

**TOWN OF NEW CASTLE, COLORADO
ORDINANCE NO. TC 2018-1**

**AN ORDINANCE OF THE NEW CASTLE TOWN COUNCIL ADOPTING
NEW TRAFFIC REGULATIONS AND AMENDING THE TOWN CODE
ACCORDINGLY.**

WHEREAS, the Town of New Castle ("Town") has adopted by reference the Model Traffic Code for Colorado, 2010 Edition ("2010 MTC"); and

WHEREAS, the Town has also adopted other traffic regulations and penalties related thereto in addition to the 2010 MTC; and

WHEREAS, C.R.S. § 42-2-138 prohibits the operation of motor vehicles by individuals whose driving privilege has been restrained; and

WHEREAS, pursuant to HB17-1162, codified at C.R.S. § 42-2-138(2.5), the Colorado General Assembly granted municipalities the power to enforce certain provisions of C.R.S. § 42-2-138 in municipal court; and

WHEREAS, by SB17-027, the Colorado General Assembly clarified certain sections of C.R.S. § 42-4-239 regarding misuse of a wireless telephone while operating a motor vehicle and increased the fines and penalties for text messaging while driving; and

WHEREAS, the 2010 MTC does not incorporate the changes to C.R.S. § 42-4-239 or the increased penalties adopted by SB17-027; and

WHEREAS, the Town Council finds and determines that it is in the best interest of the health, safety, and welfare of the citizens of the Town to adopt the traffic regulations established in HB17-1162 and SB17-207.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COUNCIL OF THE TOWN OF NEW CASTLE, COLORADO:

1. Recitals. The foregoing recitals are incorporated herein as findings and determinations of the Town Council.

2. New Code Sections. To implement new traffic regulations, the New Castle Municipal Code shall be amended to add subsection (K) to Sec. 10.04.050 and a new Code section—Sec. 10.12.020—as set forth below:

10.04.050 – Additions or Modifications.

...

K. Section 239 of the Model Traffic Code is amended to update subsections (2), (3), (5), and (6) to read as set forth below and to add a new subsection (5.5):

(2) A person under eighteen years of age shall not use a wireless telephone while operating a motor vehicle. This Subsection (2) does not apply to the acts specified in subsection (3) of this Section 239.

(3) A person shall not use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission while operating a motor vehicle.

(5) (a) A person who operates a motor vehicle in violation of subsection (2) or of this section commits a Class A traffic infraction as defined in section 1701(3) of the Model Traffic Code, and the court or the department of revenue shall assess a fine of fifty dollars.

(b) A second or subsequent violation of subsection (2) of this section is Class A traffic infraction as defined in section 1701(3) of the Model Traffic Code, and the court or the department of revenue shall assess a fine of one hundred dollars.

(5.5) (a) Except as provided in subsections (5.5)(b) and (5.5)(c) of this section, a person who operates a motor vehicle in violation of subsection (3) of this section commits a Class 2 misdemeanor traffic offense, and the court or the department shall assess a fine of three hundred dollars.

(b) If the person's actions are the proximate cause of bodily injury to another, the person commits a Class 1 misdemeanor traffic offense and shall be punished as provided in section 1701(3)(a)(ii) of the Model Traffic Code.

(c) If the person's actions are the proximate cause of death to another, the person commits a Class 1 misdemeanor traffic offense and shall be punished as provided in section 1701(3)(a)(ii) of the Model Traffic Code.

(6) An operator of a motor vehicle shall not be cited for a violation of subsection (3) of this section unless a law enforcement officer saw the operator use a wireless telephone for the purpose of engaging in text messaging or other similar forms of manual data entry or transmission, in a manner that caused the operator to drive in a careless and imprudent manner, without due regard for the width, grade, curves, corners, traffic, and use of the streets and highways and all other attendant circumstances, as prohibited by section 1402 of the Model Traffic Code.

10.12.020 – Driving Under Restraint; Penalties.

- A. It shall be unlawful for any person to drive a motor vehicle or off-highway vehicle upon any public street within the Town with knowledge that the person's license or privilege to drive, either as a resident or a non-resident, is under restraint for an outstanding judgment.
- B. A person convicted of a violation of this Section shall be subject to the penalties set forth in Section 10.04.060 of this Code.
- C. The New Castle Municipal Court shall have jurisdiction to enforce and prosecute violations of this Section but shall not waive or reduce the three-point penalty imposed for such a violation under C.R.S. § 42-2-127, as may be amended from time to time.

3. Additional Code Amendment. Section 10.04.060(B) of the New Castle Municipal Code shall be amended as follows with added language in UPPERCASE and **bold**:

10.04.060 – Penalties

...

B. Every person convicted of a violation of any provision of this chapter that is a point violation of four points or fewer, pursuant to Section 42-2-127, C.R.S., as may be amended from time to time and which is adopted by reference, excluding careless driving, **TEXT MESSAGING WHILE DRIVING**, and compulsory insurance violations, shall be punished by a fine not exceeding two hundred dollars (\$200.00).

4. Effect of Ordinance. Only those provisions of the New Castle Municipal Code specifically identified in this Ordinance are amended hereby; all other portions and provision of the Municipal Code shall remain in full force and effect.

5. Repeal. Any ordinance of the Town or part thereof whose provisions are in conflict with this Ordinance is hereby repealed. Provided, however, this Ordinance shall not affect the prosecution of any municipal code violation that commenced prior to the effective date of this Ordinance.

6. Severability. Each section of this Ordinance is an independent section and a holding of any section or part thereof to be unconstitutional, void or ineffective for any cause shall not be deemed to affect the validity or constitutionality of any other section or part thereof.

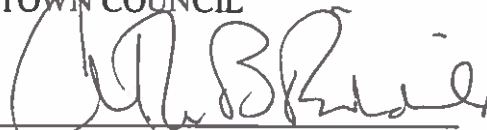
INTRODUCED on February 6, 2018, at which time copies were available to the Council and to those persons in attendance at the meeting, read by title, passed on first reading, and ordered published in full and posted in at least two public places within the Town as required by the Charter.

INTRODUCED a second time at a regular meeting of the Council of the Town of New Castle, Colorado, on February 20, 2018, read by title and number, passed with amendment as set forth herein, approved, and ordered published as required by the Charter.



TOWN OF NEW CASTLE, COLORADO
TOWN COUNCIL

By:


Art Riddile, Mayor

ATTEST:


Deputy Town Clerk Mindy Andis, CMC