

## **ORDINANCE 2025-02**

### **AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO AMENDING CHAPTER 10.04 OF THE FRUITA MUNICIPAL CODE AND ADOPTING BY REFERENCE THE 2024 EDITION OF THE MODEL TRAFFIC CODE**

**WHEREAS**, Pursuant to the C.R.S § 42-4-110(1)(b), local governments may, consistent with the procedural requirements of C.R.S. §§ 31-16-201, adopt by reference the Model Traffic Code for Colorado, which embodies the rules of the road and vehicle requirements as set out in the State of Colorado's traffic laws,

**WHEREAS**, the Colorado Department of Transportation ("CDOT") has prepared and adopted a 2024 version of the Model Traffic Code,

**WHEREAS**, the City of Fruita previously adopted the 2010 edition of the Model Traffic Code for Colorado as found under Municipal Code Title 10, Chapter 10.04 (010-040),

**WHEREAS**, the City of Fruita seeks to adopt this Ordinance to adopt the 2024 Model Traffic Code with city specific deletions, amendments, and additions as more fully set forth herein.

**NOW, THEREFORE, BE IT HEREBY ORDAINED BY THE CITY COUNCIL OF THE CITY OF FRUITA, COLORADO:**

**Section 1:** Section 10.04.010 of the Fruita Municipal Code and Ordinance 2011-02, concerning the model traffic code adopted, is hereby repealed and re-enacted to read as follows:

#### **10.04.010 – MODEL TRAFFIC CODE ADOPTED.**

Pursuant to Parts 1 and 2 of Article 16 of Title 31, C.R.S., as amended, there is hereby adopted by reference the 2024 edition of the "Model Traffic Code for Colorado" promulgated and published as such by the Colorado Department of Transportation ("CDOT"), Safety and Traffic Engineering Branch, 2829 W. Howard Place, Denver, CO 80204. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations for the City. The purposes of this chapter and the Code adopted herein is to provide a system of uniform traffic regulations consistent with State law and generally conforming to similar regulations throughout the State and the nation. Not less than one (1) copy of the Model Traffic Code adopted herein is now filed in the office of the Clerk of the City, Colorado, and may be inspected during regular business hours. After adoption of the Model Traffic Code, a copy of the Code may be kept in the office of the Chief of Police instead of the City Clerk. The copy of the Model Traffic Code shall be certified by the Mayor and the City Clerk to be a true and correct copy.

**Section 2:** Section 10.04.020 of the Fruita Municipal Code is hereby amended to read as follows:

#### **10.04.020 – DELETIONS.**

The 2024 edition of the Model Traffic Code is adopted as if set out at length save and except the following articles and/or sections which are declared to be inapplicable to this municipality and are therefore expressly deleted:

- 1. Part 17, Penalties and Procedure - deleted.**
- 2. Section 1409(9) of the adopted code is hereby deleted.**

**Section 3:** Sections 10.04.030 and 10.04.35 of the Fruita Municipal Code is hereby amended to read as follows:

#### **10.04.030 – ADDITIONS OR MODIFICATIONS**

##### **1. 109.7. Off-highway vehicles.**

- a.** (1) Definition of Off-Highway Vehicle. Every motor vehicle designed primarily for travel off of the public highways and which is not required to be registered with the State of Colorado under the provisions of Article 3, Title 42, C.R.S.
- b.** (2) Use of Off-Highway Vehicles. No off-highway vehicle shall be operated anywhere in the City of Fruita, except on private property by the written permission of the landowner, or in a parade licensed by the Chief of Police in accordance with the provisions of the Fruita Municipal Code. Testimony of the failure of any owner or operator of an off-highway vehicle to present immediate evidence of permission to operate the vehicle, when requested to do so by a peace officer, shall constitute prima facie evidence that such owner or operator of the off-highway vehicle violated this section. No person shall be convicted of a violation of this section if he produces in court an affidavit, signed under oath by the landowner, that he had given the owner or operator permission to use the off-highway vehicle on his property at the time of the alleged violation.

##### **2. 314. Nuisance exhibition of motor vehicle exhaust - prohibition.**

- a.** A person shall not 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 into the air and onto roadways. Any person who violates any provision of this section commits a non-criminal traffic offense.

