

ORDINANCE NO. 12, Series 2020
INTRODUCED BY: COUNCILOR TONYA BRIGGS

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LAFAYETTE, COLORADO, REPEALING AND REENACTING IN ITS
ENTIRETY ARTICLE II OF CHAPTER 115 OF THE CODE OF
ORDINANCES OF THE CITY OF LAFAYETTE REGARDING
ADOPTION OF THE 2020 MODEL TRAFFIC CODE FOR COLORADO**

WHEREAS, since 1952, the Colorado Department of Transportation (“CDOT”) has published and regularly updated a Model Traffic Code for Colorado, which is modeled after the applicable state statutes and adopted by municipalities to ensure the uniformity and standardization of traffic regulations throughout the state; and

WHEREAS, the City of Lafayette (“City”) adopted the 2010 Model Traffic Code, which was the last edition; and

WHEREAS, CDOT published a 2018 and 2019 version of the Model Traffic Code, however, a final version was not adopted until 2020 and the City now desires to adopt the 2020 Model Traffic Code.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAFAYETTE, COLORADO, AS FOLLOWS:

Section 1. Article II of Chapter 115 of the Code of Ordinances, City of Lafayette, Colorado, is repealed in its entirety and reenacted to provide as follows:

Sec. 115-21. - Adoption.

The Model Traffic Code for Colorado, promulgated and published by the Colorado Department of Transportation, Traffic Engineering Branch and Safety, 2829 West Howard Place, Denver, Colorado, 80204, including Appendices Definition but excluding Appendix A, B, C, D, E, F & G, Part 17, Penalties and Procedure and Part 18, Vehicles Abandoned on Public Property, in their entirety, is hereby adopted by reference as the Model Traffic Code for the City of Lafayette as if fully set out in this codification with, however, the amendments set forth in this article.

Sec. 115-22. - Scope and effect of code—Exceptions to provisions.

Section 103(2) and 103(2)(b) of the Model Traffic Code are repealed in their entirety and reenacted to provide:

- (2) The provisions of this code relating to the operation of vehicles and the movement of pedestrians shall apply to every street, alley, sidewalk, driveway, park and to every other public way or public place or public parking area within or outside the corporate limits of the city, the use of which the city has jurisdiction and authority to regulate except:

- (b) Sections 1401, 1402 and 1413 of this code pertaining to reckless driving, careless driving and eluding a police officer shall apply to all land, areas, and property (including private) within or outside the corporate limits of the city, the use of which the city has jurisdiction and the authority to regulate.

Sec. 115-23. - Section 103, Scope and effect of Model Traffic Code—Exceptions to provisions.

Sections 103(3) and (4) of the Model Traffic Code are enacted to provide:

- (3) All references in this code to "official sign(s)," "official signal(s)," "official traffic control device(s)," "official device(s)," or "official marking(s)," shall be construed to refer to any and all signs, signals, devices or markings that have been placed on or about roadways, highways and other public property within the city by authority of the city, or other proper governmental official or agency, whether or not the city or such other proper governmental official or agency exercised such authority by resolution or ordinance. It is the intent of this section that the "official" nature of any sign, signal, device or marking not be construed to be an element of any traffic offense or other provision or violation of this code. Any and all references in this code to acts of a municipality "by resolution," "by ordinance," or "by local ordinance," and any requirement within this code that a municipality act "by resolution," "by ordinance," or "by local ordinance," shall be repealed and to have been construed only to guide administrative action and not as an element of any traffic offense or violation of this code.
- (4) All provisions in this code establishing offenses as a Class A or B traffic infraction or Class 1 or 2 misdemeanor offense, and establishing fines and other sentencing conditions in relation to such offenses, shall be repealed in their entirety, it being the intent that any violation of this code be subject to the city's general penalty provision as set forth in Section 1-10 of the Code of Ordinances of Lafayette. To the extent any notice or other procedures set forth in the Model Traffic Code conflict with the requirements or procedures set forth in the City's Home Rule Charter or the Code of Ordinances of Lafayette, the Charter and Code of Ordinances shall prevail.

