

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 Chapter 8 of the Cherry Hills Municipal Code, entitled "VEHICLES AND TRAFFIC," is hereby repealed and re-enacted to read as follows: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

"(2) Officers of the Police Department, or such special officers as are assigned by the Chief of Police, are hereby authorized to direct all traffic by voice, hand or signal in conformance with state traffic laws and this Code, provided that, in the event of fire or emergency or to expedite traffic or protect pedestrians, officers of the Department, and other special officers as are assigned by the Chief of Police, may direct traffic as conditions may require notwithstanding the provisions of the state traffic laws or this Code.

"(3) A police officer may issue a written summons and complaint to any person when, based upon personal investigation, the officer has reasonable and probable grounds to believe that the person has committed any offense under the provisions of this Code or pursuant to state law."

(2) Section 106, Article I, of the Model Traffic Code is hereby amended to read in its entirety as follows:

"106. Who may restrict right to use highways.

"The use of certain streets, roadways and highways by motor-driven cycles, trucks or other commercial vehicles, bicycles, motorized bicycles, motorcycles, mobile machinery, and horse-drawn vehicles or other nonmotorized traffic shall be restricted or prohibited when official signs giving notice thereof are erected thereon."

(3) Subsection 109(9), Article I, of the Model Traffic Code is hereby amended to read as follows:

"109. Low-power scooters, animals, skis, skates, and toy vehicles on highways.

"(9) No person shall use the highways for traveling on skis, toboggans, coasting sleds, skates, skateboards, rollerblades or similar devices. It is unlawful for any person to use any street, roadway or highway of this municipality as a sled or ski course for the purpose of coasting on sleds, skis or similar devices. It is also unlawful for any person upon roller skates or rollerblades, or riding in or by means of any coaster, toy vehicle (including but not limited to neighborhood electric vehicles, motor scooters, specially constructed vehicles, coasters, toy vehicles, coasting sleds, go-carts, skateboards and gasoline-powered or battery-powered skateboards), or similar device to go upon any street, roadway or highway except while crossing a highway in a crosswalk, and when so crossing, such person shall be granted all of the rights and shall be subject to all of the duties applicable to pedestrians. This subsection (9) does not apply to any public way which is set aside by proper authority as a play street and which is adequately roped off or otherwise marked for such purpose."

(4) A new Section 110.5, Article I, is hereby added to the Model Traffic Code to read as follows:

"110.5. Red-light cameras.

"(1) The City is hereby authorized to use red-light cameras at signalized intersections within the City to detect violations of Section 603 of the Model Traffic Code.

"(2) As used in this Section:

"(a) 'Red-light camera' means a device operated by a peace officer that is placed in a fixed location at a signalized intersection and that is programmed to automatically produce a photograph of any

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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

submit evidence that the owner was not the driver at the time of the alleged violation.

"(8) In any proceeding under this Section, any photograph produced by a red-light camera concerning the violation shall be admissible in court as prima facie evidence of a violation of Section 603, provided that the peace officer who activated and tested the red-light camera prior to the photographs being taken testifies as to the placement of the red-light camera and the accuracy of the scene depicted in the photographs, and further testifies that he or she tested the red-light camera for proper operation within a reasonable period of time both before and after the taking of the photographs. Also, to be admissible, the photographs must be of a sufficient quality to permit identification of the driver of the vehicle.

"(9) In any proceeding under this Section, the Municipal Court may impose as an additional cost the cost of service of the summons and complaint upon the defendant if such service is effected through either certified mail or personal service. If the defendant is personally served, the Municipal Court may only charge the actual costs of service that shall be no more than the amount usually charged for civil service of process.

"(10) The maximum penalty for a violation of Section 603 that is detected by a red-light camera, including surcharge, shall be seventy-five dollars (\$75.00).

"(11) The City shall not report to the Department of Revenue: (i) any conviction or entry of judgment; or (ii) for purposes of section 42-2-107(5) or 42-2-118(3), C.R.S., any outstanding judgment or warrant based on a violation of Section 603, which was detected exclusively by means of a red-light camera.

"(12) The City shall post a sign in a conspicuous place at a reasonable distance before the area in which the red-light camera is to be used, notifying the public that a red-light camera is in use immediately ahead.

"(13) If a driver fails to pay a penalty imposed for a violation detected using red-light camera, the City shall not attempt to enforce such a penalty by immobilizing the driver's vehicle."

(5) Subsection 216(1.5), Article I, of the Model Traffic Code is hereby deleted.

(6) Section 222, Article I, of the Model Traffic Code is hereby amended to read in its entirety as follows:

"222. Volunteer fireman/ambulance attendants – special lights.

