



*Real Fun. Real Colorado.*

337 E. Bennett Avenue, Cripple Creek, CO 80813

**CRIPPLE CREEK CITY COUNCIL  
REGULAR MEETING AGENDA - **AMENDED**  
MARCH 3, 2021 - 5:30 PM  
ONLINE VIA ZOOM**

**MARCH 3, 2021 CITY COUNCIL MTG ZOOM LINK**

Meeting ID: 945 0671 4667

Passcode: 696159

Dial by your location +1 720 928 9299 US (Denver)

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **PUBLIC COMMENT**
  - A. Teller County Board of Commissioners; Chairperson Bob Campbell, Vice-Chairperson Dan Williams and Commissioner Erik Stone.
5. **APPROVAL OF PRIOR MEETING MINUTES**
  - A. February 17, 2021 Regular Meeting
6. **REPORTS**
  - A. City Administrator
  - B. Finance Director
7. **NEW BUSINESS**
  - A. **FIRST READING** of Ordinance 2021-04 a bill for and ordinance for the regulation of traffic by the City of Cripple Creek, Colorado; Adopting by reference the 2020 Edition of the "Model Traffic Code" repealing all ordinances in conflict therewith; and providing penalties for violations thereof; Bud Bright, Chief of Police.
8. **PUBLIC HEARING(S)**
  - A. Consider withdrawal of application from Neal Harms to vacate 15 feet of the City owned portion of right-of-way on the east side of Main Street, directly in front of 412 Main Street, for a porch that was constructed in the right-of-way and instead approve a Revocable License Agreement to allow applicant limited use of the right-of-way; Alyssa Rivas, City Planner.
9. **ADJOURNMENT.**

**THIS MEETING IT TO BE CONDUCTED OLNINE VIA ZOOM AND IN-PERSON. PARTICIPANTS NEED TO MAKE EVERY ATTEMPT TO ATTEND VIA ZOOM AS IN PERSON PARTICIPANTS WILL BE STRICTLY LIMITED TO 10 INCLUDING COUNCILMEMBERS AND CITY STAFF. TO ATTEND IN PERSON, A CITIZEN MUST CONTACT THE CITY CLERK AT 689-2502 BY 12 PM ON THE DAY OF THE MEETING TO VERIFY SPACE IS AVAILABLE. THE CITY RESERVES THE RIGHT TO DENY ADMITTANCE TO A CITY COUNCIL MEETING TO ANYONE WHO DID NOT RECEIVE APPROVAL TO ATTEND IN-PERSON.**



*Real Fun. Real Colorado.*

**REGULAR CITY COUNCIL MEETING MINUTES  
WEDNESDAY, FEBRUARY 17, 2021  
5:30 PM (ONLINE VIA ZOOM)**

**Location: Council Chambers, City Hall, 337 E. Bennett Avenue, Cripple Creek, Colorado 80813**

1. **CALL TO ORDER** – Mayor Ashworth called the meeting to order at 5:30 PM having previously been posted in accordance with Colorado Open Records Law.
2. **PLEDGE OF ALLEGIANCE** – Mayor Ashworth led the Pledge of Allegiance.
3. **ROLL CALL** – City Clerk Sciacca called the roll. Present in Chambers were Mayor Milford Ashworth, Mayor Pro Tem Tom Litherland and Councilmembers Charles Solomone and Melissa Trenary. Present online via Zoom was Councilwoman Meghan Rozell. Staff present in Chambers were City Clerk Janell Sciacca and Interim City Administrator Ray White while Staff present online via Zoom were City Attorney Erin Smith, Finance Director Paul Harris, HR and Risk Management Technician Hildebrand and City Planner Alyssa Rivas.
4. **PUBLIC COMMENT** – Mayor Ashworth heavy heartedly announced that Woodland Park Mayor Val Carr passed away Tuesday, February 16, from COVID-19 and he extended deepest sympathies to Carr’s family and friends. There was no public comment.
5. **APPROVAL OF PRIOR MEETING MINUTES**
  - A. February 3, 2021 Regular Meeting – **MOTION** by Councilwoman Trenary and seconded by Councilman Solomone to approve the minutes of February 3, 2021 as written. Motion carried unanimously.
6. **REPORTS**
  - A. City Administrator – White reported that Teller County would be moving to BLUE on the COVID-19 dial and the City was working on modifications to its travel policy reviewing CDC guidelines; Recognized Dispatch Supervisor Diann Pritchard for 25 years of service and commended her emergency communication related efforts and long-term service; Reported Transit services would be temporarily suspended due to adverse weather conditions and that there was an incident earlier in the evening with a City shuttle sliding off on Third Street with no injuries to Staff or residents.
  - B. Finance Director – Harris reported that previous City Clerk Assistant Connie Briggs passed away the previous Friday from a stroke and extended condolences on behalf of the City; Echoed sentiments on the loss of Woodland Park Mayor Val Carr; Reported Teller County is BLUE in 2 of 3 COVID-19 indicator categories with a current case count of 1,230 of which 72 were in Cripple Creek; Reported 4,552 vaccinations had been given with 3,481 first doses and 1,071 second doses.
7. **NEW BUSINESS**
  - A. **SECOND READING** of Ordinance 2021-03 rezoning property located at Lots 11-15, Block 14, Cripple Creek Freeman Placer, from Industrial District (C-1) to Limited Residential (R-2); Alyssa Rivas, City Planner. Rivas introduced and reminded Council the initial reading and public hearing was conducted January 20, 2021. Councilman Solomone requested confirmation this was the Register property and Rivas replied it was. There was no public comment. **MOTION** by Councilwoman Rozell and seconded by Mayor Pro Tem Litherland to approve Ordinance 2021-03 rezoning property located at Lots 11-15, Block 14, Cripple Creek Freeman Placer, from Industrial District (C-1) to Limited Residential (R-2) as presented. Motion carried unanimously.
  - B. Consider Agreement with KIVU Consulting for Managed Endpoint Detection and Response; Heather Hildebrand, HR & Risk Management Technician. Hildebrand presented reporting the agreement would renew protection of the City’s computer systems. She reminded Council that following an October 4, 2019 data security incident the City met with KIVU, which conducted the forensic investigation for the breach, and approved a 1-year \$25,000 service agreement. The renewal is for 2 years at \$15,000 per year and funds are to be allocated from contingency. There were no questions from City Council and there was no public comment. **MOTION** by Mayor Pro Tem Litherland and seconded by Councilwoman Trenary to approve the Agreement with KIVU Consulting for Managed Endpoint Detection and Response as presented. Motion carried unanimously.
8. **ADJOURNMENT** – There being no further business before the Cripple Creek City Council, Mayor Ashworth adjourned the meeting at 5:42 PM.