Sec. 115-24. - Section 104, Adoption of Traffic control manual of the Model Traffic Code

Section 104 of the Model Traffic Code is repealed in its entirety, reenacted and re-titled Authority of police and fire department personnel to provide:

- (a) It shall be the duty of the officers of the police department, or such officers as are assigned by the chief of police, to enforce all traffic regulations of the city and all of the State laws applicable to the city.
- (b) Officers of the police department, or such special officers as are assigned by the chief of police, are hereby authorized to direct all traffic by voice, hand or signal in conformance with State traffic laws and this code; provided that, in the event of fire or emergency, or to expedite traffic or protect pedestrians, officers of the department, and other special officers as are assigned by the chief of police, may direct traffic as conditions may require notwithstanding the provisions of the state traffic laws or this code.

- (c) Members of the city's fire department, when at the scene of a fire or other emergency, may direct traffic or assist the police in directing traffic.

Sec. 115-25.- Section 106. Who may restrict right of way to highways

Section 106(1) of the Model Traffic Code is amended by deleting the phrases "by ordinance or resolution" and "for a total period not to exceed ninety days in any one calendar year" in their entirety.

Section 106(2) of the Model Traffic Code is amended to provide: Signs designating the permissible weights shall be erected and maintained.

Section 106(3) of the Model Traffic Code is amended by deleting the phrase "by ordinance or resolution".

Section 106(4.5)(b)(I) and (II) of the Model Traffic Code are repealed in their entirety.

Section 106(6)(a) of the Model Traffic Code is amended by deleting the phrase "as evidenced by resolution or ordinance"

Sec. 115-26. - Section 113, Appropriations for administration of article.

Section 113 of the Model Traffic Code is repealed in its entirety.

Sec. 115-27. - Section 114, Removal of traffic hazards.

Section 114(4) of the Model Traffic Code is enacted to provide:

If the city is not reimbursed within forty-five days after the property owner has been provided a demand for payment, the amount due shall become a lien against the property and certified by the city's finance director and recorded with the office of the Boulder County Treasurer. Such lien shall have priority over all other liens except general taxes. The Boulder County Treasurer shall collect and pay over to the city such charges in the same manner as the Treasurer is authorized to collect delinquent general property taxes.

Sec. 115-28. - Section 115, Traffic engineer.

Section 115 of the Model Traffic Code is enacted to provide:

- (a) The office of the traffic engineer is hereby established. The traffic engineer shall be the public works director or the director's authorized representative and shall exercise the power and duties provided in this code. The public works director shall be directly responsible to the city administrator for the performance of the duties and responsibilities of the traffic engineer.
 - (1) In the absence of such appointment or at such times as the traffic engineer may be absent from the municipality or unable to perform his/her duties, said duties shall be vested in the chief of police or other municipal employee as may be designated by the city administrator.
- (b) It shall be the duty of the traffic engineer or the official vested with the responsibility for traffic as provided herein to determine the installation and proper timing and maintenance of official traffic control devices, to conduct analyses of traffic accidents

and to devise remedial or corrective measures, to conduct investigation of traffic conditions, to plan the operation of traffic on the streets and highways of this municipality, and to cooperate with other municipal offices in the development of ways and means to improve traffic conditions, and to carry out such additional powers and duties as are imposed by this code.

(1) By way of example, but not of limitation, the traffic engineer or the official vested with the office as provided herein is hereby empowered and authorized, consistent with the provisions of this code, to act as follows:

