

ORDINANCE NO. 1285

AN ORDINANCE FOR THE REGULATION OF TRAFFIC BY THE TOWN OF BERTHOUD COLORADO; ADOPTING BY REFERENCE THE 2020 EDITION OF THE "MODEL TRAFFIC CODE" REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING PENALTIES FOR VIOLATION THEREOF.

WHEREAS, the Town of Berthoud desires to pass an Ordinance adopting by reference the 2020 Edition of the "Model Traffic Code"; and

WHEREAS, the Town of Berthoud agrees with the recognition by the Colorado General Assembly that every driver should expect the rules of the movement of vehicles and pedestrians on streets and highways to be reasonably uniform throughout the State; and

WHEREAS, the Town of Berthoud has an interest and desire to protect the public health, safety and welfare of its citizens and believes that adopting the 2020 Edition of the "Model Traffic Code" effectuates that purpose; and

NOW, THEREFORE BE IT ORDAINED BY THE BOARD OF TRUSTEES, OF THE TOWN OF BERTHOUD, COLORADO:

Section 1. The Board hereby repeals Section 19.1 of Chapter 19 of the Berthoud Municipal Code and reenacts the same section to read as follows:

19.1 – Model Traffic Code Adopted.

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 Engineering and Safety Branch, 2829 W Howard Place, Denver, CO 80204; provided that any penalty provisions are expressly not adopted. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the Town. The purpose of this Section 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 adopted herein are now filed in the office of the Clerk of the Town of Berthoud, Colorado, and may be inspected during regular business hours.

Section 2. The Board hereby repeals Section 19.1-1 of Chapter 19 of the Berthoud Municipal Code and reenacts the same subsection to read as follows:

19.1-1 Deletions.

The 2020 edition of the Model Traffic Code is adopted as if set out at length save and except the following sections which are expressly deleted:

A) Section 1409(9) of the 2020 edition of the Model Traffic Code is expressly not adopted and is expressly deleted.

Section 3. The Board hereby repeals Section 19.1-2 of Chapter 19 of the Berthoud Municipal Code and reenacts the same subsection to read as follows:

19.1-2 – Additions or Modifications.

The 2020 edition of the Model Traffic Code is adopted as if set out at length save and except the following sections which are added or modified as follows:

A) Part 11, Section 1101 (2)(c), Speed limits, is hereby amended to read in its entirety:

(c) Twenty-five miles per hour in any residence district, as defined in section 42-1-102 (80), C.R.S.

B) Part 14, Section 1412.5 is hereby added to read as follows:

Section 1412.5. Alternative Regulation of Bicycles and Electric Scooters Approaching Intersections.

- (1) A person riding a bicycle or electrical assisted bicycle and approaching an intersection of a roadway with a stop sign shall slow down and, if required for safety, stop before entering the intersection. If a stop is not required for safety, the person shall slow to a reasonable speed and yield the right-of-way to any traffic or pedestrian in or approaching the intersection. After the person has slowed to a reasonable speed and yielded the right-of-way if required, the person may cautiously make a turn or proceed through the intersection without stopping.
- (2) For purposes of this subsection (1), a reasonable speed is fifteen miles per hour or less.
- (3) A person riding a bicycle or electrical assisted bicycle and approaching an intersection of a roadway with an illuminated red traffic control signal shall stop before entering the intersection and shall yield to all other traffic and pedestrians. Once the person has yielded, the person may cautiously proceed in the same direction through the intersection or make a right-hand turn. When a red traffic control signal is illuminated, a person shall not proceed through the intersection or turn right if an oncoming vehicle is turning or preparing to turn left in front of the person.
- (4) A person riding a bicycle or electrical assisted bicycle approaching an intersection of a roadway with an illuminated red traffic control signal may make a left-hand turn only if turning onto a one-way street and only after stopping and yielding to other traffic and pedestrians. However, a person shall not turn left if a vehicle is traveling in the same direction as the person and the vehicle is turning or preparing

to turn left. If the person is not turning left onto a one-way street, the person shall not make a left-hand turn at an intersection while a red traffic control signal is illuminated.

