

ORDINANCE NO. 1008

AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE COLORADO, REPEALING AND REENACTING IN ITS ENTIRETY CHAPTER 10.04 OF THE FIRESTONE MUNICIPAL CODE REGARDING ADOPTION OF THE REVISED 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 Town of Firestone (“Town”) 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 published until 2020 and the Town now desires to adopt the Revised 2020 Model Traffic Code.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES OF THE TOWN OF FIRESTONE, COLORADO, AS FOLLOWS:

Section 1. Chapter 10.04, Traffic Code, of the Firestone Municipal Code is repealed in its entirety and reenacted to provide as follows:

10.04.010. - Adoption.

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, excluding Appendices 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 Town of Firestone as if fully set out in this codification with, however, the amendments set forth in this chapter.

10.04.020. - 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Section 103 (2) and 103 (2)(b) of the Model Traffic Code are repealed in their entirety and reenacted to provide: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 town, the use of which the town 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 town, the use of which the town has jurisdiction and the authority to regulate.

10.04.030. - 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 town by authority of the town, or other proper governmental official or agency, whether or not the town 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 shall in accordance with 42-4-110 C.R.S., be subject to the town's general penalty provision as set forth in Section 1.16 of the Firestone Municipal Code. 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 Firestone Municipal Code the later shall prevail.

10.04.040. - Section 104, Adoption of traffic control manual

Section 104 of the Model Traffic Code is repealed in its entirety re-enacted and retitled Authority of police personnel to provide:

- (1) 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 town and all of the State laws applicable to the town.
- (2) 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.

10.04.050. - Section 106, Who may restrict right to use 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 (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”

10.04.060. - Section 113, Appropriations for administration of article.

Section 113 of the Model Traffic Code is repealed in its entirety.

10.04.070. - Section 114, Removal of traffic hazards.

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

If the town 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 town's finance director and recorded with the office of the Weld County Treasurer. Such lien shall have priority over all other liens except general taxes. The Weld County Treasurer shall collect and pay over to the town such charges in the same manner as the Treasurer is authorized to collect delinquent general property taxes.

10.04.080. - Section 115, Traffic engineer.

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

- (1) The office of the traffic engineer is hereby established. The traffic engineer shall be the town engineer or the engineer's authorized representative and shall exercise the power and duties provided in this code. The town engineer shall be directly responsible to the town manager for the performance of the duties and responsibilities of the traffic engineer.
 - (a) 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 and employee as may be designated by the town manager.
- (2) 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 the town, and to cooperate with other

town departments 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.

(a) 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:

1. Install, maintain, and remove traffic control devices;
2. Designate and mark medians and traffic islands;
3. Conduct speed limit surveys and investigations;
4. Designate maximum speed limits throughout the town and post said limits as provided in this code;
5. Designate minimum speed limits as provided by this code;
6. Regulate speed and traffic movement by traffic signals and provide for the synchronization of such signals as provided by this code.
7. Designate one-way streets or roadways;
8. Designate through streets or roadways and control entrances thereto;
9. Designate stop or yield intersections and erect stop or yield signs thereto;
10. Establish restrictions, prohibitions and regulations for the parking, standing, or stopping of vehicles;
11. Designate special parking zones for transit providers, press, television, radio cars, and the like;
12. Designate parking meter zones and establish time limitations thereon based on an engineering and traffic investigation;
13. Establish tow-away zones;
14. Designate upon what streets, if any, angle parking shall be permitted;
15. 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;
16. Designate and sign intersections where multiple turns shall be allowed;
17. Mark centerlines and lane lines and place other pavement markings necessary for the regulation and control of traffic;
18. Install and maintain crosswalks at intersections or other places where there is particular danger to pedestrians crossing the roadway;
19. Establish safety zones at such places where necessary for pedestrian protection;
20. Install pedestrian-control signals and designate those crossings where angle crossing by pedestrians shall be permitted;
21. Establish truck routes and truck loading zones; establish bus stops and taxicab stands;
22. 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;
23. Designate and sign those streets upon which vehicles or loads of a certain weight shall be prohibited;
24. Provide for temporary street or alley closures by the erection of barricades;
25. Issue special permits for curb loading operations, for the movement of vehicles having excess size or width, for parades or processions, and
26. Perform such other duties as may be assigned to the traffic engineer by the town manager consistent with the provisions of this code.