- (i) Install, maintain, and remove traffic control devices;
- (ii) Designate and mark medians and traffic islands;
- (iii) Conduct speed limit surveys and investigations;
- (iv) Designate maximum speed limits throughout the city and post said limits as provided in this code;
- (v) Designate minimum speed limits as provided by this code;
- (vi) Regulate speed and traffic movement by traffic signals and provide for the synchronization of such signals as provided by this code.
- (vii) Designate one-way streets or roadways;
- (viii) Designate through streets or roadways and control entrances thereto;
- (ix) Designate stop or yield intersections and erect stop or yield signs thereto;
- (x) Establish restrictions, prohibitions and regulations for the parking, standing, or stopping of vehicles;
- (xi) Designate special parking zones for transit providers, press, television, radio cars, and the like;
- (xii) Designate parking meter zones and establish time limitations thereon based on an engineering and traffic investigation;
- (xiii) Establish tow-away zones;
- (xiv) Designate upon what streets, if any, angle parking shall be permitted;
- (xv) Designate and sign intersections at which drivers shall not make a right or left turn, a U turn, or any turn at all times or during certain times;
- (xvi) Designate and sign intersections where multiple turns shall be allowed;
- (xvii) Mark centerlines and lane lines and place other pavement markings necessary for the regulation and control of traffic;
- (xviii) Install and maintain crosswalks at intersections or other places where there is particular danger to pedestrians crossing the roadway;
- (xix) Establish safety zones at such places where necessary for pedestrian protection;
- (xx) Install pedestrian-control signals and designate those crossings where angle crossing by pedestrians shall be permitted;
- (xxi) Establish truck routes and truck loading zones; establish bus stops and taxicab stands;
- (xxii) Designate and sign those streets and roadways where pedestrians, bicyclists or other non-motorized vehicles, or persons operating a motor-driven cycle shall be excluded as provided by law;
- (xxiii) Designate and sign those streets upon which vehicles or loads of a certain weight shall be prohibited;
- (xxiv) Provide for temporary street or alley closures by the erection of barricades;

- (xxv) Issue special permits for curb loading operations, for the movement of vehicles having excess size or width, for parades or processions, and
- (xxvi) Perform such other duties as may be assigned to the traffic engineer by the city administrator consistent with the provisions of this code.

Sec. 115-29. - Section 118, Driving under restraint—Penalty.

Section 118 of the Model Traffic Code Establishment of wildlife crossing zones-report-repeal is repealed and reenacted and retitled in its entirety to provide:

- (1) It is unlawful for any person to drive a motor vehicle or off-highway vehicle upon any highway of this state 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.
- (2) The municipal court shall not waive or reduce the offense's three-point penalty.

Sec. 115-30. - Section 203, Unsafe vehicles—Spot inspections.

Section 203(3) and (4) of the Model Traffic Code are repealed in their entirety.

Sec. 115-31. - Section 225, Mufflers—Prevention of noise.

Section 225(3) of the Model Traffic Code is repealed in its entirety.

Sec. 115-32. - Section 235, Minimum standards for commercial vehicles—Spot inspections.

Section 235, Minimum standards for commercial vehicles – spot inspections, of the Model Traffic Code, is repealed in its entirety and reenacted to provide:

- (1) A police officer may, at any time, require the driver of any commercial vehicle, as defined in section 42-4-235, C.R.S., to stop so that the officer may inspect the vehicle and all required documents for compliance with the current rules and regulations promulgated by the Colorado Department of Public Safety, Colorado Code of Regulations Volume 8, 1507-1 "Minimum Standards for the Operation of Commercial Vehicles."
- (2) A police officer may immobilize, impound, or otherwise direct the disposition of a commercial vehicle when it is determined that the motor vehicle or operation thereof is unsafe and when such immobilization, impoundment, or disposition is appropriate under the current rules and regulations promulgated by the Colorado Department of Public Safety, Colorado Code of Regulations Volume 8, 1507-1 "Minimum Standards for the Operation of Commercial Vehicles."

Sec. 115-33. - Section 237, Safety belt systems—Mandatory use—Exemptions penalty.

Section 237(4) (a) of the Model Traffic Code is repealed in its entirety.

Sec. 115-34. - Section 239, Misuse of wireless telephone—Definitions—Penalty preemption.

Section 239(2), (5) and (5.5) (deleted) of the Model Traffic Code are amended to provide:

- (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 acts specified in subsection (4) of this section.
- (5) (Deleted)
- (5.5) (Deleted)

Sec. 115-35. - Section 243, Nuisance exhibition of motor vehicle exhaust prohibited.