C) Part 14, Section 1417 is hereby added to read as follows:

Section 1417. Permitting Unauthorized Person to Drive.

No person shall authorize or knowingly permit a motor vehicle owned by such person or under such person's hire or control to be driven upon any street or highway within the Town by any person who has not been issued a currently valid driver's or minor driver's license or an instruction permit or shall cause or knowingly permit such person to drive a motor vehicle upon any street or highway in violation of the conditions, limitations, or restrictions contained in a license or permit which has been issued to such other person.

D) Part 14, Section 1418 is hereby added to read as follows:

Section 1418. Expired License Plates/ Improper Use of Title or Registration.

(1) Pursuant to State law (§ 42-3-114, C.R.S.), every vehicle registration issued by the State of Colorado shall expire on the last day of the month at the end of each twelve-month registration period and shall be renewed, upon application by the owner, by the payment of the fees required by law not later than the last day of the month following the date of expiration. No license plates other than those of the registration period to which they pertain shall be displayed on a motor vehicle operating on any street or highway within the Town.

(2) No person shall lend to or knowingly permit the use by one not entitled thereto any certificate of title, registration card, or registration number plate issued to the person so lending or permitting the use thereof

E) Part 14, Section 1419 is hereby added to read as follows:

Section 1419. Driving Without a Current Driver's License.

(1) No person shall drive any motor vehicle upon a street, road or highway within the Town unless such person has been issued a currently valid driver's or minor driver's license or an instruction permit by a State Department of Motor Vehicles.

(2) No person shall drive any motor vehicle upon a street, road or highway within the Town unless such person has in his or her immediate possession a current driver's or minor driver's license or an instruction permit issued by a State Department of Motor Vehicles.

(3) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall drive a type or general class of motor vehicle upon a street, road or highway within the Town for which such person has not been issued the correct type or general class of license or permit.

(4) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall operate a motor vehicle upon a street, road or highway within the Town without having such license or permit in such person's immediate possession.

(5) A charge of a violation of subsection (4) of this section shall be dismissed by the court if the defendant elects not to pay the penalty assessment and, at or before the defendant's scheduled court appearance, exhibits to the court a currently valid driver's or minor driver's license issued to such person or an officially issued duplicate thereof if the original was lost, stolen or destroyed; provided that such currently valid driver's license or minor driver's license shall also have been valid on the date the defendant was issued the citation.

(6) The conduct of a driver of a motor vehicle which would otherwise constitute a violation of this section is justifiable and not unlawful when:

(a) It is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of said driver and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweigh the desirability of avoiding the injury sought to be prevented by this Section; or

(b) The applicable conditions for exemption, as set forth in § 42-2-102, C.R.S., exist.

(7) The issue of justification or exemption is an affirmative defense. As used in this subsection, affirmative defense means that, unless the prosecutor's evidence raises the issue involving the particular defense, the defendant, to raise the issue, shall present some credible evidence on that issue. If the issue involved in an affirmative defense is raised, then the liability of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the charge.

F) Part 14, Section 1420 is hereby added to read as follows:

Section 1420. Open Alcoholic Beverage Containers in Motor Vehicles.

(1) Definitions. As used in this section, unless the context otherwise requires:

(a) Alcoholic beverage means a beverage as defined in § 44-3-103(2), C.R.S.

(b) Motor vehicle means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public streets, roads or highways but does not include a vehicle operated exclusively on a rail or rails.

(c) Open alcoholic beverage container means a bottle, can, or other receptacle that contains any amount of alcoholic beverage and:

(I) That is open or has a broken seal; or

(II) The contents of which are partially removed.

(d) Passenger area means the area designed to seat the driver and passengers while a motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in his or her seating position, including but not limited to the glove compartment.

