

TITLE 6

Motor Vehicles and Traffic

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CHAPTER 1

Traffic Code

- 6-1-1 Purpose**
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6-1-1. Purpose.

The purpose of this Chapter 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 the Nation. (Ord. 203, 4-20-1978)

6-1-2. Model Traffic Code adopted.

(A) Pursuant to Parts 1 and 2 of Article 16 of Title 31 and Part 4 of Article 15 of Title 30, C.R.S., as amended, there is hereby adopted by reference Articles I and II, inclusive, of the 2003 Edition of the "Model Traffic Code for Colorado Municipalities," 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 Town. The purpose of this ordinance and the 2003 Model Traffic 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 the Nation.

(B) Three (3) copies of the 2003 Model Traffic Code adopted herein are now filed in the office of the Town Clerk and may be inspected during regular business hours. (Ord. 353, 3-16-06)

6-1-3. Additions or modifications to code.

The 2003 Edition of the Model Traffic Code is subject to the following additions or modifications:

(A) Section 1203 of the Model Traffic Code is amended to read as follows:

"1203. Parking and storing vehicles in public rights-of-way.

"(1) Except as otherwise provided by this Section 1203 or as authorized by a lawful traffic control sign or device, it shall be unlawful for any person to park or store, or allow the parking or storing of, any vehicle in the same location upon any public right-of-way within the Town of Hot Sulphur Springs, Colorado, for a period exceeding twenty-four (24) hours.

"(2) It shall be unlawful, during the period commencing on November 1 of each year until March 31 of the following year, for any person to park any vehicle between the hours at 12 a.m. and 6 a.m. on or along the U.S. 40 Highway/Byers Avenue public right-of-way.

"(3) It shall be unlawful for any person to move or otherwise relocate a parked or stored vehicle within a public right-of-way to a location equal to or less than twenty-five (25) feet of the original location for the purpose of circumventing the application of this Section.

"(4) Definitions. For purposes of this Section, the following terms shall have the meanings indicated below:

"(a) 'Park' or 'parking,' and 'store' or 'storing' means the physical occupancy, standing, or locating of a vehicle, whether occupied or not, in the same location.

"(b) 'Public right-of-way' shall mean the entire portion of land dedicated to or held by the Town for public use as a street, alley, or other form of thoroughfare, regardless of whether any or all of such right-of-way has been improved, maintained, or used by the public for the purposes of vehicular or pedestrian travel.

"(c) 'Vehicle' shall mean any device which is capable of moving itself, or of being moved, from place to place on wheels, tracks, rails, bands, gears, or similar mechanisms, including but not limited to an automobile, recreational vehicle, motor home, camper coach, camper."

(B) Section 1209 of the Model Traffic Code is amended by the addition of the following language to follow the language contained in such Section 1209:

"In all other cases in which a registered owner of a motor vehicle receives a parking violation notice, complaint or penalty assessment (hereinafter 'charging document'), proof that the vehicle described in the charging document was parked in violation of the Model Traffic Code, together with proof that, at the time of such parking, the defendant was the registered owner of the vehicle, shall constitute prima facie evidence that the defendant was the person who parked, or knowingly permitted to be parked, such motor vehicle at the place and time and in the manner set forth in the charging document. Such owner shall be liable for payment of any and all parking violation fines assessed against such owner's vehicle unless such vehicle owner can produce competent evidence that the vehicle was not in the care, custody or control of the owner at the time the violation was alleged to occur and provides to the prosecutorial division prior to the date set for a first appearance in court the name and address of the person who had care, custody or control of the vehicle at the time of the alleged violation."

(C) Section 1701(1) of the Model Traffic Code is hereby amended to read as follows:

"(1) It is a traffic infraction for any person to violate any of the provisions of this Code, unless such violation is, by any provision of this Code or by any other law of this state, declared to be a misdemeanor traffic offense. Such a traffic infraction shall constitute a civil matter."

(D) Section 1709 of the Model Traffic Code is amended by the addition of new subsections (6), (7) and (8), which subsections shall read as follows:

"(6) Payment of a penalty assessment notice by the person to whom the notice is tendered shall constitute an acknowledgment of guilt by such person of his violation of the offense stated in such notice.