Section 243 of the Model Traffic Code is enacted to provide:

- (1) (a) It shall be unlawful for any person to engage in a nuisance exhibition of motor vehicle exhaust, which is the knowing release of soot, smoke, or other particulate emissions from a motor vehicle with a gross vehicle weight rating of fourteen thousand pounds or less into the air and onto roadways, other motor vehicles, bicyclists, or pedestrians, in a manner that obstructs or obscures another person's view of the roadway, other users of the roadway, or a traffic control device or otherwise creates a hazard to a driver, bicyclist, or pedestrian.
- (b) The prohibition set forth in subsection (1)(a) of this section does not apply to:
 - 1. A commercial vehicle, as defined in Appendices Definitions (17.5);
 - 2. A common carrier, as defined in C.R.S. Section 40-1-102(3)(a)(I);
 - 3. A motor carrier, as defined in C.R.S. Section 40-10.1-101(10);
 - 4. A motor carrier of passengers, permitted pursuant to C.R.S. Section 40-10.1-302;
 - 5. A motor carrier of towed motor vehicles, permitted pursuant to C.R.S. Section 40-10.1-401;
 - 6. A motor carrier of household goods, permitted pursuant to C.R.S. Section 40-10.1-502;
 - 7. A motor vehicle used for agricultural purposes; or
 - 8. Any other vehicle used for commercial activities.

Sec. 115-36. - Section 501, Size and weight violations-penalty.

Section 501 of the Model Traffic Code is amended by addition of the following:

Notwithstanding any provision of this code to the contrary, when official signs are erected giving notice thereof, no person shall operate any vehicle with a weight limit in excess of the amounts specified on such signs at any time upon any of the streets or parts thereof or upon any of the bridges or viaducts posted as heretofore provided.

Sec. 115-37. - Section 510, Permits for excess size and weight and for manufactured homes—Rules.

Section 510(b)(1) of the Model Traffic Code is amended by deleting the phrase, "All local permits shall be issued in the discretion of the local authority pursuant to ordinances or resolutions adopted in accordance with section 511. Any ordinances or resolutions of local authorities shall not conflict with this section."

Section 510(11), (12) of the Model Traffic Code are repealed in their entirety and (12) reenacted to provide:

(12) Local authorities may by resolution impose annual permit, single trip permits and overlength, overwidth and overheight permit fees.

Sec.115-38. Section 616, Wildlife crossing zones-increase in penalties for moving traffic violations of the Model Traffic Code is repealed in its entirety.

Sec. 115-39. Section 714, Bicyclist or other authorized user in the bicycle lane of the Model Traffic Code is enacted to provide:

- (1) The driver of a vehicle shall yield the right-of-way to a bicyclist or other authorized user of a bicycle in the bicycle lane.
 - (a) For the purposes of this section “bicycle lane” means a portion of the roadway that has been designated by striping, signage, or other pavement markings for the exclusive use of bicyclists or other authorized users of bicycle lanes. Bicycle lane includes an intersection if the bicycle lane is marked on opposite sides of the intersection.

Sec. 115-40. - Section 804, Pedestrians to use right-half of crosswalk (repealed).

Section 804, of the Model Traffic Code, Staying on medians prohibited, is enacted and titled to provide:

- (1) No person shall stand or be upon a median of any street for longer than is reasonably necessary to cross the street.
- (2) For the purposes of this section, *median* shall mean:
 - (a) The area of a street, generally in the middle, that separates traffic traveling in one direction from traffic traveling in another direction, or that, at intersections, separates traffic turning left from traffic proceeding straight. Such an area is physically defined by curbing, landscaping or other physical obstacles to the area’s use by motor vehicles, or by traffic control markings that prohibit use of a portion of the pavement of a street by motor vehicles other than to drive generally perpendicularly across the markings, or to wait there awaiting the opportunity to cross or merge with the opposing lanes of traffic (also known as painted medians, that are wider than a double yellow line); or
 - (b) The area of a street at an intersection between the streets and a right turn only lane, roughly triangular in shape, and separated from the motor vehicular traffic lanes by curbing, landscaping or other physical obstacles to the area’s use by motor vehicles (also known as a right turn island).
- (3) This section shall only apply to:
 - (a) Medians eight (8) feet wide or less, regardless of the volume of traffic around such median;