10.04.090. - Section 118, Drivers' license required.

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

- (1) Except as otherwise provided in C.R.S. 42-4-401 et seq. for commercial drivers, no person shall drive any motor vehicle upon a highway unless such person has been issued a currently valid driver's or minor driver's license or an instruction permit by the State's Department of Revenue.
- (2) No person shall drive any motor vehicle upon a highway if such person's driver's or minor driver's license has been expired for one year or less and such person has not been issued another such license by the State's Department of Revenue or by another state or country subsequent to such expiration.
- (3) No person shall drive any motor vehicle upon a highway unless such person has in their immediate possession a current driver's or minor driver's license or an instruction permit issued by the State's Department of Revenue.
- (4) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall drive a type or general class of motor vehicle upon a highway for which such person has not been issued the correct type or general class of license or permit.
- (5) No person who has been issued a currently valid driver's or minor driver's license or an instruction permit shall operate a motor vehicle upon a highway without having such license or permit in such person's immediate possession.
- (6) A charge of a violation of subsection (2) of this section shall be dismissed by the court if the defendant elects not to pay the penalty assessment and, at or before the defendant's scheduled court appearance, exhibits to the court a currently valid driver's or minor driver's license.
- (7) A charge of a violation of subsection (5) of this section shall be dismissed by the court if the defendant elects not to pay the penalty assessment and, at or before the defendant's scheduled court appearance, exhibits to the court a currently valid license or permit issued to such person or an officially issued duplicate thereof if the original is lost, stolen or destroyed.
- (8) The conduct of a driver of a motor vehicle which would otherwise constitute a violation of this section is justifiable and not unlawful when:
 - (a) It is necessary as an emergency measure to avoid an imminent public or private injury which is about to occur by reason of a situation occasioned or developed through no conduct of said driver and which is of sufficient gravity that, according to ordinary standards of intelligence and morality, the desirability and urgency of avoiding the injury clearly outweighs the desirability of avoiding the injury sought to be prevented by this section or;
 - (b) The person is exempt from the requirements of a valid driver's license as set forth in C.R.S. 4-2-102.

- (9) The issue of justification or exemption is an affirmative defense. As used in this subsection (9), "affirmative defense" means that, unless the town's evidence raises the issue involving the particular defense, the defendant, to raise the issue, shall present some credible evidence of that issue. If the issue involved in an affirmative defense is raised, then the ability of the defendant must be established beyond a reasonable doubt as to that issue as well as all other elements of the traffic infraction.

10.04.100. - Section 203, Unsafe vehicles—Spot inspections.

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

10.04.110. - Section 225, Mufflers—Prevention of noise.

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

10.04.120. - 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 C.R.S. 42-4-235, 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."

10.04.130. - Section 237, Safety belt systems—Mandatory use—Exemptions penalty.

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

10.04.140. - 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)

10.04.150. - 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 C.R.S. 42-4-235;
 2. A common carrier, as defined in C.R.S. 40-1-102(3)(a)(I);
 3. A motor carrier, as defined in C.R.S. 40-10.1-101(10);
 4. A motor carrier of passengers, permitted pursuant to C.R.S. 40-10.1-302;
 5. A motor carrier of towed motor vehicles, permitted pursuant to C.R.S. 40-10.1-401;
 6. A motor carrier of household goods, permitted pursuant to C.R.S. 40-10.1-502;
 7. A motor vehicle used for agricultural purposes; or
 8. Any other vehicle used for commercial activities.

10.04.160. - 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.

10.04.170. - 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.

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

10.04.190. - Section 714, Bicyclist, or other authorized use of a bicycle 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 bicycle 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.

10.04.200. - 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.

10.04.210. - 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."

10.04.220. - 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."

10.04.230. - Section 1101, Speed limits.

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

- (a) Twenty-five miles per hour in any residential district as defined in Title 17 of the Firestone Municipal Code;
- (b) Thirty miles per hour in any commercial district as defined in Title 17 of the Firestone Municipal Code;
- (c) 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."

10.04.240. - 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.