"(1)(a) All members of volunteer fire departments regularly attached to the fire departments organized within incorporated towns and cities and fire protection districts and all members of a volunteer ambulance service regularly attached to a volunteer ambulance service within an area that the ambulance service would be reasonably expected to serve may have their private automobiles equipped with a signal lamp or a combination of signal lamps capable of displaying flashing, oscillating or rotating red lights visible to the front and rear at five hundred feet in normal sunlight. In addition to the red light, flashing, oscillating or rotating signal lights may be used that emit white or white in combination with red lights. At least one of such signal lamps or combination of signal lamps shall be mounted on the top of the automobile. Said automobiles may be equipped with audible signal systems such as sirens, whistles or bells. Said lights, together with any signal systems authorized by this subsection (1), may be used only as authorized by subsection (3) of this section or when a member of a fire department is responding to or attending a fire alarm or other emergency

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:

"507. Wheel and axle loads.

"(2)(b) Except as provided in paragraph (b.5) of this subsection (2), when the wheels attached to a single axle are equipped with pneumatic tires, eighteen thousand (18,000) pounds.

"(2)(b.5) When the wheels attached to a single axle are equipped with pneumatic tires and the vehicle is a digger derrick or bucket boom truck operated by an electric utility on a highway, nineteen thousand (19,000) pounds.

"(2)(c) When the wheels attached to a tandem axle are equipped with pneumatic tires, thirty thousand (30,000) pounds."

(11) Subsections 508(1)(a)(III), Article 1 of the Model Traffic Code are hereby amended to read as follows:

"508. Gross weight of vehicles and loads.

"(1)(a)(III) The gross weight of a vehicle having three or more axles shall not exceed forty-six thousand (46,000) pounds."

(12) A new Section 513, Article I, is hereby added to the Model Traffic Code adopted in this Chapter to read as follows:

"513. Weight limits on certain streets or parts thereof.

"When official signs are erected giving notice thereof, no person shall operate any vehicle with a weight limit in excess of the amounts specified on such signs at any time upon any of the streets or parts thereof or upon any of the bridges or viaducts."

(13) Section 614, Article I, of the Model Traffic Code is hereby amended to read in its entirety as follows:

"614. Designation of highway maintenance, repair or construction zones – signs – increase in penalties for speeding violations.

"(1) If maintenance, repair or construction activities are occurring or will be occurring within four hours on a state highway or municipal street, the department of transportation or the City Manager or the City Manager's designee may designate such portion of the highway or street as a highway or street maintenance, repair or construction zone. Any person who commits a speeding violation in a maintenance, repair or construction zone that is designated 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 by appropriate signs that a maintenance, repair or construction activity is taking place within four hours. Such sign shall notify the public that increased penalties for speeding violations are in effect in such zone. The department of transportation or local authorities shall erect or place a second sign after such zone indicating that the increased penalties for speeding violations are no longer in effect. A maintenance, repair or construction 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 maintenance, construction or repair 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. 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.

"(2)(e) Deleted."

(18) Subsection 1102(4), Article I, of the Model Traffic Code is hereby amended to read in its entirety as follows:

1102. Altering of speed limits.

"(4) No alteration of speed limits on state highways within cities, cities and counties, and incorporated towns shall be effective until such alteration has been approved in writing by the department of transportation."

(19) A new Section 1203, Article I, is hereby added to the Model Traffic Code, to read as follows:

"1203. Parking for certain purposes prohibited.

"(1) No person shall park a vehicle upon a roadway for the principal purpose of:

"(a) Painting, servicing or repairing such vehicle except repairs necessitated by an emergency; or

"(b) Displaying advertising.

"(2) As used in this section, the term "semi-trailer" and the term "laden truck tractor" shall have the meaning as set forth in the Model Traffic Code adopted in this Chapter.

"(3) No laden truck tractor with a total gross vehicle weight of twenty-five thousand (25,000) pounds or more or any truck tractor shall be parked on any street in the City for more than thirty (30) minutes between the hours of 6:00 P.M. and 7:00 A.M.

"(4) It shall be unlawful for any person to park or store any semi-trailer in or upon any public street or highway in the City when such semi-trailer is not attached to a truck tractor.

"(5) Vehicles for sale.

"(a) No person shall park a vehicle upon private property for the principal purpose of displaying such vehicle for sale.

"(b) It shall be unlawful for the owner of any property located within Cherry Hills Village to allow vehicles owned by others to be parked on such property for the principal purpose of being offered for sale.