- (b) Medians eighteen (18) feet wide or less where the average volume of traffic around such median in either direction is greater than fifteen thousand (15,000) vehicles per day as measured by the Traffic Engineer; or
 - (c) Medians eighteen (18) feet wide or less where the speed limit around such median in either direction is thirty-five (35) miles per hour or greater; regardless of the volume of traffic around such median.
- (4) This section does not apply to persons maintain or working on the median for either a public entity that owns the underlying right-of-way or a public utility.

Sec. 115-41. - Section 805, Pedestrians walking or traveling in a wheelchair on highways.

Section 805(5) of the Model Traffic Code is repealed in its entirety and reenacted to provide:

Local authorities may regulate the use by pedestrians of streets and highways under its jurisdiction to the extent authorized under subsection (6) of this section but no regulation differing from this section shall be effective until official signs or devices giving notice thereof have been placed at such location.

Sec. 115-42. - Section 901, Required position and method of turning.

Section 901(a) and (b) of the Model Traffic Code are repealed in their entirety and reenacted to provide:

- (a) *Right turns.* Both the approach for a right turn and the right turn shall be made as close as practicable to the right-hand curb or edge of the roadway. Unless double turn lanes are clearly marked by official signs, it shall be unlawful for the driver of a vehicle to make a right turn into any traffic lane other than the right-most lane of traffic of the road onto which the turn is made.
- (b) *Left turns.* The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Unless double turn lanes are clearly marked by official signs, it shall be unlawful for the driver of a vehicle to make a left turn into any traffic lane other than the left-most lane of traffic lawfully available to traffic moving in the direction of travel of such vehicle.

Sec. 115-43. - Section 1010, Driving on divided or controlled access highway.

Section 1010(3) of the Model Traffic Code is amended by deleting the phrase "by ordinance."

Sec. 115-44. - Section 1101, Speed limits.

Section 1101(1) of the Model Traffic Code is amended by deleting the phrase "is reasonable and prudent under the conditions then existing" and replacing with the phrase "the maximum lawful speed limit."

Section 1101(2)(b), (c) and (d) of the Model Traffic Code are repealed in their entirety and reenacted to provide:

- (b) Twenty-five miles per hour in any business district as defined in Chapter 26 of the Code of Ordinances of Lafayette;
- (c) Twenty-five miles per hour in any residential district as defined in Chapter 26 of the Code of Ordinances of Lafayette;
- (d) Fifteen miles per hour in any alley.

Section 1101(4) of the Model Traffic Code is repealed in its entirety.

Section 1101(5) of the Model Traffic Code is amended by deleting the phrase "alleged reasonable and prudent speed" and replacing it with the phrase "maximum lawful speed limit."

Sec. 115-45. - Section 1102, Altering of speed limits—when.

Section 1102(1) and (2) and (3) of the Model Traffic Code are amended by deleting the phrases "is reasonable or safe" and replacing it with the phrase "the maximum lawful speed limit" and deleting the phrases "a reasonable and safe" and replacing it with the phrase "the maximum lawful."

Section 1102(6) of the Model Traffic Code is amended by deleting the phrase "by ordinance, or a county by resolution of the board of county commissioners" and adding the phrase "apartment complex, condominium complex or townhouse complex" after the phrase "in mobile home parks" in the section's first sentence.

Sec. 115-46. - Section 1203, Ski areas to install signs.