##### **3. Section 801 of the adopted code is amended to add a new subsection (5) as follows:**

- a.** (a) It is unlawful for a pedestrian to engage in any activity within a public street or roadway that obstructs, or reasonably could obstruct, the free flow of vehicular traffic or otherwise constitutes, or reasonably could constitute, a hazard, except as expressly permitted or authorized by this Code.
- b.** (b) It is unlawful for a parent, guardian, or other person having care or custody of any child under the age of ten (10) years to intentionally, knowingly, or

recklessly allow or permit any such child to violate subsection (a) of this section.

- c. (c) The fact that a child under the age of ten (10) years is engaged in an activity within a public street or roadway contrary to the provisions of subsection (a) of this section shall be prima facie evidence that the parent, guardian, or other person having custody of the child is guilty of violating this section.

**4. Section 1204(1) of the adopted code is amended to add subsections (l), (m), (n), and (o) to read as follows:**

- a. (l) Within an alley, except during the necessary expeditious loading and unloading of merchandise or freight, and in no case shall a stop for loading or unloading of materials exceed twenty (20) minutes.
- b. (m) Parked occupying more than one parking space.
- c. (n) Parked in violation of designated parking as defined by pavement markings or signs.
- d. (o) In a clearly marked fire lane.

**5. Section 1204 of the adopted code is hereby amended by the addition of new subsection 1204(10), to read as follows:**

- a. (10) No person shall erase, remove, alter or otherwise tamper with markings or other detection materials placed on any vehicle, vehicle tire or pavement for the purpose of enforcement of timed parking.

**6. Section 1205 of the adopted code is hereby amended by the addition of a new subsection 1205(5), to read as follows:**

- a. (5) No person shall park a vehicle upon a roadway for the purpose of greasing, painting, washing or repairing such vehicle, except repairs necessitated by an emergency.

**7. Section 1412 of the adopted code is amended to add a new subsection (16) as follows:**

- a. (16) (a) A person riding a bicycle or electrical assisted bicycle and approaching an intersection of a roadway with a stop sign shall slow down and, if required for safety, stop before entering the intersection. If a stop is not required for safety, the person shall slow to a reasonable speed and yield the right-of-way to any traffic or pedestrian in or approaching the intersection. After the person has slowed to a reasonable speed and yielded the right-of-way if required, the person may cautiously make a turn or proceed through the intersection without stopping.
- b. (b) For purposes of this subsection (16), a reasonable speed is fifteen miles per hour or less.
- c. (c) A person riding a bicycle or electrical assisted bicycle and approaching an intersection of a roadway with an illuminated red traffic control signal shall

stop before entering the intersection and shall yield to all other traffic and pedestrians. Once the person has yielded, the person may cautiously proceed in the same direction through the intersection or make a right-hand turn. When a red traffic control signal is illuminated, a person shall not proceed through the intersection or turn right if an oncoming vehicle is turning or preparing to turn left in front of the person.

- d. (d) A person riding a bicycle or electrical assisted bicycle approaching an intersection of a roadway with an illuminated red traffic control signal may make a left-hand turn only if turning onto a one-way street and only after stopping and yielding to other traffic and pedestrians. However, a person shall not turn left if a vehicle is traveling in the same direction as the person and the vehicle is turning or preparing to turn left. If the person is not turning left onto a one-way street, the person shall not make a left-hand turn at an intersection while a red traffic control signal is illuminated.

**8. 1417. Operator's license required.**

- a. No person who has been issued a currently valid driver's or minor's driver's license or an instruction permit shall operate a motor vehicle upon a highway in this city without having such license or permit in such person's immediate possession.

**9. 1418. Driving under restraint.**

- a. (1) Any person who drives a motor vehicle or off-highway vehicle with knowledge that the person's license or privilege to drive, either as a state resident or a non-resident is under restraint for an outstanding judgment is guilty of a Class A Traffic Infraction.
- b. (2) Except as provided in subsection (1) of this section, any person who drives 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 nonresident, is under restraint for any reason other than conviction of DUI, DUI per se, DWAI, or UDD is guilty of a criminal offense. A court may sentence a person convicted of this criminal offense to imprisonment for a period of not more than six months and may impose a fine of not more than five hundred dollars.
- c. (3) The Court shall not waive or reduce the three-point penalty imposed under state law.