"(c) Whenever a parked vehicle displays a sign or message indicating that it is being offered for sale, such display shall be *prima facie* evidence that the vehicle is parked for the principal purpose of being displayed for sale.

"(d) For purposes of this section 1203(5) only, the term 'vehicle' shall include any device capable of being moved from place to place upon wheels or tracks, as well as devices capable of being moved on or through water or air, such as boats and airplanes.

"(e) No person shall park a vehicle upon a roadway, street, alley, sidewalk or sidewalk area, in a park or in any publicly owned parking area within Cherry Hills Village for the principal purpose of displaying such vehicle for sale.

"(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.

"(5)(b) 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 is displayed in such vehicle.

"(7) Any person who is not a person with a disability and who uses a license plate or placard issued pursuant to section 42-3-204, C.R.S., in order to receive the benefits or privileges available to a person with a disability under this section commits a class B traffic infraction and shall be subject to a fine of up to twice the maximum penalty identified for a class B traffic infraction in section 1701 (3) (a) (I).

"(10)(a) For purposes of this subsection (10), 'holder' means a person with a disability as defined in section 42-3-204(1)(b), C.R.S., who has lawfully obtained a license plate or placard issued pursuant to section 42-3-204(2), C.R.S., or as otherwise authorized by subsection (4) of this section.

"(10)(b) Notwithstanding any other provision of this section to the contrary, a holder is liable for any penalty or fine as set forth in this section or section 42-3-204, C.R.S., or for any misuse of a disabled license plate or placard, including the use of such plate or placard by any person other than a holder, unless the holder can furnish sufficient evidence that the license plate or placard was, at the time of the violation, in the care, custody or control of another person without the holder's knowledge or consent.

(11) Any person who knowingly and fraudulently obtains, possesses, uses, or transfers a placard issued to a person with a disability pursuant to section 42-3-204, C.R.S., or knowingly makes, possesses, uses, or transfers what purports to be, but is not, a placard issued to a person with a disability pursuant to section 42-3-204, C.R.S., is guilty of a misdemeanor and is subject to the criminal and civil penalties provided under section 139 (3) and (4). Any person who knowingly and willfully receives remuneration for committing a misdemeanor pursuant to this subsection (11) shall be subject to twice the civil and criminal fine that would otherwise be imposed.

(13) (a) For purposes of this subsection (13), "holder" means a person with a disability as defined in section 42-3-204(1)(b), C.R.S., who has lawfully obtained a license plate or placard issued pursuant to section 42-3-204(2), C.R.S., or as otherwise authorized by subsection (4) of this section.

(22) Subsection 1211(1), Article I, of the Model Traffic Code is hereby amended to read as follows:

"1211. Limitations on backing.

"(1) The driver of a vehicle, whether on public property or private property, shall not back the same unless such movement can be made with safety and without interfering with other traffic, parked vehicles or immobile objects."

(23) A new Section 1212, Article I, is hereby added to the Model Traffic Code to read as follows:

"1212. Presumption in reference to illegal parking.

"In any prosecution charging a violation of any provision of this code governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such

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

more per hour in excess of a maximum speed limit of seventy-five (75) miles per hour on any interstate highway is a criminal traffic offense.

"(c) A violation of any of the following sections of the Model Traffic Code adopted by this Chapter: 1105 (speed contests), 1401 (reckless driving), 1402 (careless driving), 1409 (failure to show compulsory insurance), 1413 (eluding or attempting to elude police officer), 1703 (aiding or abetting a traffic offense), and 1903 (failure to stop for a school bus).

"(3) (a) Traffic infractions shall be subject to the following penalties:

Minimum Sentence	Maximum Sentence
"1 day imprisonment, or a fine of \$10.00, or both	"1 year imprisonment, or a fine of \$1,000.00, or both

"(b) Court costs as authorized by state law shall be added to the fine.

"(c) Any person convicted of a traffic infraction shall be required to pay restitution as required by Code 18.5 of title 16, C.R.S., and may be sentenced to perform a certain number of hours of community or useful public service in addition to any other sentence provided by sub subparagraph (a) of this subparagraph (3)."

"(4) Every person who is convicted of, who admits liability for, or against whom a judgment is entered for a violation of any provision of this Chapter shall be fined or penalized, and have a surcharge levied thereon pursuant to section 2-4-80 of the Municipal Code, as amended, or any other surcharge that has been or may be lawfully enacted by the City Council."

(28) Section 1705, Article I, of the Model Traffic Code is hereby added as follows:

"1705. Person arrested to be taken before the proper court.

