

**ORDINANCE FOR THE REGULATION OF TRAFFIC BY THE COUNTY OF
LARIMER, COLORADO; ADOPTING BY REFERENCE THE 2010 EDITION OF THE
“MODEL TRAFFIC CODE;” REPEALING ALL ORDINANCES IN CONFLICT; AND
PROVIDING PENALTIES FOR VIOLATION THEREOF.**

ORDINANCE NO. 021720150001

BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF
LARIMER COUNTY, COLORADO:

Section 1. Repeal: Larimer County Ordinance No. 02032004O001 and No. 11032009O001 are hereby repealed.

Section 2. Adoption: Pursuant to parts 1 and 2 of Article 16 of Title 31 and part 4 of Article 15 of Title 30, C.R.S., there is hereby adopted by reference 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, CO 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the County. 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. Three (3) copies of the Model Traffic Code adopted herein are now filed in the office of the Clerk and Recorder of Larimer County, Colorado, and may be inspected during regular business hours. A copy may also be available at <http://www.coloradodot.info/library/traffic/traffic-manuals-guidelines/fed-state-co-traffic-manuals/model-traffic-code/view>

Section 3. Penalties: The following penalty process, herewith set forth in full, shall apply to this Ordinance and shall supersede any conflicting provision in Section 1709:

- (a) If a penalty assessment ticket for a Larimer County traffic infraction is issued, the penalty will be as specified on the ticket provided the offender mails in the ticket and pays the fine. The penalty assessment procedure contained in § 16-2-201, C.R.S., shall be followed, as defined below:
 - (1) When a person is arrested for a class 2 petty offense, the arresting officer may either give the person a penalty assessment notice and release him upon its terms or take him before a judge of the county court in the county in which the alleged offense occurred. The choice of procedures shall be based upon circumstances which reasonably persuade the officer that the alleged offender is likely or unlikely to comply with the terms of the penalty assessment notice. Such circumstances may include the officer accompanying the offender to a post office or mailbox and witnessing the deposit in the mail of the notice with payment of the fine attached.

- (2) The provisions of subsection 5(a)(1) of this Ordinance notwithstanding, when an officer comes upon an unattended vehicle which is parked in apparent violation of any county parking ordinance, the officer may place upon the vehicle a penalty assessment notice as specified in subsection (3) of this section; except that said notice shall contain the license plate number and state of registration of the vehicle and need not contain the identification of the alleged offender. When a penalty assessment notice is left on an unattended vehicle, it shall be presumed that the registered owner of such vehicle was the driver/offender.
 - (3) The penalty assessment notice shall be a summons and complaint containing identification of the alleged offender, specification of the offense and applicable fine, a requirement that the alleged offender pay the fine or appear to answer the charge at a specified time and place, and any other matter reasonably adapted effectuating the purposes of this section. A duplicate copy shall be sent to the clerk of the county court in the county in which the alleged offense occurred.
 - (4) If the person given a penalty assessment notice chooses to acknowledge his guilt, he may pay the specified fine in person or by mail at the place and within the time specified in the notice. If he chooses not to acknowledge his guilt, he shall appear as required in the notice. Upon trial, if the alleged offender is found guilty, the fine imposed shall be that specified in the notice for the offense of which he was found guilty, but customary court costs may be assessed against him in addition to the fine.
- (b) For all offenses where the offender pleads not guilty, does not pay the fine or receives a summons for an offense not on the Fine Schedule, the penalty will be as provided in C.R.S. § 30-15-402.

Section 4. Procedure:

- (a) All offenses for which a penalty assessment ticket is issued are called "Larimer County Traffic Infractions." All references in the Model Traffic Code to municipal court shall mean Larimer County Court. All references to a municipal judge shall mean a Larimer County Court judge or Larimer County Court magistrate.
- (b) Section 1708 of the Model Traffic Code is deleted and the following is substituted:
 - (1) Every hearing in county court for the adjudication of a traffic infraction, as provided by this Ordinance, shall be held before a county court magistrate appointed pursuant to part 5 of article 6 of title 13, C.R.S., or before a county

judge acting as a magistrate; except that, whenever a crime and a class A or class B traffic infraction or a crime and both such class A and class B traffic infractions are charged in the same summons and complaint, all charges shall be made returnable before a judge or magistrate having jurisdiction over the crime and the rules of criminal procedure shall apply. Nothing in this Ordinance or in part 5 of article 6 of title 13, C.R.S., shall be construed to prevent a court having jurisdiction over a criminal charge relating to traffic law violations from lawfully entering a judgment on a case dealing with a class A or class B traffic infraction.