"(7) Payment of the prescribed fine shall be deemed a complete satisfaction for the violation, and the town, upon accepting the prescribed fine, shall issue a receipt to the violator acknowledging payment thereof. Checks tendered and accepted and on which payment is received shall be deemed sufficient receipt.

"(8) Should the defendant charged by a penalty assessment notice accept the notice but fail to pay the prescribed penalty thereon within twenty (20) days thereafter, he shall be allowed to pay such penalty thereon and the maximum court costs permitted for municipal courts under state law to the Clerk of the Hot Sulphur Springs Municipal Court prior to the time for appearance as specified in the notice."

(E) Section 1101 of the Model Traffic Code is hereby amended by deleting subsection (2) and replacing it in its entirety with the following:

"Pursuant to subsection (7) of this Section 1101, and notwithstanding the provisions of subsections 1101(4) and (5), it is hereby determined that, under the best operating conditions when applied to the highways within the Town, as 'highway' is defined in Section Article II, Section 102 of this Model Traffic Code, and except when a special hazard exists that requires a lower speed or as otherwise posted with an official traffic control device, twenty (20) miles per hour shall be lawful on all highways or portion thereof within the Town, and any speed in excess thereof shall be prima facie evidence that the speed is not reasonable or prudent and that it is unlawful.

"No summons and complaint nor penalty assessment notice shall be issued to anyone who exceeds such prima facie speed until notice thereof is given by erection of appropriate signs at the entrances to the Town and along said streets or roadways or portions thereof or, in the case of privately maintained streets or highways in mobile home parks or recreational vehicle parks, at the entrances to such streets or highways."

(Ord. 353, 3-16-06; Ord. 2008-9-2-360)

6-1-4. Interpretation and application of provisions.

(A) Interpretation. This Chapter shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of the Chapter and the 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 hereof. (Ord. 203, 4-20-1978)

(B) Application of provisions. This Chapter 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 this Municipality, the use of which this Municipality has jurisdiction and authority to regulate. The provisions of sections 1401, 1402 and 1413 of the adopted Model Traffic Code, respectively, concerning reckless driving, careless driving, unauthorized devices and eluding a police officer shall apply not only to public places and ways but also throughout this Municipality. (Ord. 203, 4-20-1978; Ord. 287, 2-15-1996)

6-1-5. Decriminalization of certain traffic infractions.

(A) The purpose of this Section is to decriminalize certain traffic offenses by establishment of a system to treat certain traffic infractions as civil matters in the Municipal Court.

(B) Any person violating any of the following sections of the 2003 Model Traffic Code for Colorado Municipalities as adopted by the Town is guilty of a criminal traffic offense:

(1) Violations of Section 1101(1) involving driving twenty-five (25) or more miles in excess of the reasonable and prudent speed or in excess of the lawful speed limit is a criminal traffic offense.

(2) Violations of Sections 507, 508, 509(3), 510; 607, 705, 1105, 1401, 1402, 1409, 1413, 1703 or 1903(1) of this Code. (Ord. 353-3-16-06)

(C) Except for those violations classified as criminal offenses pursuant to Subsection 6-1-5(B), all violations of this Chapter or of the "Model Traffic Code for Colorado Municipalities" as adopted by the Town are hereby classified as noncriminal traffic infractions which shall be deemed to be civil matters. The Colorado Municipal Court Rules of Procedure shall apply to proceedings in which the defendant is charged with such a noncriminal traffic infraction, except that no warrant for arrest shall be issued for the defendant's failure to appear when the only violation charged would constitute a noncriminal traffic infraction and the defendant's driver's license is issued by the State or any other state which participates in the Interstate Nonresident Violator Compact, as codified at Section 24-60-2101, C.R.S. Instead, the Municipal Court may enter a judgment of liability by default against the defendant for any such failure to appear; assess any penalty and costs established by law; and report the judgment to the State Motor Vehicle Division, which may assess points against the defendant's driving privileges and may deny an application for or renewal of the defendant's driver's license until the judgment and all other lawful costs are satisfied.

(D) Any defendant charged with a criminal traffic offense, as defined in Subsection 6-1- 5(B), shall have the right to demand a trial by jury upon compliance with the provisions of state law and the Colorado Municipal Court Rules of Procedure. No defendant shall have a right to a trial by jury for any noncriminal traffic infraction. In the event that a defendant is charged with more than one (1) traffic violation arising out of the same incident and at least one (1) of the charged violations is listed in Subsection 6-1-3(B) above, the defendant shall have the right to demand a trial by jury as to all such offenses, which shall be consolidated for purposes of trial. (Ord. 287, 2-15-1996; Ord. 353-3-16-06)

6-1-6. Penalties.