(2) Except as otherwise permitted in Subsection (3) below, a person while in the passenger area of a motor vehicle that is on a public street, road or highway within the Town or the right-of-way of a public street, road or highway within the Town may not knowingly:

(a) Drink an alcoholic beverage; or

(b) Have in his or her possession an open alcoholic beverage container.

(3) The provisions of Subsection (2) shall not apply to:

(a) Passengers, other than the driver or a front seat passenger, located in the passenger area of a motor vehicle designed, maintained, or used primarily for the transportation of persons for compensation;

(b) The possession by a passenger, other than the driver or a front seat passenger, of an open alcoholic beverage container in the living quarters of a house coach, house trailer, motor home, as defined in § 42-1-102(57), C.R.S., or trailer coach, as defined in § 42-1-102(106)(a), C.R.S.;

(c) The possession of an open alcoholic beverage container in the area behind the last upright seat of a motor vehicle that is not equipped with a trunk; or

(d) The possession of an open alcoholic beverage container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

G) Part 20, Section 2001 is hereby added to read as follows:

Part 20 - Sidewalks and trails.

Section 2001.

All persons are prohibited from riding electrical assisted bicycles while the motor is engaged, or riding an electric scooter, on a bike or pedestrian path or on a recreational trail unless otherwise authorized by the Town Code.

H) Part 21, Sections 2101 and 2102 are hereby added to read as follows:

Section 2101. - Lane usage.

- (1) (a) Persons riding a bicycle, electrical assisted bicycle or electric scooter upon a roadway shall not ride more than two (2) abreast except on paths or parts of roadway set aside for the exclusive use of bicycles.
- (b) Persons riding a bicycle, electrical assisted bicycle or electric scooter two (2) abreast shall not impede the normal and reasonable movement of traffic and, on a laned roadway, shall ride within a single lane.
- (2) (a) Any person operating a bicycle, electrical assisted bicycle or electric scooter upon a roadway at less than the normal speed of traffic shall ride in the right-hand lane, subject to the following conditions:
 - (I) If the right-hand lane then available for traffic is wide enough to be safely shared with overtaking vehicles, a bicyclist or operator of an electric scooter shall ride far enough to the right as is reasonably prudent to facilitate the movement of such overtaking vehicle unless other conditions make it unsafe to do so.
 - (II) A bicyclist or operator of an electric scooter may use a lane other than the right-hand lane when:
 - (A) Preparing for a left turn at an intersection or into a private roadway or driveway;
 - (B) Overtaking a slower vehicle; or
 - (C) Taking reasonably necessary precautions to avoid hazards or road conditions.

- (III) Upon approaching an intersection where right turns are permitted and there is a dedicated right-turn lane, a bicyclist or operator of an electric scooter may ride on the left-hand portion of the dedicated right-turn lane even if the bicyclist or operator of an electric scooter does not intend to turn right.
- (b) A bicyclist or operator of an electric scooter shall not be expected or required to:
 - (I) Ride over or through hazards at the edge of a roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or narrow lanes; or
 - (II) Ride without a reasonable safety margin on the right-hand side of the roadway.
- (a) A person operating a bicycle or operator of an electric scooter upon a one-way roadway with two (2) or more marked traffic lanes may ride as near to the left-hand curb or edge of such roadway as is reasonably prudent, subject to the following conditions:
 - (I) If the left-hand lane then available for traffic is wide enough to be safely shared with overtaking vehicles, a bicyclist or operator of an electric scooter shall ride as far to the left as is reasonably prudent to facilitate the movement of such overtaking vehicles unless other conditions make it unsafe to do so.
 - (II) A bicyclist or operator of an electric scooter shall not be expected or required to:
 - (A) Ride over or through hazards at the edge of a roadway, including but not limited to fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards or narrow lanes; or
 - (B) Ride without a reasonable safety margin on the left-hand side of the roadway.

Section 2102. - Turns.