**11. Part 16, Accidents and Accident Reports, is added to the 2024 Model Traffic Code as adopted by the City to read as follows:**

**1602. Accident Involving Damage - Duty.**

- (1) The driver of any vehicle directly involved in an accident resulting only in damage to a vehicle which is driven or attended by any person shall immediately stop such vehicle

at the scene of such accident or as close thereto as possible but shall immediately return to and in every event shall remain at the scene of such accident, except in the circumstances provided in subsection (2) of this section, until the driver has fulfilled the requirements of section 1603. Every such stop shall be made without obstructing traffic more than is necessary.

(2) When an accident occurs on the traveled portion, median, or ramp of a divided highway and each vehicle involved can be safely driven, each driver shall move such driver's vehicle as soon as practicable off the traveled portion, median, or ramp to a frontage road, the nearest suitable cross street, or other suitable location to fulfill the requirements of section 1603. Any person who violates any provision of subsections (1) or (2) commits a criminal traffic offense as defined in 1701(2).

#### **1603 Duty to give notice, information, and aid.**

(1) The driver of any vehicle involved in an accident resulting in injury to any person, or damage to any vehicle which is driven or attended by any person shall give the driver's name, the driver's address, and the registration number of the vehicle he or she is driving and shall upon request exhibit his or her driver's license to the person struck or the driver or occupant of or person attending any vehicle collided with and where practical shall render to any person injured in such accident reasonable assistance.

(2) In the event that none of the persons specified are in condition to receive the information to which they otherwise would be entitled under subsection (1) of this section and no police officer is present, the driver of any vehicle involved in such accident after fulfilling all other requirements of subsection (1) of this section, insofar as possible on the driver's part to be performed, shall immediately report such accident to the nearest office of a duly authorized police authority as required in section 1606 and submit thereto the information specified in subsection (1) of this section. Any person who violates any provision of subsections (1) or (2) commits a criminal traffic offense as defined in 1701(2).

#### **1604. Duty upon striking unattended vehicle or other property.**

The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended resulting in any damage to such vehicle or other property shall immediately stop and either locate and notify the operator or owner of such vehicle or other property of such fact, the driver's name and address, and the registration number of the vehicle he or she is driving or attach securely in a conspicuous place in or on such vehicle or other property a written notice giving the driver's name and address and the registration number of the vehicle he or she is driving. The driver shall also make report of such accident when and as required in section 1606. Every stop shall be made without obstructing traffic more than is necessary. This section shall not apply to

the striking of highway fixtures or traffic control devices which shall be governed by the provisions of section 1605. Any person who violates any provision of this section commits a criminal traffic offense as defined in 1701(2).

**1605. Duty upon striking highway fixtures or traffic control devices.**

The driver of any vehicle involved in an accident resulting only in damage to fixtures or traffic control devices upon or adjacent to a highway shall notify the road authority in charge of such property of that fact and of the driver's name and address and of the registration number of the vehicle he or she is driving and shall make report of such accident when and as required in section 1606. Any person who violates any provision of this section commits a criminal traffic offense as defined in 1701(2).

**1606. Duty to report accidents.**

The driver of a vehicle involved in a traffic accident resulting in injury to, serious bodily injury to, or death of any person or any property damage shall, after fulfilling the requirements of sections 1602 and 1603 (1), give immediate notice of the location of such accident and such other information as is specified in section 1603 (2) to the nearest office of the duly authorized police authority and, if so directed by the police authority, shall immediately return to and remain at the scene of the accident until said police have arrived at the scene and completed their investigation. Any person who violates any provision of this section commits a criminal traffic offense as defined in 1701(2).

