi-Trailer Parking. It shall be unlawful for any person to park, stop, leave standing or allow to be parked any semi-trailer for a period of time longer than three hours in any 24-hour period within the municipal limits of Town.

(iii) Exceptions.

(1) The time period in which a semi-trailer is parked and is in the process of rendering services in the immediate area, shall not be included in a determination of whether or not the vehicle was parked for a period of time in excess of the three-hour limit.

(2) The restrictions contained in this Section shall not apply to personal vehicles, not used for commercial purposes, which are parked either on private property or on a public street adjacent to the owner's property.

(iv) Penalties.

(1) Upon finding probable cause that a violation of this section has occurred or a signed complaint by any individual of an alleged violation of the provisions of this section to a police officer of the Town, the police officer shall make a reasonable attempt to locate the owner, operator or other responsible part for the semi-trailer and inform the owner, operator or reasonable person of the time limits specified in this section. The police officer may then direct the owner, operator or responsible person to move the trailer within one (1) hour.

(2) Any person who fails to comply with the directions of a police officer of the Town commits a violation of this Ordinance and shall be issued a penalty assessment.

(3) If an owner, operator or other responsible person cannot be located; a Penalty Assessment may be attached to the vehicle pursuant to the provision of Part 17 Sec 1709.5.

(4) Penalties for violations shall be as follows:

(1) For the first offense – a \$75.00 fine.

(2) For the second offense – a \$150.00 fine.

(3) For the third and each subsequent offense – a \$300.00 fine.

(g) **Part 17 Sec 1709.5 is added. Part 17 Sec 1709.5 Penalty Assessment – Unattended Vehicles**

i. When any police officer of the Town finds an unattended vehicle parked in violation of any of the parking restrictions of the Code, said police officer may attach a Penalty Assessment Notice on the vehicle in lieu of contacting the owner or operator. Posting of a Penalty Assessment Notice on a vehicle shall constitute appropriate personal service.

ii. Any Penalty Assessment Notice posted on a vehicle pursuant to this section shall otherwise conform to the standards of Sec. 17 of the Code.

**Section 4. Penalties.** The following penalties, herewith set forth in full, shall apply to the Code;

(a) It is unlawful for any person to violate any provisions of the Code.

(b) Every person convicted of a violation of any provision of the Code shall be punished by a fine of not more than Two Thousand Six Hundred Fifty Dollars (\$2,650.00). Any violation of the Code, as adopted and amended by the Town, and declared by this Ordinance to be a non-criminal traffic infraction, shall not be punishable by imprisonment.

(c) *Surcharges shall be assessed in accordance with Amended Ordinance 222, adopted June 18, 2018.*

(d) ***Double penalties- Penalties and surcharges imposed for speeding violations shall be doubled if the violation occurs within a maintenance, repair or construction area designated in accordance with the provisions of the Model Traffic Code. Additionally, penalties and surcharges shall be doubled for any moving violation occurring within a school zone.***

(e) *If a defendant appears in person, he or she shall be advised of the maximum possible fine that may be assessed, and the points that may be assessed against the defendant's driver's license, if applicable.*

(f) *A defendant shall be advised of the consequences of failure to appear at any subsequent hearing including entry of default judgment against the defendant and reporting the judgment to the Colorado Department of Motor Vehicles which may assess points against the defendant's license and may deny an application for a driver's license or for renewal of a driver's license until such judgment is satisfied.*

(g) *Point assessment reduction*

a. *If a person receives a penalty assessment notice for a violation of the Model Traffic Code for Colorado, and such person pays the fine and surcharges 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:*

- i. For a violation having an assessment of six (6) point speeding of 20-24 over the posted speed limit, the points shall be reduced by two (2) points.*
- ii. For a violation having an assessment of four (4) point speeding of 10-19 over the posted speed limit, the points shall be reduced by two (2) points.*
- iii. For a violation having an assessment of two (2) points, the points shall be reduced by one (1) point.*

b. *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.*

**Section 5. Default –**

(a) If any defendant fails to appear before the Court as required by summons and complaint or penalty assessment for any violation of this Ordinance that constitutes a civil infraction, the Court may enter judgment against such defendant.

(b) *A default for failure to satisfy a judgment upon an admission or finding of guilt or liability for a violation of this Ordinance shall be certified to the Colorado Department of Motor Vehicles for enforcement action.*

(c) The amount of the judgment shall be the appropriate penalty assessed after a finding of guilt or liability. Fees and additional costs shall be assessable to a defendant upon conviction of a traffic violation.

(d) The Court may set aside a judgment entered pursuant to this Section on a showing of good cause or excusable neglect by the defendant. A motion to set aside the judgment shall be made to the Court not more than seven (7) calendar days after the entry of judgment.

(e) The defendant may satisfy a judgment entered under this Ordinance by paying the Clerk the amount of the judgment.

(f) No warrant shall be issued for the arrest of a defendant who fails to appear in court for a violation of this Ordinance that constitutes a civil infraction.

**Section 6. Application** – This Ordinance shall apply to every street, alley, sidewalk area, driveway, park and to every other public place or public parking area, each within or outside the corporate limits of this municipality, the use of which this municipality, has jurisdiction and authority to regulate. The provisions of Part 14, Sec. 1401, 1402, 1411, 1413, of the adopted Model Traffic Code, respectively, concerning reckless driving, careless driving, use of earphones while driving, eluding officer, and accidents and accident reports shall apply not only to public places and ways but also throughout this municipality.

**Section 7. Validity** – If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of Trustees hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any part or parts be declared invalid.

**Section 8. Repeal** – Existing ordinances or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance. Existing ordinances or part of ordinances regulating traffic that are not inconsistent with the provisions of this Ordinance are not repealed and shall remain in full force and effect.

**Section 10. Interpretation**. – This Ordinance shall be interpreted and construed as to effectuate a general purpose of conforming with the State's uniform system for the regulation of vehicles and traffic. Articles and Section headings of the Ordinance and 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.

**Section 11. Future Model Traffic Code Editions** – It is the intent of the Board of Trustees for the Town of Empire to adopt by reference any future editions of the Model Traffic Code, unless this Ordinance 251 is otherwise amended by ordinance.

**INTRODUCED, READ AND PASSED ON FIRST READING** at a Regular Meeting of the Board of Trustees of the Town of Empire, Colorado, held on the 11th day of December, 2018

**PUBLIC HEARING** held on the 15th day of January, 2019.

**PASSED, ADOPTED AND APPROVED**, on second reading and following public hearing, by the Board of Trustees of the Town of Empire, Colorado, on the 15th day of January, 2019.

  
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Mayor

**ATTESTED AND CERTIFIED:**

**APPROVED AS TO FORM:**

  
\_\_\_\_\_  
Town Clerk

  
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Town Attorney