**APPROVED:**

**ATTEST:**

\_\_\_\_\_  
Milford Ashworth, Mayor

\_\_\_\_\_  
Janell Sciacca, City Clerk



# *City of Cripple Creek Police Department*

101 E. Bennett Avenue • PO Box 1687 • Cripple Creek, Colorado 80813

Phone (719) 689-2655 • Fax (719) 689-9879

TO: Mayor and City Council

FROM: Charles Bright, Chief of Police

AGENDA ITEM: Presentation of a bill for the regulation of traffic by the City of Cripple Creek, Colorado; Adopting by reference the 2020 edition of the “Model Traffic Code” repealing all ordinances in conflict therewith; and providing penalties for violations thereof.

DATE: March 3, 2021

---

**Request:**

The Police Department is requesting the City of Cripple Creek adopt the 2020 edition of the “Model Traffic Code”.

**Overview/Analysis:**

The last bill for an Ordinance recommending the adoption of the Model Traffic Code was in February of 2018. In April of 2018, an Ordinance number (2018-01) adopting the 2010 edition of the “Model Traffic Code” became effective.

Although there are but a few changes between the 2010 edition and the 2020 edition, the Police Department believes this is the appropriate time to adopt the most recent edition of the “Model Traffic Code”. This also provides the City opportunity to “clean up” or modify the existing Ordinance.

CRS Title 31 Article 16 parts 1 and 2 sets forth the procedure for adopting Codes by reference and Colorado law provides that whenever a Code is amended by the agency which originally promulgated or adopted it, any municipality which has previously adopted the Code by reference may also adopt the amendments by reference through the same procedure as required for the adoption of the original Code; or an ordinance may be enacted in regular manner, setting forth the entire text of the amendments. Under this procedures, no public hearing is required. However, the publication/posting requirements remain the same and the ordinance takes effect upon adoption.

**Budget Impact:**

There are no significant budget impacts related to adopting the 2020 edition of the “Model Traffic Code”. However, two new surcharges are being included in this adoption – \$15.00 to be used for necessary equipment and training for the Police Department and \$10.00 to be used to defray information technology costs and expenses related to purchase and maintenance of a case management program for the Municipal Court.

**Action Required:**

The Police Department recommends the City Council approve Ordinance 2021-04 A bill for an Ordinance for the regulation of traffic by the City of Cripple Creek, Colorado; adopting by reference the 2020 edition of the “Model Traffic Code” repealing all ordinances in conflict therewith; and providing penalties for the violations thereof as presented.

**Attachments:**

Ordinance 2021-04

**CITY OF CRIPPLE CREEK, COLORADO**

**ORDINANCE 2021-04**

**A BILL FOR AN ORDINANCE FOR THE REGULATION OF TRAFFIC BY THE CITY OF CRIPPLE CREEK COLORADO; ADOPTING BY REFERENCE THE 2020 EDITION OF THE "MODEL TRAFFIC CODE" REPEALING ALL ORDINANCES IN CONFLICT THEREWITH; AND PROVIDING PENALTIES FOR VIOLATIONS THEREOF**

WHEREAS, the City Council of the City of Cripple Creek determines that the City shall adopt the 2020 edition of the Model Traffic Code for Colorado ("Model Traffic Code"), as amended; and

WHEREAS, the City of Cripple Creek 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 City of Cripple Creek 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 CITY COUNCIL OF THE CITY OF CRIPPLE CREEK, COLORADO:

Section 1. Chapter 8, Article 1 Sections 8-1-10 through 8-1-60 of the Cripple Creek Municipal Code are repealed and reenacted to read as follows:

**Sec. 8-1-10. Model Traffic Code adopted.**

Pursuant to parts I 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, as modified in section 2 of this ordinance. The subject matter of the "Model Traffic Code" relates primarily to comprehensive traffic control regulations for the City. The purpose of this Ordinance 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.

**Sec. 8-1-20. Amendments or modifications.**

The 2020 edition of the *Model Traffic Code* is adopted as if set out at length save and except the following additions, deletions, or modifications:

- (1) Section 105 of the *Model Traffic Code* is hereby deleted in its entirety.
- (2) In Subsection 223(1) of the *Model Traffic Code*, all references to "section

235(1)(a)" are modified to read "section 42-4-235(1)(a), C.R.S."