**12. Part 17, Penalties and Procedures, is hereby added to the 2024 Model Traffic Code as adopted by the City to read as follows:**

**1701. Municipalities — traffic offenses classified - schedule of fines.**

(1) Except as otherwise provided for in this section, any person who violates any provision of the Model Traffic Code shall be deemed to have committed a noncriminal traffic offense. Every person who is convicted of, who admits liability for, or against whom a judgment is entered for, a noncriminal traffic offense shall be penalized by imposition of a fine in an amount not less than \$5.00 and not greater than \$500.00. The presiding Judge of the Municipal Court shall promulgate a schedule of penalties for all noncriminal traffic offenses contained in the Model Traffic Code. Said schedule shall be prominently posted in the office of the Municipal Court Clerk.

(2) A violation of any of the following provisions of the Model Traffic Code shall be a criminal offense. Every person convicted of violating any of the following provisions of the Model Traffic Code shall be punished by a fine of not more than \$1,000.00 or by imprisonment for not more than one (1) year, or by both such fine and imprisonment.

(a) Section 1903 Stopping for school buses.

(b) Section 1101 Speeding (the alleged violator is accused of exceeding the prima facie speed limit by more than 19 miles per hour).

(c) Section 1105 - Speed contests.

(d) Section 1401 - Reckless driving.

(e) Section 1402 - Careless driving (the violation has caused, or contributed to the cause of, an accident resulting in appreciable damage to property of another or an injury or death to any person).

(f) Section 1413 - Eluding or attempting to elude police officer.

(g) Section 1409 - Compulsory insurance.

(h) Any other offense contained in the Model Traffic Code resulting in an accident causing personal injury or substantial property damage.

**1702 Procedure - noncriminal traffic offenses.**

(1) Notwithstanding the provisions of Rule 223(a) and (b) of the Colorado Municipal Court Rules of Procedure, or any other provision of law, the right of a jury trial shall not be available at a hearing where the cited person is charged with a noncriminal traffic offense. In addition, no person charged with a noncriminal traffic offense shall be afforded the right of court-appointed counsel.

(2) The Colorado Municipal Court Rules of Procedure shall apply to any hearing where the cited person is charged with a noncriminal traffic offense, unless any of the rules are clearly inapplicable. The burden of proof shall be upon the people, and the court shall dismiss charges against an alleged violator beyond a reasonable doubt.

(3) An appeal from final judgment on a noncriminal traffic offense shall be made in accordance with Rule 237 of the Colorado Municipal Court Rules of Procedure.

(4) Except as otherwise provided in this subsection, no person against whom a judgment has been entered for a noncriminal traffic offense shall collaterally attack the validity of that judgment unless such attack is commenced within three months after the date of entry of the judgment. The only exceptions to the time limitations shall be:

(a) A case in which the court entering judgment did not have jurisdiction over the subject matter of the alleged infraction;

(b) A case in which the court entering judgment did not have jurisdiction over the person of the violator;

(c) Where the court 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

(d) Where the court finds that the failure to seek relief within the applicable time period was the result of circumstances amounting to justifiable excuse or excusable neglect,

(5) At any time that a person is cited for the commission of any noncriminal traffic offense, the citing officer shall give a notice to the person in charge of or operating the motor vehicle involved, which notice shall be in the form of a penalty assessment notice.

(6) The penalty assessment notice tendered by the citing officer shall contain the name and address of such person or, if the vehicle is unattended, the owner of the vehicle shall be presumed to be such person, the license number of the vehicle involved, if any, the number of such person's driver's license, if available, the nature of the offense, the amount of the penalty prescribed for such offense, the date of the notice, the time and place and when and where such person shall appear in court in the event such penalty is not paid, and a place for such person to execute a signed acknowledgment of liability and an agreement to pay the penalty prescribed within twenty days, as well as such other information as may be required by law to constitute such notice as a summons and complaint to appear in court, should the prescribed penalty not be paid within the time period.

(7) One copy of the notice shall be given to the violator by the citing officer.

(8) The time specified in the notice to appear shall be at least fourteen days, but not more than forty-five days after such citation, unless the person cited shall demand an earlier hearing.

(9) Whenever the alleged violator refuses to sign or accept the penalty assessment notice, tender of such notice by the citing officer to the alleged violator shall constitute service of a summons and complaint.