Section 1203 of the Model Traffic Code is repealed in its entirety and reenacted and retitled "Parking Prohibitions" to provide:

- (a) No person shall park a vehicle upon any highway or roadway for the principal purpose of:
 - (1) Greasing, painting or repairing any vehicle except repairs necessitated by an emergency;
 - (2) Displaying advertising.
- (b) No truck tractor with a total gross vehicle weight of twenty-five thousand (25,000) pounds or more or any truck tractor shall be parked on any street within the city for more than thirty (30) minutes between the hours of 8:00 p.m. and 7:00 a.m. except on streets that are fronted on both sides by an industrial zone.
- (c) It shall be unlawful for any person to park or store any semitrailer in or upon any public street or highway in the city when such semitrailer is not attached to a truck tractor.
- (d) No trailer, utility trailer, or camper trailer shall be parked on any street between the hours of 8:00 p.m. and 7:00 a.m., unless either:
 - (1) The trailer is attached to a towing vehicle; or
 - (2) The trailer is associated with and appurtenant to an adjacent construction worksite for which a building permit has been issued; or

- (3) The trailer is parked by the City of Lafayette in connection with traffic operations.
- (e) If shall be unlawful for any person to park or store a motor home or camper coach, the overall height of which exceeds eight (8) feet, on a street for more than a seventy-two-hour period. For the purposes of this subsection, parking of the vehicle on the same block for more than a seventy-two-hour period shall constitute prima facie evidence of storage in violation of this subsection.
- (f) Vehicles for sale.
 - (1) No person shall park a vehicle upon private property belonging to another for the principal purpose of displaying such vehicle for sale.
 - (2) It shall be unlawful for the owner of any property located within the city to allow vehicles owned by others to be parked on such property for the principal purpose of being offered for sale.
 - (3) Whenever a parked vehicle displays a sign or message indicating that [it] is being offered for sale, such display shall be prima facie evidence that the vehicle is parked for the principal purpose of being displayed for sale.
 - (4) For purposes of this Section 1203(e)[(f)] only, the term "vehicle" shall include any device capable of being moved from place to place upon wheels or tracks, as well as devices capable of being moved on or through water or air, such as boats and airplanes.
 - (5) The provisions of this Section 1203(e)[(f)] shall not apply upon land zoned by the city to permit the commercial sale of vehicles.
 - (6) No person shall park a vehicle upon a roadway, street, alley, sidewalk or sidewalk area, in a park or in any publicly owned parking area within the city for the principal purpose of displaying such vehicle for sale.
 - (7) A person may park a maximum of one vehicle owned by that person on private property belonging to that person for the principal purpose of being offered for sale.
 - (8) A person may park a maximum of one vehicle owned by that person on the public street immediately adjacent to that person's principal place of residence, for the principal purpose of offering that vehicle for sale.

Sec. 115-47. - Section 1204, Stopping, standing or parking prohibited in specified places.

Section 1204(8) of the Model Traffic Code is repealed in its entirety and enacted to provide:

No person shall stop, stand or park any vehicle upon any private property without the consent of the owner, lessee or person in possession of such property.

Sec. 115-48. - Section 1205, Parking at curb or edge of roadway.

Section 1205 (2) and (3) are amended by deleting the phrase "by ordinance" in both sections.

Sec. 115-49. - Section 1209, Owner liability for parking violations.

Section 1209 of the Model Traffic Code is amended by the addition of the following:

In any prosecution charging a violation of any provision of this Part 12 governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of any such regulation, together with proof that the defendant named in the complaint was at the time of such parking the registered owner of such vehicle, shall constitute an evidentiary prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the location where, and for the time during which, such violation occurred.

Sec. 115-50. - Section 1210, Designated areas on private property for authorized vehicles within unincorporated areas of a county.

Section 1210 of the Model Traffic Code is repealed in its entirety.

Sec. 115-51. - Section 1213, Parking in electric motor vehicle charging station.

Section 1213(1)(a) of the Model Traffic Code is amended by deleting the phrase “or the equivalent local ordinance,” as used throughout this subsection.

Sec. 115-52. - Section 1301, Open alcoholic beverage container in motor vehicle prohibited.