(3) In Subsection 225(3) of the *Model Traffic Code*, the reference to "section 205(5.5)(a)" is modified to read "section 43-4-205(5.5)(a), C.R.S."

(4) In Subsection 228(5)(c)(III) of the *Model Traffic Code*, the reference to "section 235(1)(a)" is modified to read "section 42-4-235(1)(a), C.R.S."

(5) In Subsection 237(3)(g) of the *Model Traffic Code*, the reference to "section 235(1)(a)" is modified to read "section 42-4-235(1)(a), C.R.S."

(6) In Subsection 239(5) of the *Model Traffic Code*, all references to "section 42-4-1701(3)" are modified to read "section 42-4-1701(3), C.R.S."

(7) Section 602 of the *Model Traffic Code* is hereby deleted in its entirety.

(8) In Subsection 613 of the *Model Traffic Code*, the reference to "Code 4" is modified to read "Article 4."

(9) Subsection 614(1)(a) of the *Model Traffic Code* is modified to read as follows: "If maintenance, repair, or construction activities are occurring or will occur within four hours on a portion of a state highway, the department of transportation may designate such portion of the highway as a highway maintenance, repair, or construction zone. Any person who commits the equivalent to certain State violations listed in section 42-4-1701(4), C.R.S., in a maintenance, repair, or construction zone that is designated pursuant to this section is subject to the increased penalties and surcharges imposed by section 42-4-1701(4)(c), C.R.S."

(10) Subsection 614(1)(b) of the *Model Traffic Code* is modified to read as follows: "If maintenance, repair, or construction activities are occurring or will occur within four hours on a portion of a roadway that is not a state highway, the public entity conducting the activities may designate such portion of the roadway as a maintenance, repair, or construction zone. A person who commits the equivalent to certain State violations listed in section 42-4-1701(4), C.R.S., in a maintenance, repair, or construction zone that is designated pursuant to this section is subject to the increased penalties and surcharges imposed by section 42-4-1701(4)(c), C.R.S."

(11) In Subsection 615(1) of the *Model Traffic Code*, the reference to "section 1701(4)(d)" is modified to read "section 42-4-1701(4)(d), C.R.S."

(12) In Subsection 705(3)(b)(II) of the *Model Traffic Code*, the reference to "section 18-1.3-501" is modified to read "section 18-1.3-501, C.R.S." and in Subsection 705(3)(b)(III) of the *Model Traffic Code*, the reference to "section 18-1.3-401" is modified to read "section 18-1.3-401, C.R.S."

(13) In Subsection 805(5) of the *Model Traffic Code*, the reference to "section 111" is modified to read "section 42-4-111, C.R.S." and the reference to "section 111(2)" is modified to read "section 42-4-111(2), C.R.S."

(14) Subsection 1010(3) of the *Model Traffic Code* is modified to read as follows: "Local authorities may by ordinance consistent with the provisions of section 43-2-135(1)(g), C.R.S., with respect to any controlled-access highway

under their respective jurisdictions, prohibit the use of any such highway by any class or kind of traffic which is found to be incompatible with the normal and safe movement of traffic. After adopting such prohibitory regulations, local authorities, or their designees, shall install official traffic control devices in conformity with the standards established by section 601 at entrance points or along the highway on which such regulations are applicable. When such devices are so in place, giving notice thereof, no person shall disobey the restrictions made known by such devices."

(15) Subsection 1012(2.5)(c) of the *Model Traffic Code* is modified to read as follows: "Local authorities, with respect to streets and highways under their respective jurisdictions, shall provide information via official traffic control devices to indicate that ILEVs and, subject to subparagraph (I) of paragraph (a) of this subsection (2.5), hybrid vehicles may be operated upon high occupancy vehicle lanes pursuant to this section. Such information may, but need not, be added to existing printed signs, but as existing printed signs related to high occupancy vehicle lane use are replaced or new ones are erected, such information shall be added. In addition, whenever existing electronic signs are capable of being reprogrammed to carry such information, they shall be so reprogrammed."

(16) In Subsection 1012(3)(b) of the *Model Traffic Code*, the reference to "section 1701(4)(a)(I)(K)" is modified to read "section 42-4-1701(4)(a)(I)(K), C.R.S."

(17) Subsection 1101(1) of the *Model Traffic Code* shall be modified by deleting therefrom the existing Subsection 1101(1) and substituting in its place the following:

"No person shall drive a vehicle on a street or highway within this municipality at a speed greater than is authorized in this section 1101, and in no event greater than seventy (70) miles per hour."

(18) Subsection 1101(4) of the *Model Traffic Code* shall be modified by deleting therefrom the existing Subsection 1101(4) and substituting in its place the following:

"(4) The speed limits specified in Subsection 1101(2) hereof shall be considered maximum lawful speed limits and not prima facie speed limits."

(19) Subsection 1105(7)(c) of the *Model Traffic Code* is modified to read as follows: "The failure of the owner of the immobilized motor vehicle to request removal of the immobilization device and pay the fee within fourteen days after the end of the immobilization period ordered by the court or within the additional time granted by the court pursuant to paragraph (d) of this subsection (7), whichever is applicable, shall result in the motor vehicle being deemed an 'abandoned vehicle,' as defined in section 1802(1)(d) and section 42-4-2102(1)(d), C.R.S., and subject to the provisions of part 18 of this Code and part 21 of article 4 of Title 42, C.R.S., whichever is applicable. The law enforcement agency entitled to payment of the fee under this subsection (7) shall be eligible to

recover the fee if the abandoned motor vehicle is sold, pursuant to section 1809(2)(b.5) or section 42-4-2108(2)(a.5), C.R.S."

