

**ORDINANCE NO. 2020-03 \_\_\_ OF THE TOWN OF HOTCHKISS, COLORADO AMENDING THE TOWN CODE AND ADOPTING BY REFERENCE THE 2020 EDITION OF THE MODEL TRAFFIC CODE REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING PENALTIES FOR VIOLATION THEREOF**

**RECITALS**

**WHEREAS**, the Town of Hotchkiss (the “Town”), is a statutory town and municipal corporation in Delta County, Colorado, governed by and through its Board of Trustees (the “Board”); and

**WHEREAS**, the regulation of Town Streets is of local concern; and

**WHEREAS**, the Board of Trustees determines that it is in the best interest of the community and the public health, safety and welfare of the citizens of the Town to amend the Town Code to adopt the 2020 MODEL TRAFFIC CODE; and

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF HOTCHKISS as follows:**

**Section 1. Legislative Findings.**

The foregoing Recitals are hereby affirmed and incorporated herein by this reference as findings of the Town of Hotchkiss Board of Trustees.

**Section 2. Amendment to the Town Code.**

Chapter 7, Article 26 of the Town Code is amended as follows:

**Sec. 17.26.010. Adoption.** Pursuant to parts 1 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 Articles I and II, inclusive, of the 2020 Edition of the *Model Traffic Code*, promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 2829 W. Howard Place, Denver, CO 80204. The purposes 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 and nation. Three (3) copies of the Model Traffic Code adopted herein are now on file in the office of the Clerk of the Town of Hotchkiss and may be inspected during regular business hours.

**Sec.17.26.020. Application.** This Article shall apply to every street, alley, sidewalk area, driveway, park and to every other public way or public place or public parking area, either within or outside the corporate limits of the Town, the use of which the Town has jurisdiction and authority to regulate. The provisions of section 1401, 1402, 1413 and part 16 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving,

cluding a police officer and accidents and accident reports shall apply not only to public places and ways but also throughout the Town.

### **17.26.030 Amendments.**

The adopted code shall be amended to read as follows: A. Section 103(2)(b) is hereby amended to read in its entirety as follows: "(b) For provisions of sections 1401, 1402, 1409(3) and 1413 of this Code which shall apply upon streets and highways and elsewhere throughout the jurisdiction." B. Section 106 is hereby amended to read in its entirety as follows: "106. Restricted right to use highways.

(1) The Public Works Director may prohibit the operation of vehicles upon any such highway or impose restrictions as to the weight of vehicles to be operated upon any such highway whenever the Public Works Director finds that any said highway by reason of deterioration, rain, snow, or other climatic conditions may be seriously damaged or destroyed unless the use of vehicles thereon is prohibited or the permissible weights thereof reduced. Such restrictions shall be effective when signs giving notice thereof are erected upon the highways or portion of any such highway, and, when such devices are in place, no driver shall disobey the instructions or directions thereof.

(2) The Public Works Director may prohibit the operation of trucks and commercial vehicles or construction vehicles on designated highways or may impose limitations as to the weight, size or type thereof, which prohibitions and limitations shall be designated by appropriate signs placed on such highways. Such restrictions shall be effective when signs giving notice thereof are erected upon the highways or portion of any highway, and, when such devices are in place, no driver shall disobey the instructions or directions thereof.

(3) The Public Works Director for the purpose of general construction which may impact a roadway to the extent that closure is reasonably necessary to avoid creation of a public safety hazard, or for the purpose of road construction and maintenance, temporarily may close to all vehicular traffic any highway or portion thereof, and shall in conjunction with any such road closure, establish appropriate detours or provide for an alternative routing of the traffic affected. Such temporary closing of the highway or portion thereof and the routing of traffic along other roads shall not become effective until official traffic control devices are erected giving notice of the restrictions, and, when such devices are in place, no driver shall disobey the instructions or directions thereof.

(4) The Public Works Director may provide for the temporary closing to vehicular traffic of any portion of a highway during a specified period of the day for the purpose of celebrations, parades and special local events or civic functions for which a valid permit has been issued by the Town allowing the event to occupy the public way, and when in the opinion of the Public Works Director such temporary closing is necessary for the safety and protection of persons who are to use that portion of the highway during the temporary closing. Such temporary closing of the highway or portion thereof shall not become effective until official traffic control devices are erected giving notice of the restrictions, and, when such devices are in place, no driver shall disobey the instructions or directions thereof.

(5) The Public Works Director may prohibit the operation of all vehicles, except authorized emergency and maintenance vehicles, on designated highways, which prohibitions and limitations shall be designated by appropriate signs placed on such highways. Such restrictions shall be effective when signs giving notice thereof are erected upon the highway or portion of any highway, and, when such devices are in place, no driver shall disobey the instructions or directions thereof.

(6) Conviction of a violation of any provision of this Section shall be punished by a fine of one hundred dollars (\$100.00).