- (1) (a) Except as otherwise provided in this Subsection (1), every person riding a bicycle or electrical assisted bicycle shall signal his or her intention to turn or stop in accordance with the provisions of Section 903; except that a person riding a bicycle, electrical assisted bicycle or electric scooter may signal a right turn with the right arm extended horizontally.

(b) A signal of intention to turn right or left when required shall be given continuously during not less than the last one hundred (100) feet traveled by the bicycle, electrical assisted bicycle or electric scooter before turning and shall be given while the bicycle, electrical assisted bicycle or electric scooter is stopped waiting to turn. A signal by hand and arm need not be given continuously if the hand is needed in the control or operation of the bicycle or electrical assisted bicycle.

(2) (a) A person riding a bicycle, electrical assisted bicycle or electric scooter intending to turn left shall follow a course described in Sections 901(1), 903 and 1007 or may make a left turn in the manner prescribed in Paragraph (b) of this Subsection (2).

(b) A person riding a bicycle, electrical assisted bicycle or electric scooter intending to turn left shall approach the turn as closely as practicable to the right-hand curb or edge of the roadway. After proceeding across the intersecting roadway to the far corner of the curb or intersection of the roadway edges, the bicyclist or operator of an electric scooter shall stop, as much as practicable, out of the way of traffic. After stopping, the bicyclist or operator of an electric scooter shall yield to any traffic proceeding in either direction along the roadway that the bicyclist had been using. After yielding and complying with any official traffic control device or police officer regulating traffic on the highway along which the bicyclist or operator of an electric scooter intends to proceed, the bicyclist or operator of an electric scooter may proceed in the new direction.

(c) Notwithstanding the provisions of Paragraphs (a) and (b) of this Subsection (2), the Town Engineer may cause official traffic control devices to be placed on roadways and thereby require and direct that a specific course be traveled and operators of bicycles, electrical assisted bicycles or electric scooters shall obey the directions of every such device.

J) Appendices-Definitions are hereby amended to add a new definition to read as follows:

(28.8) (a) "Electric scooter" means a device:

- (I) Weighing less than one hundred pounds;
- (II) With handlebars and an electric motor;
- (III) That is powered by an electric motor; and
- (IV) That has a maximum speed of twenty miles per hour on a paved level surface when powered solely by the electric motor.

(b) "Electric scooter" does not include an electrical assisted bicycle, EPAMD, motorcycle, or low-power scooter.

Section 4. The Board hereby repeals Section 19.1-3 of Chapter 19 of the Berthoud Municipal Code and reenacts the same subsection to read as follows:

19.1-3 – Penalties.

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

- (a) It is unlawful for any person to violate any of the provisions adopted, modified, or added in this Section.
- (b) Every person convicted of a violation of any provision adopted in this Section shall be punished by a fine not exceeding two thousand six hundred fifty dollars (\$2,650.00), or by imprisonment not exceeding three hundred sixty four (364) days, or by both such fine and imprisonment.

Section 5. The Board hereby enacts Section 19.1-4 of Chapter 19 of the Berthoud Municipal Code to read as follows:

19.1-4 – Application.

This Section 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. The provisions of sections 1401, 1402, 1413, and part 16 of the adopted Model Traffic Code, respectively concerning reckless driving, careless driving, eluding a police officer, and accidents and accident reports shall apply not only to public places and ways but also throughout this municipality.

Section 6. The Board hereby enacts Section 19.1-5 of Chapter 19 of the Berthoud Municipal Code to read as follows:

19.1-5 – Validity.

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

Section 7. Existing ordinances or resolutions or parts thereof 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 8. This ordinance 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 ordinance 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 9. The Town Clerk shall certify to the passage of this ordinance and make not less than three copies of the adopted Code available for inspection by the public during regular business hours.

PASSED, ADOPTED, SIGNED AND APPROVED this the 14th day of July,
2020.

ATTEST:

By: Christian Samora, Town Clerk

TOWN OF BERTHOUD

William Karspeck

By: William Karspeck, Mayor