(20) Subsection 1105(8)(b) of the *Model Traffic Code* is modified to read as follows: "No person may remove the immobilization device after the end of the immobilization period except the law enforcement agency that placed the immobilization device and that has been requested by the owner to remove the device and to which the owner has properly paid the fee required by subsection (7) of this section. Nothing in this subsection (8) shall be construed to prevent the removal of an immobilization device in order to comply with the provisions of part 18 of this Code or part 21 of Article 4 of Title 42, C.R.S."

(21) Section 1204 of the *Model Traffic Code* shall be modified by the addition of Subsection 1204(1)(l) to read as follows:

“(l) Within emergency access lanes designated pursuant to powers designated to the City under state law, so as to obstruct designated and marked emergency access lanes anywhere within the municipality of the City of Cripple Creek. This prohibition against stopping, standing or parking a vehicle within said designated emergency access lanes shall be applicable to all property, whether public or private within the City of Cripple Creek, and shall prohibit the parking, stopping or standing of any vehicle within said emergency access lanes except emergency vehicles (i.e., police cars, fire department vehicles, ambulances, EMT vehicles, etc.) during the answering of an emergency call.”

(22) Section 1208 of the *Model Traffic Code* shall be modified by deleting therefrom the existing Section 1208 and substituting in its place the following:

**"1208. Parking for persons with mobility handicaps.**

"a. Any motor vehicle with distinguishing license plates or an identifying placard obtained by a person with a mobility handicap as prescribed by law, may be parked in a parking space identified as being reserved for use by the handicapped, whether on public property or private property available for public use; or in any public parking area along any public street in one and two-hour time limit zones or at parking meters during hours parking is permitted regardless of any time limitation imposed upon parking along such streets.

"b. It shall be unlawful for persons with mobility handicaps to be parked along public streets, or in designated parking spaces on public or private property:

"1. During such times when all stopping, standing or parking of all vehicles is prohibited;

"2. When only special vehicles may be parked;

"3. When parking is not allowed during specific periods of the day in order to accommodate heavy traffic.

"c. The owner of private property available for public use may install signs prescribed by the traffic engineer identifying parking spaces designated to specifications of the traffic engineer and reserved for use by the handicapped. Such installations shall be a waiver of any objection the owner may assert concerning enforcement of this section by officers, or parking control persons, and said persons are hereby authorized and empowered to enforce this section of the code.

"d. It shall be unlawful for any person who does not have a mobility handicap to exercise the parking privilege defined in this section.

"e. It shall be unlawful for any motor vehicle without distinguishing license plates or any identifying placard obtained by a person with mobility handicap as prescribed by law to be parked in a parking space identified as being reserved for use by the handicapped. Notwithstanding any other provision of the *Model Traffic Code*, the penalty resulting from conviction of a violation of this section 1208 or any subpart thereof shall be a fine of not less than fifty dollars (\$50.00) nor more than four hundred ninety-nine dollars (\$499.00). In enforcing this section 1208, the municipal court shall not have the authority to suspend all or any part of any fine or violation hereof so as to result in a fine of less than fifty dollars (\$50.00), it being the intent of the City Council of the City of Cripple Creek that section 1208 of this Code be strictly and diligently enforced so as to provide adequate parking of persons with mobility handicaps free from the interference of those not so handicapped."

(23) In Subsection 1406(5)(b)(II) of the *Model Traffic Code*, the reference to "section 1701(4)(a)(I)(N)" is modified to read "section 42-4-1701(a)(I)(N), C.R.S."

(24) In Subsection 1408(1) of the *Model Traffic Code*, the reference to "Code 1" is modified to read "Article 1" and the reference to "Code 20" is modified to read "Article 20."

(25) In Section 1412 of the *Model Traffic Code*, all references to "section 111" are modified to read "section 42-4-111, C.R.S."; all references to "section 221" are to read "section 42-4-221, C.R.S."; and the reference to "Code 10" is modified to read "Article 10"; and all references to "section 127" are modified to read "section 42-2-127, C.R.S."

(26) In Section 1415 of the *Model Traffic Code*, the reference to "section 42-4-1701(3)(a)(II)(A)" is modified to read "section 42-4-1701(3)(a)(II)(A), C.R.S."

(27) Section 1701 of the *Model Traffic Code* is deleted in its entirety. Any references to section 1701 in the *Model Traffic Code* shall be deemed to refer to Section 2, of this Ordinance, captioned "Penalties."

(28) Subsection 1702(2) of the *Model Traffic Code* is modified to read as follows: "Violations of sections 238, 607(2)(b), 1402(2), and 1409 of this Code are class 1 traffic misdemeanors."

(29) Subsection 1702(3) of the *Model Traffic Code* is modified to read as follows: "Violations of sections 107, 233, 507 508, 509, 510, 1105, 1401, 1402(1), 1407, 1412, 1413, 1704, 1716(2) and 1903(1)(a) of this Code are class 2 traffic misdemeanors."

(30) Subsection 1702(6) of the *Model Traffic Code* is modified to read as follows: "The City Council may adopt a fine and surcharge schedule for penalty assessment violations."

(31) Subsection 1709(4) is deleted in its entirety.

