

ORDINANCE NO. 08, Series 2021
INTRODUCED BY: Councilor Barnes

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
LAFAYETTE, COLORADO, AMENDING ARTICLE II OF CHAPTER
115 OF THE CODE OF ORDINANCES OF THE CITY OF LAFAYETTE
REGARDING THE MODEL TRAFFIC CODE AND FAILURE TO
APPEAR FOR TRAFFIC OFFENSES**

WHEREAS, by Ordinance No. 12, Series 2020, the City of Lafayette adopted the Revised 2020 Model Traffic Code; and

WHEREAS, Ordinance No. 12 Series 2020, deleted Part 17, Penalties and Procedures of the Model Traffic Code, because Part 17 as it pertains principally to the rules, penalties, and procedures applicable to County courts; and

WHEREAS, Part 17 does, however, set forth procedures regarding the failure to pay penalties for traffic offenses, which, if amended could be utilized by the Municipal Court to address the issue where defendants fail to appear for traffic offenses in a manner that best addresses the needs and concerns of all parties while still ensuring the efficient and equitable operation of the Municipal Court.

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

Section 1. Section 115-21, “Adoption,” of the Code of Ordinances, City of Lafayette, Colorado, is hereby amended to provide as follows:

The Revised 2020 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 – Definitions, but excluding Appendix A, B, C, D, E, F and G, Part 17, Penalties and Procedure, and Part 18, Vehicles Abandoned on Public Property, in their entirety, with the exception of section 1710, “Failure to pay penalty for traffic offenses – failure of parent or guardian to sign penalty assessment notice - procedures,” 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.

Section 2. Section 1710 of the Revised 2020 Model Traffic Code for Colorado is hereby repealed in its entirety and reenacted and retitled “**Failure to appear for traffic offenses**,” in Section 115-49.6.5 of the Code of Ordinances, City of Lafayette, Colorado, to provide as follows:

- (a) Upon the date and at the time for appearance, if the defendant fails to appear and if the municipal judge determines that venue is proper and that defendant was served a summons and complaint at least ten (10) calendar days prior to the appearance date, the judge may, for traffic offenses of not more than four (4) points (except for compulsory insurance), or a six (6) point offense of speeding not more than twenty-four (24) miles over the posted speed limit, enter judgment and impose sentence, including costs, against the defendant.
- (b) Failure to appear on any date scheduled for trial shall constitute cause for entering a default judgment for all traffic offenses of not more than four (4) points (except for compulsory insurance) or a six (6) point offense of speeding not more than twenty-four (24) miles over the posted speed limit, and upon entry of such default, the judge may impose a sentence, including costs, against the defendant.
- (c) On the grounds of excusable neglect, the judge may by motion of the defendant set aside an entry of default and the judgment entered thereon. Such motion must be filed with the court within seventy (70) calendar days of the entry of judgment for such matter. A motion under this section shall not affect the finality of a judgment or suspend its operation.
- (d) Any default entered in accordance with this section shall be certified to the State Motor Vehicle Division for enforcement.
- (e) The court shall not issue a warrant for the arrest of any defendant against whom a default is entered and upon which a sentence is imposed thereon.

Section 3. 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 4. 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 5. 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 6. This ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

Section 7. Violations of this ordinance shall be punishable in accordance with Section 1-10 of the Code of Ordinances, City of Lafayette, Colorado.

Section 8. 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 6TH DAY OF APRIL, 2021.
PASSED ON SECOND AND FINAL READING AND PUBLIC NOTICE ORDERED THE
20th DAY OF APRIL 2021.

CITY OF LAFAYETTE, COLORADO

Jamie Harkins, Mayor

ATTEST:

Lynnette Beck, CMC, City Clerk

APPROVED AS TO FORM:

Mary Lynn Macsalka, City Attorney