

ORDINANCE FOR THE REGULATION OF TRAFFIC BY THE COUNTY OF LARIMER, COLORADO; ADOPTING BY REFERENCE THE 2003 EDITION OF THE "MODEL TRAFFIC CODE FOR COLORADO MUNICIPALITIES" REPEALING ALL ORDINANCE PROVISIONS IN CONFLICT THEREWITH.

ORDINANCE NO. 02032004O001

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

Section 1. Conflicts: Any provision of Larimer County Ordinance No. 99-01, which is in conflict with Larimer County Ordinance No. 02032004O001 is hereby repealed. Any provision not in conflict shall remain valid and enforceable.

Section 2. Adoption: Pursuant to Part 4 of Article 15 of Title 30, and Part 1 of Article 4 of Title 42, C.R.S., as amended, there is hereby adopted by reference Articles I and II, inclusive, of the Revised 2003 edition of the "Model Traffic Code for Colorado Municipalities," promulgated and published as such by the Colorado Department of Transportation, Staff Traffic and Safety Projects Branch, 4201 East Arkansas Ave., Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the County. The Fine Schedule in 99-01 shall remain valid and enforceable for all corresponding offenses adopted in this Ordinance. Offenses which lack a corresponding Fine in the 99-01 Fine Schedule shall have a Fine as established in the Colorado Revised Statutes, which is incorporated by reference. All surcharges in the 99-01 Fine Schedule are hereby superceded by the provisions of this Ordinance. The purpose of this Ordinance and the Code adopted herein is to provide a system of traffic regulations through the state and the nation. Three (3) copies of the Model Traffic Code adopted herein and the Fine Schedule are now filed in the office of the Clerk and Recorder of Larimer County, Colorado, and may be inspected during regular business hours.

Section 3. Deletions: Deletions to the Revised 2003 edition of the Model Traffic Code are as stated in this Ordinance.

Section 4. Additions or Modifications: Additions and modifications to the Revised 2003 edition of the Model Traffic Code are as stated in this Ordinance.

Section 5. Penalties: The following penalties, herewith set forth in full, shall apply to this Ordinance:

- (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. The provisions of this section shall not apply to penalties assessed pursuant to authority of law outside this code unless this section is specifically referred to in such other law.
 - (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, as follows:
- (1) Any person who violates this Ordinance commits a class 2 petty offense and, upon conviction thereof, shall be punished by a fine of not more than one thousand dollars for each separate violation, plus applicable surcharges, court costs and docket fees.
 - (2) In addition to the penalty prescribed in section 5(b)(1) of this Ordinance, persons convicted of a violation of this Ordinance are subject to surcharges of twenty-three dollars (\$23.00). These surcharges shall be paid to the clerk of the court by the defendant. Each clerk shall transmit the moneys to the court administrator of the judicial district in which the offense occurred for credit to the victims and witnesses assistance and law enforcement fund established in that judicial district pursuant to section 24-4.2-103, C.R.S.; for the Traumatic Brain Injury Fund pursuant to section 30-15-402(2)(b);

and for the Family Friendly Court fund pursuant to 42-4-1701(4)(a)(VI) & 13-3-113(6)(a).

When imposing a fine under this statute, the court shall separately state, as a part of the total fine, the surcharges specified in C.R.S. § 24-4.2-104(1), 30-15-402(2)(b) and 42-4-1701(4)(a)(VI) & 13-3-113(6)(a). The defendant shall also pay court costs and docket fees.

Section 6. Procedure:

- (a) All offenses for which a penalty assessment ticket is issued are called "Larimer County Traffic Infractions." All references in the Uniform 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 7. 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, and 1413 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 8. 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 9. 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 10. 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, the Model Traffic Code, and the Fine Schedule in 99-01, which shall remain valid and enforceable for all corresponding offenses adopted in this Ordinance. Offenses which lack a corresponding Fine in the 99-01 Fine Schedule shall have a Fine as established in the Colorado Revised Statutes. All surcharges in the 99-01 Fine Schedule are hereby superceded by the provisions of this Ordinance.

ADOPTED this ____ day of _____, 2004.

BOARD OF COMMISSIONERS OF LARIMER
COUNTY, COLORADO

By: _____
Kathay Rennels, Chair

ATTESTATION:

I, _____, 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.

[SEAL]

Clerk and Recorder

NOTICE OF ADOPTION OF ORDINANCE FOR THE REGULATION OF TRAFFIC

Larimer County, Colorado Ordinance 02032004O001 for the Regulation of Traffic, was adopted by the Board of County Commissioners of Larimer County, Colorado at a Public Hearing on February 3, 2004. Such ordinance adopted by reference the "Model Traffic code for Colorado Municipalities" Revised 2003 edition, together with the previously adopted fine schedule in Larimer County Ordinance 99-01.

The Ordinance was originally published on January 22, 2004. This Ordinance will take effect 30 days from the date of this publication.