(10) In the event a person who has been cited for a noncriminal traffic offense fails to pay the penalty assessment within the time period specified in the penalty assessment notice, he shall make an appearance and answer the complaint against him. If the alleged violator answers that he is liable, judgment shall be entered against him, and he shall be assessed the appropriate penalty and applicable court costs. If the alleged violator denies the allegations in the complaint, a final hearing on the complaint shall be held within the time period prescribed in Rule 248 of the Colorado Municipal Court Rules of Procedure. If the alleged violator fails to appear for a final hearing, judgment shall be entered against him, and he shall be assessed the appropriate penalty and applicable court costs.



(11) In the event a person who has been cited for a noncriminal traffic offense fails to pay the penalty assessment within the time period specified in the penalty assessment notice and fails to appear at the time and place specified in the notice, judgment shall be entered against him, and he shall be assessed the appropriate penalty and court costs.

(12) A police officer coming upon an unattended vehicle which is in apparent violation of any provision of the Model Traffic Code may place upon the vehicle a penalty assessment notice indicating the noncriminal traffic offense pursuant to the procedure set forth at Subsection (6) above. If the penalty assessment is not paid within twenty days of the issuance of such notice, the court shall mail a notice to the registered owner of the vehicle, setting forth the noncriminal traffic offense, the time and place where it occurred, directing the payment of the penalty assessment within twenty days from the issuance of the notice, and the time and place and when and where such person shall appear in court in the event such penalty is not paid as provided in the initial penalty assessment notice. In any prosecution of any of the provisions governing unattended vehicles, proof that the particular vehicle described in the penalty assessment notice was left unattended in violation of any such law or regulation, together with proof that the defendant named in the penalty assessment notice was, at the time of violation, the registered owner of such vehicle, shall constitute in evidence a prima facie rebuttable presumption that the registered owner of such vehicle was the person who left the vehicle unattended at the place where, and for the time during which, such violation occurred.

(13) If the alleged violator is cited for a noncriminal traffic offense, he shall be privileged to answer the complaint made against him in the manner provided in the Colorado Municipal Court Rules of Procedure. The maximum penalty which may be imposed shall not exceed the penalty set forth in the penalty assessment notice.

(14) The provisions of this section shall not apply to violations specified in Section 1701(2) of this code, nor shall they apply when it appears that the alleged violator has, in the course of the same transaction, violated one of the provisions referred to in Section 1701(1) of this code, and has also violated one or more of the provisions contained in Section 1701(2) of this code, and the arresting officer charges such alleged violator with two or more violations, any one of which is not referred to in Section 1701(1) of this code.

(15) If a person receives a penalty assessment notice for a violation under this Part 17 and such person pays the fine and surcharge for the violation on or before the date the payment is due, the points assessed for the violation are reduced as follows:

(a) For a violation having an assessment of three (3) or more points, the points are reduced by two (2) points;

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

**1703. Failure to pay penalty for traffic offenses - failure of parent or guardian to sign penalty assessment notice - procedures.**

(1) Unless a person who has been cited for a traffic infraction pays the penalty assessment as provided in this Code and surcharge thereon pursuant to section 24-4.2-104(1), C.R.S., the person shall appear at a hearing on the date and time specified in the citation and answer the complaint against such person.

(1.5) If a minor under the age of eighteen years is required to appear at a hearing pursuant to subsection (1) of this section, the minor shall so inform his or her parent or legal guardian, and the parent or legal guardian shall also be required to appear at the hearing.

(2) If the violator answers that he or she is guilty or if the violator fails to appear for the hearing, judgment shall be entered against the violator.

(3) If the violator denies the allegations in the complaint a final hearing on the complaint shall be held subject to the provisions regarding a speedy trial which are contained in Rule 248, Colorado Municipal Court Rules. If the violator is found guilty or liable at such final hearing or if the violator fails to appear for a final hearing, judgment shall be entered against the violator.

(4) If judgment is entered against a violator, the violator shall be assessed an appropriate penalty and surcharge thereon, a docket fee, and other applicable costs authorized by ordinance or the court.

ATTEST:

CITY OF FRUITA

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City Clerk

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Matthew Breman, Mayor