The following penalties, herewith set forth in full, shall apply to this Chapter:

(A) It is unlawful for any person to violate any provision of the 2003 Edition of the Model Traffic Code as amended and adopted by the Town.

(B) Any person convicted of a criminal traffic offense, as defined in Section 6-1-5(B) of this Code shall be punished by a penalty as provided in Chapter 4 of Title 1 of this Code.

(C) Any person admitting liability for, found to be guilty of or against whom a default judgment has been entered for any noncriminal traffic infraction shall be fined in an amount not exceeding three hundred dollars (\$300.00). No defendant found to be guilty of any noncriminal traffic infraction shall be punished by imprisonment for such infraction. (Ord. 353, 6-16-06)

CHAPTER 2

Off-Highway Vehicles

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6-2-1. Definitions.

As used in this Chapter, the following terms shall have the assigned meaning:

All-terrain vehicles type I (ATV) means any motor vehicle fifty (50) inches or less in width, having an unladen dry weight of eight hundred (800) pounds or less, traveling on four (4) or more low pressure tires, having a seat designed to be straddled by the operator, having a seat height of a minimum of twenty-four (24) inches when measured at the forward edge of the seat bottom, with handlebars for control and designed for or capable of traveling over unimproved terrain.

Neighborhood electric vehicles (NEVs including golf carts) means any electric propelled vehicle that has not been modified from its original purpose primarily designed to carry one (1) or more people traveling on four (4) or more low-pressure tires, whose top speed is not designed for greater than twenty-five (25) miles per hour, and having side-by-side seating with a steering wheel for control. It shall be registered according to the applicable laws and regulations of the State as a Tax Class C vehicle and all of Title 42 of the Colorado Revised Statute shall apply.

Normal transportation means having one (1) or more specific destinations as if operating a normal motor vehicle and using the most direct route possible.

Off-highway vehicle (OHV) refers specifically to the vehicles described herein as an ATV, UTV, NEV and snowmobile that has not been otherwise modified from another specific form in order to conform to one (1) of the aforementioned descriptions.

Operator means the person who is in actual physical control of the vehicle.

Owner means a person, other than a lien holder, having the property in or title to an OHV and entitled to the use of it.

Public streets or alleys is the entire right-of-way between boundary lines of any such public way which is open to the use of the public as a matter of right for the purpose of motor vehicle travel.

Recreational use means operating an OHV without a specific destination or not using the most direct route. This would include, but not be limited to, speed contests, excessive acceleration, riding around the block and stunts.

Registration means the process by which the State provides a valid Colorado registration for an OHV through the State Division of Parks and Wildlife or any successor agency.

Snowmobile means any motor-driven vehicle designed for travel primarily on snow or ice of a type that utilizes sled-type runners or skis, an endless belt or any combination of these, or other similar means of contact with the surface upon which it is operated.

Town means the Town of Hot Sulphur Springs.

Utility-type vehicle (UTV) means any recreational or commercial vehicle designed for and capable of traveling over unimproved terrain: traveling on four (4) or more low-pressure tires; having a width of thirty (30) to seventy (70) inches; having an unladen dry weight of two thousand two hundred (2,200) pounds or less; having a seat height of twenty-five (25) to forty (40) inches when measured at the forward edge of the seat bottom; and having side-by-side seating with a steering wheel for control.

Valid driver's license means any regular and current legal license not subject to revocation or suspension. (Ord. 2014-4-1-391 §1)

6-2-2. Permitted use.

(A) It shall be a violation of this Code and is prohibited to operate any OHV on Town public streets or alleys except in accordance with this Chapter.

(B) Properly registered, operated and insured OHVs may be operated on all public streets and alleys within the limits of the Town, except Highway 40, in accordance with the requirements of this Chapter. This Chapter does not authorize or designate the operation of OHVs on Highway 40 or on any other roads, lands or trails outside or inside the Town limits under the jurisdiction of any county, state or federal agency.

(C) Property registered, operated and insured OHVs may cross Colorado Highway 40 only at its intersection with the following Town streets:

(1) First Street.