C. Section 108(3) is hereby amended to read in its entirety as follows:

108. Public officers to obey provisions - exceptions for emergency vehicles.

(3) The exemptions granted in paragraphs (b) to (d) of subsection (2) of this section to an authorized emergency vehicle shall apply only when such vehicle is making use of audible and/or visual signals meeting the requirements of section 213, and the exemption granted in paragraph (a) of subsection (2) of this section shall apply only when such vehicle is making use of visual signals meeting the requirements of section 213 unless using such visual signals would cause an obstruction to the normal flow of traffic; except that an authorized emergency vehicle being operated as a police vehicle while in actual pursuit of a suspected violator of any provision of this part need not display or make use of audible or visual signals so long as such pursuit is being made to obtain verification of or evidence of the guilt of the suspected violator. Nothing in this section "(1) Whenever a penalty assessment notice for a traffic offense is issued pursuant to section 1701, 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 or ordinance alleged to have been violated, a brief description of the traffic offense, 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 24-4.2-109, 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 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 acknowledgement 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 set by ordinance or court order. "

(2) One copy of said penalty assessment notice shall be served upon the defendant by the peace officer and one copy sent to the municipal court and such other copies sent as may be required by rule or regulation of the motor vehicle division to govern the internal administration of this article between the motor vehicle division and the Colorado State Patrol.

(3) The time specified in the summons portion of said penalty assessment notice must be at least thirty days but not more than ninety days after the date of 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 municipal court or county court within the municipality or 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.

**17.26.040 Penalties.** The following penalties shall be imposed against any person violating the provisions stated or adopted in this Chapter:

A. Every person convicted of a violation of any provision stated or adopted in this Chapter shall be punished by a fine not exceeding one thousand dollars (\$1,000.00), except for violations of Section 1101, Speed Limits, where the speed exceeds nineteen (19) miles over the posted speed limit (six-point charge), Section 1105, Speed Contests, Section 1401, Reckless Driving, Section 1402, Careless Driving, Section 1409, Compulsory Insurance, Section 1413, Eluding or Attempting to Elude a Police Officer, and Section 1903, Passing a School Bus, of the Model Traffic Code.

B. Every person convicted of a violation of Section 1101, Speed Limits, where the speed exceeds nineteen (19) miles over the posted speed limit (six-point charge), Section 1105, Speed Contests, Section 1401, Reckless Driving, Section 1402, Careless Driving, Section 1409, Compulsory Insurance, Section 1413, Eluding or Attempting to Elude a Police Officer, or Section 1903, Passing a School Bus, of the Model Traffic Code as adopted by the Town shall be punished by a fine not to exceed one thousand dollars (\$1,000.00), or by imprisonment not to exceed three hundred and sixty four (364) days, or by both such fine and imprisonment.

**17.26.050 Trials.** A defendant shall be entitled to a jury trial on any offense charged under this Chapter if: A. The offense is punishable by a jail sentence as provided in this Chapter; and B. Within ten (10) days after arraignment, the defendant files a written jury demand and at the same time tenders a jury fee of twenty-five dollars (\$25.00), unless the jury fee is waived by the judge because of the indigence of the defendant. All other offenses under this Chapter, including offenses where the defendant has not timely perfected the right to a jury trial under subsection B above, shall be tried to the court with the Municipal Judge as the fact finder.

### **Section 3. Severability.**

If any provision, clause, sentence or paragraph of this Ordinance or the application thereof to any person or circumstance shall be held invalid, such invalidity shall not affect the other provisions of this Ordinance which can be given effect without the invalid provision or application, and, to this end, the provisions of this Ordinance are declared to be severable.

**Section 4. Repeal of Prior Ordinances.**

All other ordinances or parts of ordinances in conflict herewith are hereby repealed.

**Section 5. Interpretation**

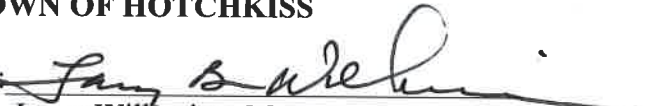
This ordinance shall be so interpreted and construed as to effectuate its general purpose to confirm with the State's uniform system for regulation of vehicles and traffic. Section Headings of this Ordinance and Section and Title Headings of the adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner effect the scope, meaning or extent of the provisions of any article or section thereof.

**Section 6. Effective Date.**


This Ordinance shall take effect thirty (30) days after passage.

**INTRODUCED, READ AND REFERRED to public hearing before the Board of Trustees for the Town of Hotchkiss, Colorado, on the 10<sup>m</sup> day of September, 2020.**

**TOWN OF HOTCHKISS**

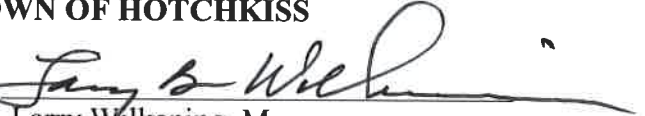
By:   
Larry Wilkening, Mayor

ATTEST:

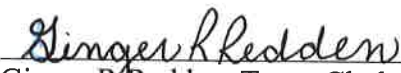
  
Ginger R Redden, Town Clerk

**HEARD AND FINALLY ADOPTED by the Town of Hotchkiss Board of Trustees for the Town of Hotchkiss, Colorado, on the 8 day of October, 2020.**

**TOWN OF HOTCHKISS**

By:   
Larry Wilkening, Mayor

ATTEST:

  
Ginger R Redden, Town Clerk

Approved as to Form:

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BO JAMES NERLIN, Town Attorney