Section 1301 of the Model Traffic Code is enacted to provide:

(1) *Definitions.* As used in this section, the following words and phrases shall mean as set forth below, unless otherwise specified:

- (a) "Alcoholic beverage" means a beverage as defined in C.R.S. 44-3-103(2).
- (b) "Motor vehicle" means a vehicle driven or drawn by mechanical power and manufactured primarily for use on public 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) (a) Except as otherwise permitted in paragraph (b) of this subsection (2), a person while in the passenger area of a motor vehicle that is on a public roadway or highway of this state or the right-of-way of a public roadway or highway of this state may not knowingly:

- (I) Drink an alcoholic beverage; or
 - (II) Have in his or her possession an open alcoholic beverage container.
- (b) The provisions of this subsection (2) shall not apply to:

- (I) 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;
- (II) 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 or trailer coach as defined in Appendices, Definitions, (58) and (114(a));
- (III) 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
- (IV) 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.

Sec. 115-53. - Section 1302, Open marijuana container – motor vehicle prohibited.

Section 1302 of the Model Traffic Code is enacted to provide:

- (1) *Definitions.* As used in this section, the following words and phrases shall mean as set forth below unless otherwise specified.
 - (a) *Marijuana* means all parts of the plant of the genus cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant, and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or its resin, including marijuana concentrate. Marijuana does not include industrial hemp, nor does it include fiber produced from the stalks, oil, or cake made from the seeds of the plant, sterilized seed of the plant, which is incapable of germination, or the weight of any other ingredient combined with marijuana to prepare topical or oral administrations, food, drink or other product.
 - (b) *Motor vehicle* shall mean a vehicle driven or drawn by mechanical power and manufactured primarily for use on public highways but does not include a vehicle operated exclusively on a rail or rails.
 - (c) *Motor home* means a vehicle designed to provide temporary living quarters and which is built into an integral part of, or a permanent attachment to, a motor vehicle chassis or van.
 - (d) *Open marijuana container* means a receptacle or marijuana accessory that contains any amount of marijuana and:
 - 1. that is open or has a broken seal;
 - 2. The contents of which is partially removed; and
 - 3. there is evidence that marijuana has been consumed within the motor vehicle.
 - (e) *Passenger area* means the area designed to seat the driver and passengers, including seating behind the driver, 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.
 - (f) *Trailer coach* means a wheeled vehicle having an overall length, excluding towing gear and bumpers, of not less than twenty-six feet, without motive power, that is designed and generally and commonly used for occupancy by persons for residential purposes, in temporary locations, and that may occasionally be drawn over the public highways by a motor vehicle and is licensed as a vehicle.

- (2) Except as otherwise permitted under this section, a person, while in the passenger area of a motor vehicle that is on a public street or roadway, or the right-of-way of a public street or roadway may not knowingly:
 - (a) Use or consume marijuana; or
 - (b) Have in his or her possession an open marijuana container.
- (3) The provisions of this section 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; or passengers within a state and locally licensed mobile marijuana hospitality establishment;
 - (b) The possession by a passenger, other than the driver or a front seat passenger, of an open marijuana container in the living quarters of a motor home, or trailer coach;
 - (c) The possession of an open marijuana 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 marijuana container in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

Sec. 115-54. - Section 1409, Compulsory insurance – penalty – legislative intent.

Section 1409(4) and (9) of the Model Traffic Code are deleted in their entirety.

Sec. 115-55. - Section 1417, Regulation of traffic across private property.

Section 1417 of the Model Traffic Code is enacted to provide:

- (a) It is unlawful for any person to drive a motor vehicle from a public highway or roadway or any public way of this city over, across or through any private property to avoid traffic control signals or traffic control devices or as a route or shortcut from one public highway or roadway or any public way to another.
- (b) As used in this section, "private property" includes, but is not limited to, any property not designated as a public roadway, highway, street or public way, alley, right-of- way or easement.
- (c) It is an affirmative defense to a charge of violation of this section that the person charged is the owner of the property or the owner of a leasehold, possessory interest or easement in or to the property through or across which the motor vehicle is driven.

Sec. 115-56. – Appendices – Definitions.

Appendices – Definitions of the Model Traffic Code is amended by deletion of the following definitions.