(2) Aspen Street.

(3) Hemlock Street.

(D) All OHVs operated in accordance within this Chapter shall be used solely for the purpose of normal transportation having a specific destination using the most direct route.

(E) All provisions of the Model Traffic Code as adopted by the Town and all traffic laws of the State governing operation and parking of motor vehicles on Town streets shall apply to the operation and parking of OHVs hereunder, including, without limitation, laws prohibiting the operation of vehicles while intoxicated or under the influence of alcohol or drugs. The provisions of the Model Traffic Code and state law governing motor vehicle required equipment shall not apply and shall be replaced with the equipment requirements set forth in this Chapter. It shall be unlawful for any person operating an OHV on Town public streets and alleys to violate any such applicable traffic laws and such person shall be prosecuted either in the Municipal Court or in the state courts if the violation would be prosecuted in the state courts had the operator been operating a motor vehicle. (Ord. 2014-4-1-391 §1)

6-2-3. Registration.

The owner of any OHV driven within the Town shall obtain either a State Department of Motor Vehicle registration as an NEV or, if other than an NEV, an annual OHV Registration or Non-Resident Permit through Colorado State Parks and Wildlife Division or its successor agency. Such registration or permit must be clearly displayed on the OHV or in the presence of the driver at all times while operating an OHV on Town streets pursuant to this Chapter. (Ord. 2014-4-1-391 §1)

6-2-4. Requirements.

(A) Any OHV that operates on any Town public street or alley must have all the following listed equipment installed and such equipment must be operable:

- (1) Headlamp, which is or are in use at all times before and at dawn and at and after dusk;
- (2) Tail lamp, which is or are in use at all times before and at dawn and at and after dusk, and reflector;
- (3) Stop or brake lamps on the rear;
- (4) A horn or other audible warning device;
- (5) A muffler and emissions system as required by the State;
- (6) Rear view mirror;
- (7) A windshield or eye protection for and worn by the operator;
- (8) For UTVs and NEVs, a seat belt for and worn by each occupant;
- (9) For other than UTVs and NEVs, a footrest and handhold for each passenger.

(B) Any operator of an OHV operating on any Town public street or alley must have in his or her possession while operating the OHV:

(1) A valid driver's license except otherwise as set forth in Section 6.2.5;

(2) Proof of current policy of insurance for the OHV in operation in at least minimum policy coverage amounts as required for motor vehicles pursuant to Part 6, Article 4, Title 10, C.R.S., or any successor statute; and

(3) Documentation of current registration or permit as required by Section 6.2.3 of this Chapter.

(C) The Board of Trustees shall suspend or revoke the privilege of any person to operate an OHV on Town public streets and alleys hereunder if such person has been convicted of two (2) or more violations of any traffic laws within one (1) year while operating an OHV. If such privilege is suspended or revoked, it shall be unlawful for such person to operate an OHV on Town public streets or alleys during such period of such suspension or revocation. (Ord. 2014-4-1-391 §1)

6-2-5. Licensed operator exceptions.

(A) Persons age ten (10) or under may only operate a snowmobile when accompanied on board by a person at least sixteen (16) years who has in possession a valid driver's license in such person's name.

(B) Persons age eleven (11) to fifteen (15) may only operate a snowmobile with a Snowmobile Operator's safety certificate issued by the Colorado Division of Parks and Wildlife and under the direct and immediate supervision by a person in possession of a valid driver's license in such person's name who remains in direct sight within two hundred (200) feet of the underaged operator.

(C) Persons age eleven (11) and older may operate an OHV without a valid driver's license strictly for the purposes of snow removal while under the direct and immediate supervision by a person in possession of a valid driver's license in such person's name who remains in direct sight within fifty (50) feet of the unlicensed operator. (Ord. 2014-4-1-391 §1)

6-2-6. Responsibilities and safety.

(A) All OHV owners, operators thereof and passengers therein shall comply with all of the following responsibilities:

(1) The registered owner of the OHV shall be responsible for the operation at all times of that vehicle;

(2) The operator of any OHV must obey all Town, County, state and federal laws;

(3) The operator of any OHV on Town streets or alleys may not exceed the posted speed limit at any time; and

(4) That use of an OHV is limited to one (1) person unless the vehicle is designed for two (2) or more riders and there are footrests and handholds for each rider, in which event more than one (1) person may use the OHV at the same time.