(32) In Section 1805 of the *Model Traffic Code*, the reference to "part 1 of Code 6 of this title" is modified to read "part 1 of article 6 of title 42, C.R.S."; and the reference to "Code 6 of title 12, C.R.S." is modified to read "article 6 of title 12, C.R.S."

#### **Sec. 8-1-30. Application of Model Traffic Code.**

This Article shall apply to every street, alley, sidewalk area, driveway, park and to every other public way or public parking area, either within or outside the corporate limits of the City, the use of which the City 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 the City.

#### **Sec. 8-1-40. 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 this Article and the adopted *Model Traffic Code* shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

#### **Sec. 8-1-50. Certification; copy on file.**

The City Clerk shall certify to the passage of the ordinance codified herein and make not less than three (3) copies of the adopted code available for inspection by the public during regular business hours.

#### **Sec. 8-1-60. Fine and surcharge schedule.**

(a) Adoption. Pursuant to Part 17, Article 4 of Title 42, the City hereby adopts the following penalty assessments and surcharges for violations of the Colorado Model Traffic Code, as previously adopted in this Article.

(b) Fines.

(1) Every person convicted of a violation of any provision of the Model Traffic Code shall be assessed a fine and a surcharge pursuant to Section 42-4-1701, C.R.S. and

(2) The fine and surcharge imposed for speeding violations under this Section shall be doubled if the violation occurs within a designated school zone.

(3) The fine and surcharge imposed for speeding violations under this Section shall be doubled if the violation occurs within a designated maintenance, repair or construction zone.

(c) Surcharges.

(1) Every person convicted of a violation of any provision of the Model Traffic Code shall be assessed, in addition to any fines, a fifteen-dollar surcharge. This surcharge is to be collected by the Municipal Court Clerk. Once paid into the City Treasury, said moneys shall be segregated by the Finance Director, separately accounted for and thereafter used by the City exclusively for Police Department equipment and training.

(2) Every person convicted of a violation of any provision of the Model Traffic Code shall be assessed, in addition to any fines, a ten-dollar surcharge. This surcharge is to be collected by the Municipal Court Clerk. Once paid into the City Treasury, said moneys shall be segregated by the Finance Director, separately accounted for and thereafter used by the City exclusively to defray the costs and expenses of information technology and a case management program.

Section 2.     **Penalties.**

**Chapter 8, Article 1, Sections 8-1-70 of the Cripple Creek Municipal Code is repealed and reenacted to read as follows:**

**Sec. 8-1-70.     Penalties; penalty assessments; automatic points assessment reduction; parental notification; driver's license.**

(a) It is unlawful for any person to violate any of the provisions of the MTC, or any other traffic or vehicle ordinances adopted by the City. The penalties set forth below shall apply to such violations. Fines, court costs and surcharges shall be paid to the Municipal Court Clerk.

(1) In criminal traffic offense actions, the penalty shall be a fine not to exceed one thousand dollars (\$1,000.00), or a term of imprisonment not to exceed one (1) year, or by both such fine and imprisonment.

(2) In civil traffic infraction matters, the penalty shall be a fine not to exceed

one thousand dollars (\$1,000.00).

(b) Except as otherwise specifically provided, a peace officer shall issue a penalty assessment for all traffic infractions. Whenever a peace officer issues a summons and complaint for an alleged criminal traffic offense, the officer, in his or her discretion, may instead offer a penalty assessment notice. Notwithstanding the foregoing, no penalty assessment notice shall be issued or offered when:

(1) A violator exceeds the reasonable and prudent speed by more than nineteen (19) miles per hour;

(2) The violation caused, or contributed to the cause of, an accident resulting in damage to property of another in an amount not less than two hundred dollars (\$200.00), or in injury or death to any person;

(3) More than one (1) violation is alleged, one (1) or more of which constitutes a criminal traffic offense;

(4) The violation is for failure to comply with motor vehicle compulsory insurance laws; and

(5) When the officer issuing the notice knows, or reasonably believes, that the alleged violator or vehicle has been involved in a criminal violation of any law of the City for which there has been a conviction in a court of competent jurisdiction and for which the sentence or judgment (be it fine or imprisonment) remains as yet unsatisfied.

No person shall be entitled to elect to pay a penalty assessment unless an offer of a penalty assessment notice has been made under this Subsection.

(c) Any person offered a penalty assessment notice may elect to pay the penalty assessment and appropriate surcharge instead of proceeding to trial on the alleged violation. The amount of the penalty assessment and surcharge shall be as provided on the penalty assessment notice. Payment of a penalty assessment and corresponding surcharge constitutes complete satisfaction of the alleged violation if the prescribed payment is postmarked or received by the City within twenty (20) days following service of the penalty assessment on the person charged with the violation. Payment of a penalty assessment and surcharge constitutes an acknowledgment of liability for the violation described in the notice. If the person offered a penalty assessment notice elects not to make full and timely payment thereunder, an action on the alleged violation shall proceed as otherwise provided by law.

(d) If a person receives a penalty assessment notice of a violation of the MTC and such person pays the fine and surcharge for the violation on or before the date the payment is due, the points assessed for such violation under the point system schedule adopted at Section 42-2-127, C.R.S., as amended, shall be reduced as follows:

(1) For a violation having an assessment of three (3) or more points, the points

shall be reduced by two (2) points.

(2) For a violation having an assessment of two (2) points, the points shall be reduced by one (1) point.