- (2) When a court of competent jurisdiction determines that a person charged with a class 1 or class 2 misdemeanor traffic offense is guilty of a lesser-included offense which is a class A or class B traffic infraction, the court may enter a judgment as to such lesser charge.
- (3) The burden of proof shall be upon the People, and the traffic magistrate shall enter judgment in favor of the defendant unless the People prove the liability of the defendant beyond a reasonable doubt. The district attorney or the district attorney's deputy may, in the district attorney's discretion, enter traffic infraction cases for the purpose of attempting a negotiated plea or a stipulation to deferred prosecution or deferred judgment and sentence but shall not be required to so enter by any person, court, or law, nor shall the district attorney represent the state at hearings conducted by a magistrate or a county judge acting as a magistrate on class A or class B traffic infraction matters. The magistrate or county judge acting as a magistrate shall be permitted to call and question any witness and shall also act as the fact finder at hearings on traffic infraction matters.
- (4) Appeal from final judgment on a traffic infraction matter shall be taken to the district court for the county in which the magistrate or judge acting as magistrate is located.
- (5) Time Limitations:
 - (a) Except as otherwise provided in paragraph (b) of this subsection (5), no person against whom a judgment has been entered for a traffic infraction herein shall collaterally attack the validity of that judgment unless such attack is commenced within six months after the date of entry of the judgment.
 - (b) In recognition of the difficulties attending the litigation of stale claims and the potential for frustrating various statutory provisions directed at

repeat offenders, former offenders, and habitual offenders, the only exceptions to the time limitations specified in paragraph (a) of this subsection (5) shall be:

- (i) A case in which the court entering judgment did not have jurisdiction over the subject matter of the alleged infraction;
 - (ii) A case in which the court entering judgment did not have jurisdiction over the person of the violator;
 - (iii) Where the court hearing the collateral attack finds by a preponderance of the evidence that the failure to seek relief within the applicable time period was caused by an adjudication of incompetence or by commitment of the violator to an institution for treatment as a mentally ill person; or
 - (iv) Where the court hearing the collateral attack finds that the failure to seek relief within the applicable time period was the result of circumstances amounting to justifiable excuse or excusable neglect.
- (c) Trials shall not be before a jury.
- (d) All prosecutions for all other offenses under this Ordinance shall be by the District Attorney according to the Colorado County Court Rules of Criminal Procedure.

Section 5. Application: This Ordinance shall apply to every street, alley, sidewalk area, driveway, park, and to every other public way or public place or public parking area, within the limits of Larimer County. The provisions of Sections 1401, 1402, 1413 and Part 16 of the adopted Model Traffic Code, respectively, governing reckless driving, careless driving, and eluding a police officer shall apply not only to public places and ways but also throughout Larimer County.

Section 6. Validity: If any part or parts of this Ordinance are for any reason held to be invalid, such decision shall not affect the validity of the remaining portions of this Ordinance. The Board of County Commissioners hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that any one part or parts be declared invalid.

Section 7. Interpretation: 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

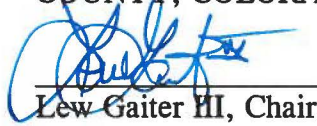
Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

Section 8. Certification: The Larimer County Clerk and Recorder 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. The adopted Ordinance shall include this Ordinance and the 2010 Model Traffic Code. Offenses which lack a corresponding Fine shall have a Fine as established in the Colorado Revised Statutes. All surcharges are as provided by the Colorado Revised Statutes as amended.

ADOPTED this 17th day of February, 2015.

BOARD OF COMMISSIONERS OF LARIMER
COUNTY, COLORADO

By:


Lew Gaiter III, Chair

ATTESTATION:

I, Dana Spolley, Deputy, Larimer County Clerk, attest that the foregoing ORDINANCE FOR THE REGULATION OF TRAFFIC was read at a meeting of the Board of County Commissioners and has been published in a newspaper of general circulation for Larimer County at least ten (10) days prior to the date of its adoption, in compliance with Section 30-15-406 C.R.S. 1973 as amended.



Dana Spolley
Clerk and Recorder - Deputy

DATE 2/12/15
APPROVED AS TO FORM


SENIOR COUNTY ATTORNEY

NOTICE OF HEARING

NOTICE is hereby given of a public hearing before the Larimer County Board of County Commissioners at 9:00 a.m. on the 17th day of February, 2015, at the Commissioners' Hearing Room for the purpose of considering the adoption of the following Ordinance adopting by reference the "Model Traffic Code," Revised 2010 edition, as the traffic ordinance of Larimer County, Colorado.

Copies of this Ordinance, Model Traffic Code are on file at the office of the Larimer County Commissioners and may be inspected during regular business hours. If enacted as an ordinance of this County, the Model Traffic Code will not be published in full, but in accordance with state law, copies will be kept on file.

The Revised 2010 "Model Traffic Code," is published by the Colorado Department of Transportation, Staff Traffic and Safety Projects Branch, 4201 East Arkansas Avenue, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for Larimer County. The purpose of the Ordinance and the Code adopted therein is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and the nation.

A copy of the Revised 2010 "Model Traffic Code" is also available at http://www.coloradodot.info/library/traffic/traffic-manuals-guidelines/fed-state-co-traffic-manuals/model-traffic-code/at_download/file

This notice given and published by the order of the Larimer County Board of County Commissioners.

Dated this ____ day of _____, 2015.

LARIMER COUNTY, COLORADO

BY ORDER OF THE LARIMER COUNTY
BOARD OF COUNTY COMMISSIONERS

Clerk and Recorder - Deputy

NOTICE OF ADOPTION OF ORDINANCE FOR THE REGULATION OF TRAFFIC

Larimer County, Colorado Ordinance 041520140001 for the Regulation of Traffic, was adopted by the Board of County Commissioners of Larimer County, Colorado at a Public Hearing on February 17, 2015. Such ordinance adopted by reference the "Model Traffic code for Colorado" Revised 2010 edition.

The Ordinance was originally published on Feb. This Ordinance will take effect 30 days from the date of this publication.