

**TOWN OF GARDEN CITY, COLORADO
ORDINANCE NO. 02-2023**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE
TOWN OF GARDEN CITY ADOPTING BY REFERENCE THE 2020
EDITION OF THE MODEL TRAFFIC CODE FOR COLORADO
MUNICIPALITIES AND PROVIDING PENALTIES FOR VIOLATION THEREOF**

WHEREAS, pursuant to § 42-4-110(1)(b), C.R.S., municipalities may, in the manner prescribed by Parts 1 and 2 of Article 16 of Title 31, C.R.S., adopt by reference all or any part of a model traffic code to control and regulate the movement and parking of motor vehicles as provided by state traffic laws; and

WHEREAS, the Colorado Department of Transportation has prepared and adopted a 2020 revised edition of the Model Traffic Code for Colorado; and

WHEREAS, the Board of Trustees (the “Board”) of the Town of Garden City (“Town”) desires to adopt the 2020 revised edition of the Model Traffic Code for Colorado, with additions and modifications as specified below.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF GARDEN CITY, COLORADO, as follows:

Section 1 – Adoption and Modification. Chapter 8, Article 1 of the Garden City Municipal Code is hereby repealed and reenacted in its entirety to read as follows:

Sec. 1-1-10. – 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 the 2020 edition of the “Model Traffic Code” promulgated and published as such by the Colorado Department of Transportation, Traffic Safety and Engineering Services, 2829 W Howard Place, Denver CO 80204. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. 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 and the nation. Three (3) copies of the Model Traffic Code as adopted herein are now filed in the office of the Clerk of the Town of Garden City Colorado, and may be inspected during regular business hours.

Section 8-1-20. – Deletions.

The 2020 edition of the Model Traffic Code is adopted as if set out at length save and except the following articles and sections which are declared to be inapplicable to this municipality and are therefore expressly deleted:

- (a) Part 5:
 - Section 507 – Wheel and axle loads;
 - Section 508 – Gross weight of vehicles and loads;
 - Section 509 – Vehicles weighed – excess removed;
 - Section 510 – Permits for excess size and weight for manufactured homes – rules;
 - Section 511 – Permit standards – state & local;
 - Section 511.2 – Authority for cooperative agreements with regional states on excess size o weight vehicles – regulations.

- (b) Part 14:
 - Section 1416 – Failure to present a valid transit pass or coupon – fare inspection authorization – definitions.

- (c) Part 17:
 - Section 1702 – Counties – traffic offenses classified – schedule of fines;
 - Section 1705 – Persons arrested to be taken before the proper court;
 - Section 1706 – Juveniles – convicted – arrested and incarcerated – provisions for confinement;
 - Section 1707 – Summons and complaint or penalty assessment notice for misdemeanors, petty offenses, and misdemeanor traffic offenses – release – registration.

- (d) The subsection of any specific section of the Code which classifies the Section as a Class A or Class B traffic infraction.

- (e) The subsection of any specific section of the Code which classifies the Section as a Class 1 or Class 2 misdemeanor traffic offense.

- (f) The subsection of any specific section of the Code which establishes a penalty upon conviction.

Section 8-1-30. – Additions or Modifications. The said Model Traffic Code, as adopted, is subject to the following additions or modifications:

- (a) **Part 1 Section 103 - Scope and Effect of Code** is modified to read as follows:
 - (1) This Code constitutes the model traffic code throughout this jurisdiction.
 - (2) The provisions of this Code relating to the operation of vehicles and the movement of pedestrians refers 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

or county, the use of which this municipality or county has jurisdiction and authority to regulate.

(b) **Part 1 Section 119 - Driving Under Restraint** is added to the Model Traffic Code:

- (1) Any person who drives a motor vehicle or off-highway vehicle upon any street or highway with the knowledge that the person's license or privilege to drive, either as a resident or nonresident, is under restraint for an outstanding judgment, or suspended or revoked by the licensing authority, is in violation of this section.
- (2) In a prosecution for a violation of this section, the fact of the restraint may be established by certification that a notice was mailed by first class mail pursuant to C.R.S. § 42-2-119(2) to the last known address of the defendant, or by the delivery of such notice to the last known address of the defendant, or by personal service of such notice upon the defendant.
- (3) In such prosecution for a violation of this section, the fact of restraint in another state may be established by certification that notice was given in compliance with such state's laws.

(c) **Part 2 Section 234 – Slow Moving Vehicles** is modified to read as follows:

- (1) 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. Such emblem shall conform to the emblem proscribed by the Colorado Transportation Department.
- (2) Bicycles, electrical assisted bicycles, and other human-powered vehicles shall be permitted but not required to display the emblem specified in this subsection (1).