(3) The point reductions as provided for in this Section shall only be valid in accordance with the authority provided to municipalities under Section 42-2-127(5.6), C.R.S., and in the event such statute is amended and/or repealed, this Section shall, correspondingly, be amended and/or repealed.

(e) Whenever a minor driver receives a summons or penalty assessment notice for a traffic offense or traffic infraction, the minor's parent or legal guardian or, if the minor is without parents or guardian, the person who signed the minor driver's application for a license shall immediately be notified by the officer issuing the summons of such summons or penalty assessment notice. A failure to provide such notice shall not in any way diminish or limit the jurisdiction of the court over the juvenile or the traffic violation or infraction.

(f) The Municipal Court shall notify the Colorado Department of Revenue whenever a judgment entered against a person for a violation of the MTC, excluding violations related to parking, remains outstanding, or a bench warrant issued against any person for a failure to appear to answer for an alleged violation of the MTC, excluding violations relating to parking, remains outstanding, in order that such person shall not be allowed or permitted to obtain or renew a driver's license as provided for in Section 42-4-1709(7)(a), C.R.S.

Section 3. The City Council hereby finds, determines, and declares that this ordinance is promulgated under the general police powers of the City of Cripple Creek, that it is promulgated for the health, safety, and welfare of the public, and that this ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The City Council further determines that the ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 4. If any clause, sentence, paragraph, or part of this ordinance or the application thereof to any person or circumstances shall for any reason be adjudged by a court of competent jurisdiction invalid, such judgment shall not affect application to other persons or circumstances.

Section 5. This ordinance shall become effective on \_\_\_\_\_, 2021.

PASSED ON THE FIRST READING AND ORDERED PUBLISHED THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2021.

Approved: \_\_\_\_\_  
Milford Ashworth, Mayor

Attest: \_\_\_\_\_  
Janell Sciacca, City Clerk

Approved as to form: \_\_\_\_\_  
Erin M. Smith, City Attorney

# City of Cripple Creek



PLANNING AND COMMUNITY DEVELOPMENT  
337 E BENNETT AVE – PO BOX 430, CRIPPLE CREEK, CO 80813  
719-689-3588, ARIVAS@CRIPPLE-CREEK.CO.US

## STAFF MEMO

TO: City Council  
FROM: Alyssa Rivas, City Planner, Planning and Community Development Department  
CC: Ray White, Interim City Administrator  
Erin Smith, City Attorney  
SUBJECT: Withdrawal of Right of Way Vacation Request filed by Neal Harms  
DATE: March 3, 2021

On February 1, 2021, Neal Harms (the “Applicant”) submitted an application requesting that the City vacate a portion of right-of-way in front of his property at 412 Main Street (the “Subject Property”). The Applicant is the owner of the following properties that abut the right-of-way that was originally proposed to be vacated:

LOTS 6-7 BLOCK 27 CRIPPLE CREEK HAYDEN PLACER

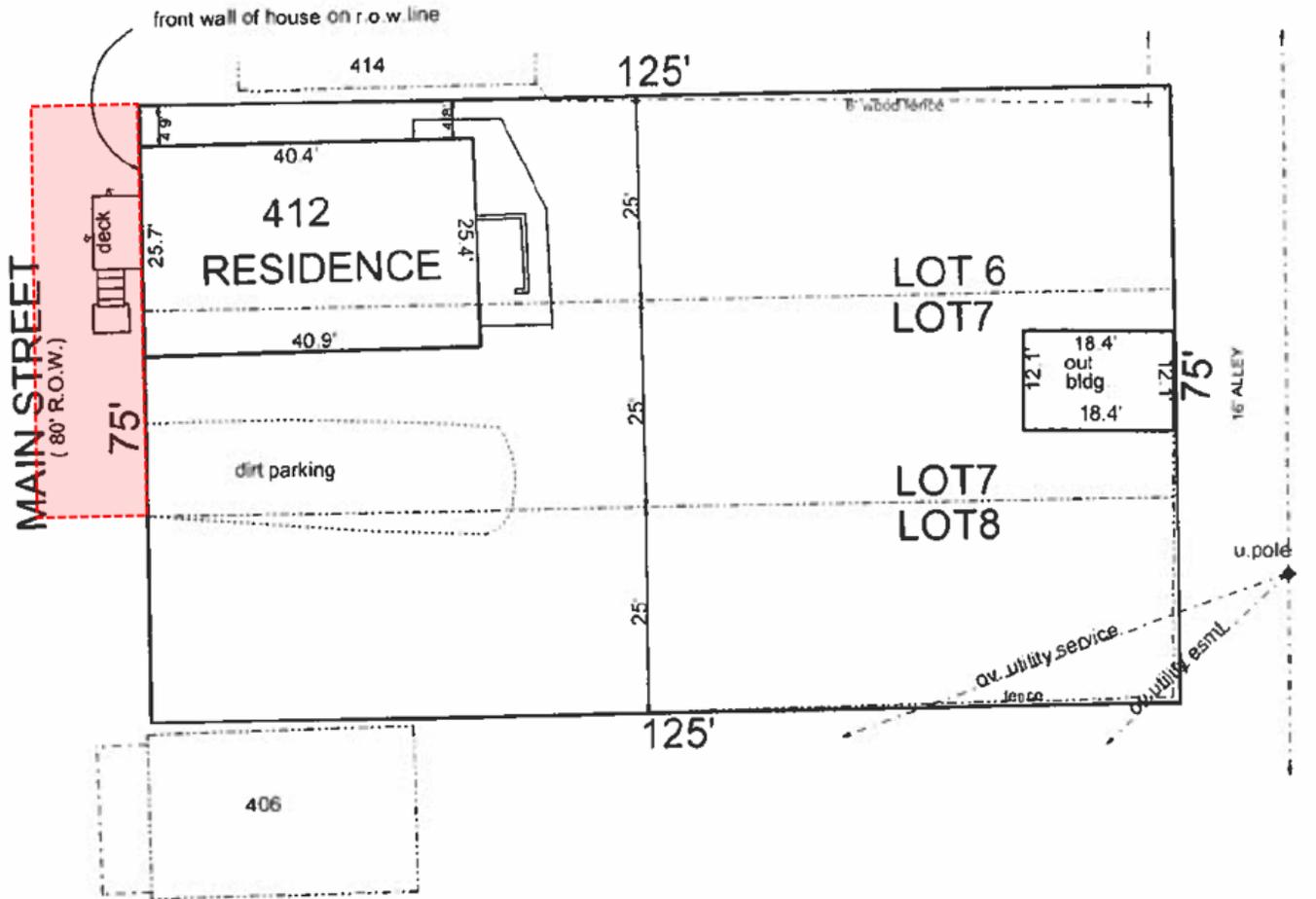
The application requested that a 15-foot by 50-foot portion of the City owned right-of-way be vacated (750 square feet total – Exhibit 1; Original Proposal). The existing right-of-way is approximately 80 feet wide. The Applicant requested that the right-of-way be vacated and dedicated to the Subject Property in order to address the location of a new porch that was constructed without a permit, and as a result, extends into the right-of-way.