(B) OHVs traveling together must be driven in single file.

(C) The safety or deadman throttle on snowmobiles which causes the motor to be disengaged from the driving track when pressure is removed from the engine accelerator or throttle will be maintained and kept in proper working order and at all times functional when the snowmobile is in operation of the Town public streets and alleys. (Ord. 2014-4-1-391 §1)

6-2-7. Restrictions.

(A) It shall be unlawful to operate any three-wheel OHV on any Town public street or alley.

(B) It shall be unlawful to operate any OHV that has been modified from its original form or use on any Town public streets or alleys.

(C) In order to prevent degradation of the paved surfaces, it shall be unlawful to operate any snowmobile on or across dry pavement areas. Snowmobiles must be operated only across areas of streets covered wholly with snowpack.

(D) It shall be unlawful to operate any OHV on Town public streets or alleys in any recreational, careless, reckless or negligent manner.

(E) It shall be unlawful to operate any OHV on Town public streets or alleys which is towing by any means another OHV, motor vehicle or any person or object. Any disabled OHV must be trailered or pushed to a safe and legal place.

(F) It shall be unlawful to operate any OHV on Town sidewalks, public parks, pedestrian bridges, designated pedestrian trails or any other area posted as prohibited. This Subsection does not apply to any Town vehicle or OHV or authorized contractors and other designees performing maintenance on behalf of the Town.

(G) It shall be unlawful to operate any OHV in Town upon the right-of-way of any operating railroad except for crossing the tracks at the intersection of a public street or alley.

(H) The restrictions herein may be waived by the Town to permit use of OHVs in prohibited areas for special events upon approval by the Town of a special use permit and the payment of any appropriate fees and bonds. (Ord. 2014-4-1-391 §1)

6-2-8. Hours of operation.

No OHV may be operated within the Town except between the hours of 8:00 a.m. and 10:00 p.m. with the only exception being for snow removal purposes. (Ord. 2014-4-1-391 §1)

6-2-9. Yield right-of-way.

OHVs shall yield the right-of-way at all times to all vehicular traffic and pedestrians. (Ord. 2014-4-1-391 §1)

6-2-10. Excessive noise prohibited.

It shall be unlawful to operate any OHV that produces excessive noise. All motorized OHVs in the Town shall be operated with a conventional exhaust system in working order. Tuned exhausts are not permitted unless used in connection with an operable muffler. (Ord. 2014-4-1-391 §1)

6-2-11. Liability imposed on parent.

It shall be unlawful for the parent or guardian of any juvenile to authorize or permit any such juvenile to violate any provision of this Chapter. (Ord. 2014-4-1-391 §1)

6-2-12. Liability imposed on owner.

It shall be unlawful for the owner of any OHV to authorize or permit any person to operate the OHV in violation of any provision in this Chapter. (Ord. 2014-4-1-391 §1)

6-2-13. Declared emergency.

Under a declaration of emergency issued by the Mayor in accordance with Section 1-6-3 of this Code, this Chapter shall be automatically suspended during such emergency unless the Mayor declares otherwise. (Ord. 2014-4-1-391 §1)

6-2-14. Accident reporting.

It shall be unlawful for any person involved in an accident involving an OHV in the Town to fail to report the same in the same manner as if the accident involved a motor vehicle, as set forth in Part 16 of Article 4 of Title 42, as may be amended, or any successor statute. (Ord. 2014-4-1-391 §1)

6-2-15. Penalties, violations and fines.

Any person in violation of any provision in this Chapter shall be punished in accordance with Subsection 1-4-1(B) of this Code upon conviction. (Ord. 2014-4-1-391 §1)

6-2-16. Limitation of liability.

Nothing in this Chapter shall be construed as an assumption of any duty of care by the Town with respect to, or the assumption of any liability by the Town for any injuries to persons or property which may result from the operation of an OHV on the public streets and alleys within the Town limits. Nothing herein shall be construed to waive, limit or otherwise modify any governmental immunity that may be available by the law to the Town, its officials, employees, contractors or agents or any other person acting on behalf of the Town, in particular, governmental immunity afforded or available pursuant to the Colorado Governmental Immunity Act, Title 24, Article 10, C.R.S. (Ord. 2014-4-1-391 §1)