(d) **Part 5 Section 501 – Size and Weight Violations**, [the term penalty in the section heading is removed], is modified to read as follows:

It is a traffic infraction for any person to drive or move or for the owner to cause or knowingly permit to be driven or moved on any highway any vehicle or vehicles of a size or weight exceeding the limitations stated in Sections 502 to 512 or otherwise in violation of said sections or section 1407, except as permitted by state law or regulations. The maximum size and weight of vehicles specified in said sections shall be lawful throughout this state, and local authorities shall have no power or authority to alter said limitations, except as express authority may be granted in section 42-4-106, C.R.S.

- (e) **Part 5 Section 502. Width of vehicles** is modified to read as follows:
- (1) The total outside width of any vehicle or the load thereon shall not exceed eight feet six inches, except as otherwise provided in this section or under state laws and regulations.
 - (2) A load of loose hay, including loosely bound, round bales, whether horse drawn or by motor, shall not exceed twelve feet in width.
 - (3) A vehicle and trailer may transport a load of rectangular hay bales if such vehicle and load do not exceed ten feet six inches in width.
 - (4) It is unlawful for any person to operate a vehicle or a motor vehicle which has attached thereto in any manner any chain, rope, wire, or other equipment which drags, swings, or projects in any manner so as to endanger the person or property of another.
 - (5) The total outside width of buses and coaches used for the transportation of passengers shall not exceed eight feet six inches.
 - (6) The total outside width of vehicles as included in this section shall not be construed so as to prohibit the projection beyond such width of clearance lights, rearview mirrors, or other accessories required by federal, state, or municipal laws or regulations.
 - (7) The width requirements imposed by this section shall not include appurtenances on recreational vehicles, including but not limited to motor homes, travel trailers, fifth wheel trailers, camping trailers, recreational park trailers, multipurpose trailers, and truck campers, all as defined in section 24-32-902, C.R.S., so long as such recreational vehicle, including such appurtenances, does not exceed a total outside width of nine feet six inches.
- (f) **Part 5 – Section 503 – Projecting Loads on Passenger Vehicles** is modified to read:
- No vehicle designed, or used to carry passengers, except a motorcycle, a bicycle, or an electrical assisted bicycle shall be operated on any street or highway with any load carried thereon extending beyond the line of the fenders on the left side of such vehicle nor extending more than six inches beyond the line of the fenders on the right side thereof, nor shall any load extend beyond the rear of such vehicle unless the projecting load is clearly marked with either a red marker or flag during daylight hours or a flashing red light for evening and nighttime operation. Any such flag or flashing light shall be able to be clearly seen beyond 50 feet from the projecting load.
- (g) **Part 14 – Section 1409 – Compulsory Insurance**, [penalty – legislative intent in the section heading is removed], is modified to read:

- (1) No owner of a motor vehicle or low-power scooter required to be registered in this state shall operate the vehicle or permit it to be operated on the public highways of this state when the owner has failed to have a complying policy or certificate of self-insurance in full force and effect as required by law.
- (2) No person shall operate a motor vehicle or low-power scooter on the public highways of this state without a complying policy or certificate of self-insurance in full force and effect as required by law.
- (3) (a) When an accident occurs, or when requested to do so following any lawful traffic contact or during any traffic investigation by a peace officer, an owner or operator of a motor vehicle or low-power scooter shall present to the requesting officer immediate evidence of a complying policy or certificate of self-insurance in full force and effect as required by law. (b) As used in this section, “evidence of a complying policy or certificate of self-insurance in full force and effect” includes the presentation of such a policy or certificate upon a cell phone or other electronic device.
- (4) (a) Any person who violates the provisions of subsection (1), (2), or (3) of this section shall upon a finding of guilty, or entry of default by the court, shall receive the minimum fine imposed by section 42-4-1701(3)(a)(II)(A), C.R.S., and the defendant shall be punished by a minimum mandatory fine of not less than five hundred dollars. The court may suspend up to one half of the fine upon a showing that appropriate insurance as required pursuant to section 10-4-619 or 10-4-624, C.R.S., has been obtained. Nothing in this paragraph (a) shall be construed to prevent the court from imposing a fine greater than the minimum mandatory fine.

(b) Upon a second or subsequent conviction under this section within a period of five years following a prior conviction under this section, the defendant shall be punished by a minimum mandatory fine of not less than one thousand dollars, and the court shall not suspend such minimum fine. The court or the court collections’ investigator may establish a payment schedule for a person convicted of the provisions of subsection (1), (2), or (3) of this section, and the provisions of section 16-11-101.6, C.R.S., shall apply. The court may suspend up to one half of the fine upon a showing that appropriate insurance as required pursuant to section 10-4-619 or 10-4-624, C.R.S., has been obtained.

(c) In addition to the penalties prescribed in paragraphs (a) and (b) of this subsection (4), any person convicted pursuant to this section may, at the discretion of the court, be sentenced to perform not less than forty hours of community service, subject to the provisions of section 18-1.3-507, C.R.S.