On February 23, 2021, staff determined that a request for a Revocable License Agreement was a more appropriate solution to allow the Applicant limited use of the right-of-way. As such, the request for a right-of-way vacation is being withdrawn.

### RECOMMENDATION

Staff recommends that the City Council make a motion to withdraw the right-of-way vacation item from the agenda. Additionally, staff recommends that the City Council approve the Revocable License Agreement to allow the Applicant limited use of the right-of-way.

EXHIBIT 1 – ORIGINAL PROPOSAL FOR RIGHT-OF-WAY VACATION REQUEST



Approximate area to be vacated 

## **REVOCABLE LICENSE AGREEMENT**

THIS AGREEMENT is made this 3<sup>rd</sup> day of March, 2021, by and between the City of Cripple Creek, Colorado (the "City") and Neal D. Harms ("Licensee").

For and in consideration of the sum of ten dollars (\$10) paid by the Licensee to the City, the covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

### **SECTION 1. THE LICENSE**

Licensee owns a home ("Harms Property") more particularly described in **Exhibit A**, attached hereto and incorporated herein by this reference, and desires to obtain a License to occupy and use the property more particularly depicted in **Exhibit B**, attached hereto and incorporated herein by this reference (the "City Property" or "Property"). Subject to all the terms and conditions hereto, the City hereby grants to Licensee a license to occupy and use the City Property for the purpose set forth in Section 2 herein.

### **SECTION 2. TERMS OF AGREEMENT**

The City Property may be used and occupied by the Licensee for the purpose of constructing, maintaining and using a \_\_\_\_\_' x \_\_\_\_\_" deck attached to the residence located at 412 Main Street.

### **SECTION 3. TERMINATION**

Either party may terminate this Agreement by giving written notice to the other party specifying the date of termination, such notice to be given not less than thirty (30) days prior to the date specified therein. Upon termination the City Property shall be returned to its original condition.

### **SECTION 4. MAINTENANCE**

Licensee shall, at its own expense, keep and maintain the City Property in good condition.

### **SECTION 5. DAMAGE TO PROPERTY**

Licensee shall be responsible for all damage to the Property arising out of or resulting from the use of the Property by the Licensee and the Permitted Parties. The City shall notify Licensee immediately upon discovery of any damage to the Property. Licensee shall correct and repair the damage within one (1) week of notification or knowledge of the damage unless otherwise directed by the City.

**SECTION 6. INDEMNIFICATION**

Licensee agrees to indemnify and hold harmless the City, its officers, employees and insurers, from and against all liability, claims and demands arising out of the placement, use and operation of the Property. Licensee agrees to investigate, handle, respond to, and to provide defense for and defend against any such liability, claims or demands at his sole expense, or, at the option of the City, agrees to pay the City or reimburse the City for the defense costs incurred by the City in connection with any such liability, claims or demands. Licensee also agrees to bear all other costs and expenses related thereto, including court costs and attorney fees, whether or not any such liability, claims or demands alleged are groundless, false or fraudulent.

**SECTION 7. INSURANCE**

Licensee agrees to procure an insurance policy, which includes and covers the Property that is the subject of this Agreement, and to name the City of Cripple Creek as an additional insured thereon. Such insurance policy shall at a minimum include liability and property damage insurance, with a combined single limit for bodily injury and property damage of five hundred thousand dollars (\$500,000.00) per occurrence and one million dollars (\$1,000,000.00) general aggregate limit. A Certificate of Insurance showing the City as an additional insured thereon shall be provided to the City within thirty (30) days of execution of this Agreement. The failure to provide the Certificate of Insurance shall be grounds for immediate revocation of this License Agreement.

**SECTION 8. COMPLIANCE WITH APPLICABLE LAW**

Licensee shall, at all times during the term of this Agreement, comply with all applicable federal, state and local laws and regulations including, but not limited to, all requirements of the Americans with Disabilities Act.