"(1) Whenever any person is arrested by a police officer for any violation of this code, the arrested person shall, in the discretion of the officer, either be given a written notice or summons to appear in court as provided in Section 1707 or be taken without unnecessary delay before a municipal judge who has jurisdiction of such offense when the arrested person does not furnish satisfactory evidence of identity or when the officer has reasonable and probable grounds to believe the person will disregard a written promise to appear in court or will disregard a summons to appear. The court shall provide a bail bond schedule and available personnel to accept adequate security for such bail bonds.

"(2) Any other provision of law to the contrary notwithstanding, a police officer may place a person who has been arrested and charged with a violation of section 42-4-1301(l)(a) or (2), C.R.S., and who has been given a written notice or summons to appear in court as provided in Section 1707 in a state-approved treatment facility of alcoholism even though entry or other record of such arrest and charge has been made. Such placement shall be governed by Part 3 or Article 1 of Title 25, C.R.S., except where in conflict with this section."

(29) Section 1707 Article I, of the Model Traffic Code is hereby added as follows:

"1707. Summons and complaint for traffic violations.

"(1) Whenever a person commits a violation of this Chapter or any statute and such person is not required by the provisions of Section 1705 to be

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.

Any person who commits a violation of any provision stated in or adopted by this Article shall be subject to the penalties set forth in Section 1701 of the Model Traffic Code, as herein adopted and amended by the City, and in Section 1717 thereof, which reads as follows:

"1717. Conviction – attendance at driver improvement school.

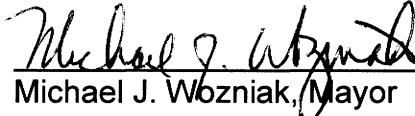
"Whenever a person has been convicted of violating any provision of this code or other law regulating the operation of vehicles on highways, the court, in addition to the penalty provided for the violation or as a condition of either the probation or the suspension of all or any portion of any fine or sentence of imprisonment for a violation other than a traffic infraction, may require the defendant, at his own expense, if any, to attend and satisfactorily complete a course of instruction at any designated driver improvement school providing instruction in the traffic laws of this State, instruction in recognition of hazardous traffic situations, and instruction in traffic accident prevention. Unless otherwise provided by law, such school shall be approved by the court."

Section 2. Repeal. Existing ordinances or parts thereof covering the same matters as embrace in this ordinance are hereby repealed and any and all ordinances or part of ordinances in conflict or inconsistent with the provisions of this ordinance are hereby repealed provided, however, that the repeal of any ordinance or parts of ordinances of the City of Cherry Hills Village shall not revive any other section of any ordinance or ordinances hereto before repealed or superseded, and further provided 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 3. Severability. If any provision of this Ordinance should be found by a court of competent jurisdiction to be invalid, such invalidity shall not affect the remaining portions or applications of this ordinance that can be given effect without the invalid portion, provided that such remaining portions or applications of this ordinance are not determined by the court to be inoperable. The City Council declares that it would have adopted this Ordinance and each section, subsection, sentence, clause, phrase, or portion thereof, despite the fact that any one or more section, subsection, sentence, clause, phrase, or portion be declared invalid.

Section 4. Effective date and time. This Ordinance shall become effective at 12:00 a.m. on the eleventh (11th) day after publication after second reading in accordance with Section 4.5 of the Charter for the City of Cherry Hills Village.

Adopted as Ordinance No. 22, Series 2010, by the City Council of the City of Cherry Hills Village, Colorado this 8th day of September, 2010.


Michael J. Wozniak, Mayor

ATTEST:


Laura Smith, City Clerk

Published in *The Villager*
Published 9-16-10
Legal # 1766

CITY OF CHERRY HILLS VILLAGE
ADOPTION OF ORDINANCE
ORDINANCE 22, SERIES 2010

A BILL FOR AN ORDINANCE OF THE
CITY OF CHERRY HILLS VILLAGE RE-
PEALING AND RE-ENACTING CHAPTER
8 OF THE MUNICIPAL CODE
CONCERNING VEHICLES AND TRAF-
FIC, TO ADOPT BY REFERENCE THE
2010 MODEL TRAFFIC CODE FOR CO-
LORADO MUNICIPALITIES, WITH CERT-
AIN AMENDMENTS, AND TO REPEAL
ALL ORDINANCES IN CONFLICT
THEREWITH AND PROVIDE PENAL-
TIES FOR VIOLATION THEREOF

Copies of the Ordinances are on file at the
office of the City Clerk and may be in-
spected during regular business hours.

Published in *The Villager*
Published: September 16, 2010
Legal # 1766

APPROVED AS TO FORM:


Kenneth S. Fellman, City Attorney