- (5) Testimony of the failure of any owner or operator of a motor vehicle or low-power scooter to present immediate evidence of a complying policy or certificate of self-insurance in full force and effect as required by law, when requested to do so by a peace officer, shall constitute prima facie evidence, at a trial concerning a violation charged under subsection (1) or (2) of this section, that such owner or operator of a motor vehicle violated subsection (1) or (2) of this section.
- (6) A person charged with violating subsection (1), (2), or (3) of this section shall not be convicted if the person produces in court a bona fide complying policy or certificate of self-insurance that was in full force and effect as required by law at the time of the alleged violation. The court clerk's office may dismiss the charge if it verifies that the person had a valid policy in effect at the time of the alleged violation using the uninsured motorist identification database created in section 42-7-602, C.R.S.
- (7) Repealed.
- (8) (Deleted by amendment, L. 2003, p. 2648, § 7, effective July 1, 2003.)
- (8.5) If an operator of a motor vehicle or low-power scooter uses a cell phone or other electronic device to present evidence of a complying policy or certificate of self-insurance in full force and effect, as described in paragraph (b) of subsection (3) of this section:
 - (a) The law enforcement officer to whom the operator presents the device shall not explore the contents of the cell phone or other electronic device other than to examine the operator's policy or certificate of self-insurance; and
 - (b) The law enforcement officer to whom the operator presents the device and any law enforcement agency that employs the officer are immune from any civil damages resulting from the officer dropping or otherwise unintentionally damaging the cell phone or other electronic device.
- (h) Part 17 – Section 1701 header is modified to read **Traffic Infractions for Violations of the Model Traffic Code**.
- (i) Part 17 – Section 1701 body is modified to read:
 - (1) It is a traffic infraction for any person to violate any of the provisions of articles 1 to 3 of title 42, Colorado Revised Statutes, and parts 1 to 2 and 5 to 19 of this Code.

- (2) Points will be assessed pursuant to C.R.S. 42-2-127 for traffic violations under this code.
- (3) If a person receives a penalty assessment notice for a violation under this code, and such person pays the penalty assessment for the violation within 20 days of issuance of the citation, the points assessed for the violation shall be reduced as follows:
 - (a) For a violation having an assessment of three or more points under CRS 42-2-127, the points are reduced by two points;
 - (b) For a violation having an assessment of two points under CRS 42-2-127, the points are reduced by one point.
 - (c) No provision under this section (1701) shall be construed to limit the authority of the prosecuting attorney to enter into any plea agreement appropriate to the facts and circumstances of each matter which may come before the prosecuting attorney.
- (4) Fines for violations under the Model Traffic Code, as adopted by the Town of Garden City, shall be set by the municipal court presiding judge. However, the maximum fine that may be imposed for any single violation shall not be more than one thousand dollars (\$1,000.00), court cost and surcharges excepted. The presiding judge shall, annually, publish an order establishing an continuing violations bureau and establishing a schedule of fines and a common bond amount.
- (5) Except as set forth herein, it is a traffic infraction for any person to violate any of the provisions of this Code. Such a traffic infraction shall constitute a civil matter. The Colorado Rules of Municipal Procedure shall apply to traffic infraction proceedings, 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 of Colorado or any other state which participates in the Interstate Nonresident Violator Compact, as codified at C.R.S. Section 24-60-201. Instead, the court may enter a 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 appropriate state motor vehicle department 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 a trial by jury for any noncriminal traffic infraction.

Section 8-1-40. – Penalties.

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

- (1) Fines for violations under the Model Traffic Code, as adopted by the Town of Garden City, shall be set by the municipal court presiding judge. However, the maximum fine that may be imposed for any single violation shall not be more than one thousand dollars (\$1,000.00), court cost and surcharges excepted. The presiding judge shall, annually, publish an order establishing a continuing violations bureau and establishing a schedule of fines and a common bond amount. .
- (2) It is unlawful for any person to violate any of the provisions adopted in this Article.
- (3) Every person convicted of a violation of any provision of this Article shall be punished by a surcharge in accordance with 42-4-1701 (4)(e)(II), C.R.S

Section 8-1-50. – 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 this municipality or county, the use of which this municipality or county has jurisdiction and authority to regulate.

Section 8-1-60. – Validity.

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

Section 8-1-70. – Interpretation.

This Article 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 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.

Section 2 – Interpretation. This Ordinance shall be so interpreted and construed to effectuate its general purpose pursuant to the laws of the State of Colorado.

Section 3 – Severability. Existing 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.

Section 4 – Safety. The Board of Trustees finds that adoption of this Ordinance is necessary for the protection of public health, safety, and welfare.

Section 4 – Certification. The Town Clerk shall certify to the passage of this Ordinance and cause notice of its contents and passage to be published.

Section 5 – Effective Date. Except as otherwise specifically provided herein, the provisions enacted by this Ordinance shall become effective thirty (30) days after publication as provided by law.

**INTRODUCED, READ, PASSED AND ORDERED PUBLISHED THIS _____
DAY OF FEBRUARY, 2023.**

TOWN OF GARDEN CITY

By: _____
Filbert Archuleta Mayor

ATTEST:

Lindsay Shoemaker, Deputy Clerk