**SECTION 9. NOTICES**

Any notice given pursuant to this Agreement by either party to the other shall be in writing and mailed by certified mail, return receipt requested, postage prepaid, and addressed as follows:

To the City:                   Ray White, City Administrator  
  City of Cripple Creek  
  337 East Bennett Avenue  
  P.O. Box 430  
  Cripple Creek, CO 80813

To Licensee:                   Neal D. Harms  
  300 S. Broadway  
  Unit 200 212  
  Denver, CO 80209

**SECTION 10. MISCELLANEOUS**

A. Agreement Binding. This Agreement shall inure to the benefit of and be binding upon the heirs, successors and assigns of the parties hereto, subject to any other conditions and covenants contained herein.

B. Applicable Law. The laws of the State of Colorado and applicable federal, state and local laws, rules, regulations and guidelines shall govern this Agreement.

C. Amendment. This Agreement may not be amended except in writing by mutual agreement of the parties, nor may rights be waived except by an instrument in writing signed by the party charged with such waiver.

D. Headings. The headings of the sections of this Agreement are inserted for reference purposes only and are not restrictive as to content.

E. Assignment. Licensee may not assign or transfer this Agreement, except upon the express written authorization of the City.

F. Governmental Immunity. The City, its officers, and its employees, are relying on, and do not waive or intend to waive by any provision of this Agreement, the monetary limitations or any other rights, immunities, and protections provided by the Colorado Governmental Immunity Act, C.R.S. § 24-10-101, *et seq.*, as amended, or otherwise available to the City and its officers or employees.

IN WITNESS WHEREOF, the parties have duly executed this Agreement, effective the day and year first above written.

**CITY OF CRIPPLE CREEK, COLORADO**

By: \_\_\_\_\_  
Milford Ashworth, Mayor

ATTEST:

\_\_\_\_\_  
Janell Sciacca, City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Erin M. Smith, City Attorney

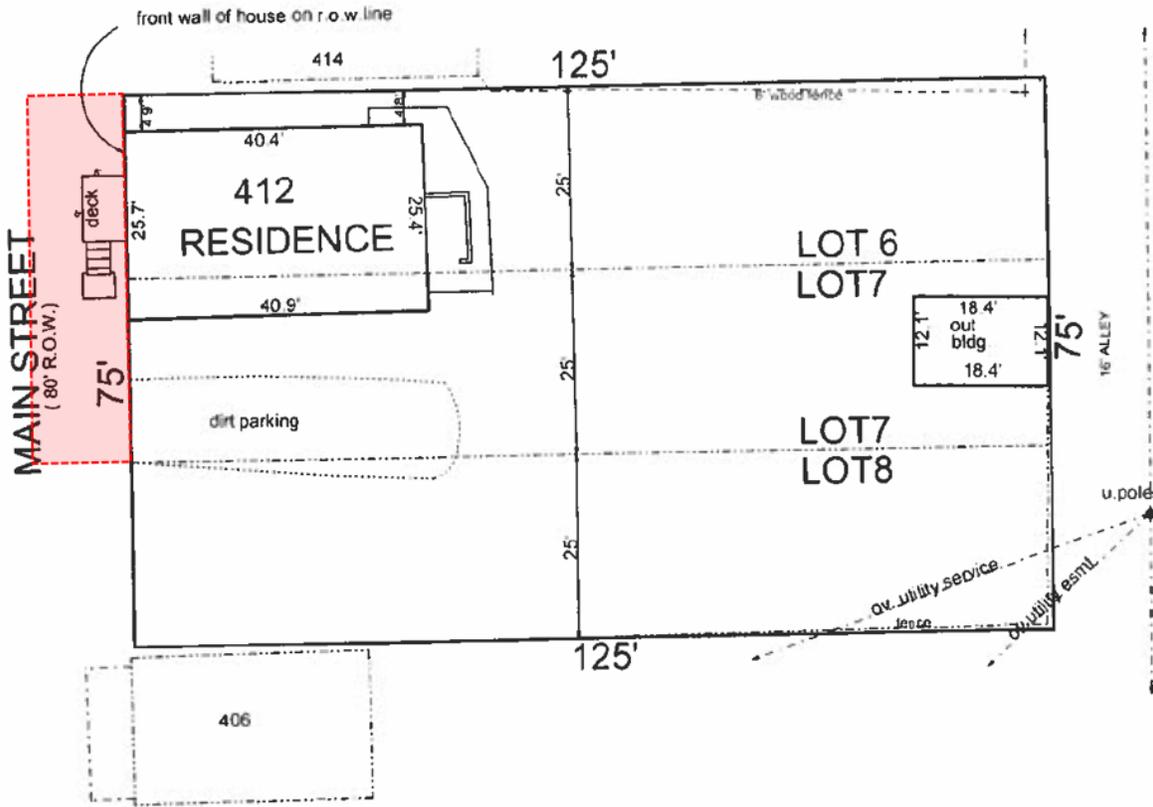


**EXHIBIT "A"**  
**REVOCABLE LICENSE AGREEMENT**

RESIDENCE PROPERTY DESCRIPTION:

LOTS 6-7 BLOCK 27 CRIPPLE CREEK HAYDEN PLACER ADDITION  
CITY OF CRIPPLE CREEK  
COUNTY OF TELLER  
STATE OF COLORADO

**EXHIBIT "B"**  
**REVOCABLE LICENSE AGREEMENT**  
 Depiction of City Property



Approximate area to be vacated