- (8.5) BAC
- (10.5) Bulk electronic transfer
- (11) Business district
- (16) Classified personal property
- (27.3) DUI
- (27.5) DUI per se
- (27.7) DWAI
- (31.5) “Exceptions processing”

- (68.5) Persistent drunk driver
- (80) Residence district

Section 2. If any article, section, paragraph, sentence, clause or phrase of this ordinance is held to be unconstitutional or invalid for any reason, such decision shall not affect the validity or constitutionality of the remaining portions of this ordinance. The City Council hereby declares that it would have passed this ordinance and each part or parts hereof irrespective of the fact that any one part or parts be declared unconstitutional or invalid.

Section 3. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof is hereby repealed to the extent of such inconsistency or conflict.

Section 4. The repeal or modification of any provision of the Code of Ordinances, City of Lafayette, Colorado, by this ordinance shall not release, extinguish, alter, modify or change in whole or in part any penalty, forfeiture or liability, either civil or criminal, which shall have been incurred under such provision. Each provision shall be treated and held as still remaining in force for the purpose of sustaining any and all proper actions, suits, proceedings and prosecutions for enforcement of the penalty, forfeiture or liability, as well as for the purpose of sustaining any judgment, decree or order which can or may be rendered, entered or made in such actions, suits, proceedings or prosecutions.

Section 5. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 6. Violations of this ordinance shall be punishable in accordance with Section 1-10 of the Code of Ordinances, City of Lafayette, Colorado, which provides:

- (a) It shall be unlawful for any person to violate, disobey, omit, neglect, refuse or fail to comply with or resist the enforcement of any provision of this Code, the City Charter or any other ordinance of the City of Lafayette, or to commit any act or omission declared to be a misdemeanor, except that unless conduct is specifically designated criminal herein, any offense which is not punishable by imprisonment in jail is not criminal and is deemed decriminalized, and unless a specific lesser penalty is specifically provided for the violation of any specific portion of this Code, the City Charter or any other ordinance of the City of Lafayette, the violation of any provision of this Code, the City Charter or any other ordinance of the City of Lafayette, shall be punishable as follows:
 - (1) Every person convicted of a violation of any provision of this Code, the City Charter or any ordinance of the City of Lafayette, except as above-stated, who is eighteen (18) years of age or more on the date of said violation shall be punished by a fine not exceeding the current maximum amount established by the state for municipal ordinance violations, or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.
 - (2) Every person convicted of a violation of any provision of this Code, the City Charter or any ordinance of the City of Lafayette, except as above-stated, who is under the age of eighteen (18) years at the time of said violation, shall be punished by a fine not

exceeding the current maximum amount established by the state for municipal ordinance violations.

- (3) Except as hereinafter provided, every person convicted of a violation of any provision of the Model Traffic Code of Lafayette, Colorado, and/or the Model Traffic Code for Colorado Municipalities as adopted and set forth in articles I and II of chapter 115 of this Code, shall be punished by a fine not exceeding the current maximum amount established by the state for municipal ordinance violations, except any person convicted of violating section 4-6, speed contest, section 5-1, reckless driving, section 19-12, compulsory insurance, or section 21-13, eluding a police officer, all being violations of the Model Traffic Code for Colorado Municipalities as adopted by the city, shall be punished by a fine not exceeding the current maximum amount established by the state for municipal ordinance violations, or by imprisonment not exceeding one (1) year, or by both such fine and imprisonment.
- (b) In addition to the above penalties and fines, the city may obtain enforcement of its ordinances by seeking injunctive or other appropriate relief in a court of proper jurisdiction.
- (c) Each day or portion thereof, during which any violation is committed, continued or permitted shall constitute a separate offense and shall be punishable as a separate offense.

Section _____ 7. This ordinance shall become effective upon the latter of the 10th day following enactment, or the day following final publication of the ordinance.

INTRODUCED AND PASSED ON FIRST READING THE 5TH DAY OF MAY, 2020.

PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE 19TH DAY OF MAY, 2020.

CITY OF LAFAYETTE, COLORADO

Jamie Harkins, Mayor

ATTEST:

Susan Koster, CMC, City Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, City Attorney