10.04.250. - Section 1203, Ski areas to install signs.

Section 1203 of the Model Traffic Code is repealed in its entirety.

10.04.260. - 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.

10.04.270. - 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.

10.04.280. - 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.

10.04.290. - 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 and re-enacted and retitled Parking Regulations to provide as follows:

(1) *Definitions.* For the purposes of this section, the following words shall have the following meanings except as otherwise specified:

- (a) "Adventure or camper van" means a self-propelled vehicle that provides both transport and sleeping accommodations that have often been fitted out with a coach-built body, to provide sleeping accommodations.
- (b) "Commercial trailer" means any wheeled vehicle, without motive power, which is designed to be drawn by a motor vehicle and to carry its cargo load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways in furtherance of any commercial activity.
- (c) "Commercial vehicle" means any truck tractor, dump truck, semi-trailer, commercial trailer, tow truck or vehicle equipped to provide towing services, bus, which is used, or normally associated with, the transportation of materials, products, freight, other vehicles, or equipment in furtherance of any commercial activity or is used "for hire" except that any passenger vehicle designed to transport no more than nine persons or any pickup truck or van not exceeding twenty-five feet in length shall not be considered a commercial vehicle.
- (d) "Food truck" means a motorized or towed, self-contained, readily movable vehicle, that is designed and equipped to prepare and sell beverages and/or food while parked in a fixed location.
- (e) "Recreational vehicle" means a motor vehicle designed or used as a conveyance upon streets and highways and constructed so as to provide temporary occupancy as a dwelling or sleeping place for one or more persons. Recreational vehicle does not include an adventure van, camper van or pick-up truck with an attached camper shell.
- (f) "Trailer" means any wheeled vehicle, without motive power which is designed to be drawn by a motor vehicle and carry its load wholly upon its own structure and which is generally and commonly used to carry and transport property over the public highways.
- (g) "Travel trailer" means a portable structure, mounted on wheels, designed to be towed by a motorized vehicle and containing cooking or sleeping facilities to provide temporary living quarters for recreational camping or travel use. Such structures may be constructed with rigid sides or may have collapsible side walls of fabric, plastic or other pliable material.

(2) *Designated vehicle parking prohibitions.*

- (a) It shall be unlawful for any person to park any of the following vehicles on either side of the public right-of-way adjacent to any lot in any residential zoned district except, when such vehicle is being used to render services to a property located with two hundred feet of the vehicle:
 - 1. Any commercial vehicle or commercial trailer:
 - 2. Any motor vehicle exceeding twenty-five feet in length except that the measured length of such vehicle shall exclude towing gear bumpers and attached cargo racks.

3. A combination of a trailer and motor vehicle exceeding twenty-five feet in length or eight feet in wide.
 4. Any trailer or travel trailer exceeding twenty-five feet in length.
- (b) It shall be unlawful for any person to park a food truck and conduct business upon any public right-of-way except as authorized and in compliance with a permit issued by the city's office of special events.
 - (c) It shall not be a defense to this section that any vehicle, trailer, or food truck has been moved to a different location within the public right-of-way. To be in compliance the vehicle, trailer or food truck or must be removed from the right-of-way.
- (3) *Parking of recreational vehicles, travel trailers or trailers on public right-of-way prohibited.*
- (a) It is unlawful for any person to park a recreational vehicle, travel trailer or trailer on the public right-of-way except as follows:
 1. Directly in front of the single-family or multi-family dwelling of the vehicle's registered owner for a period of not more than seventy-two (72) hours when being loaded or unloaded nor more than five seventy-two (72) hour periods in any calendar year; or
 2. In compliance with the terms and conditions of a permit issued pursuant to subsection (d) herein below.
 3. It shall not be a defense to this section that the recreational vehicle, travel trailer or trailer has been moved to a different location within the public right-of-way. To be in compliance with this section, the recreational vehicle, travel trailer or trailer must be removed from the public right-of-way.
- (4) *Permits for parking of recreational vehicles or travel trailers on the public right-of-way.*
- (a) The director of public works or his/her designee may issue a permit to the registered owner of a recreational vehicle, travel trailer or trailer to park such vehicle for a period of time greater than seventy-two (72) hours on public right-of-way adjacent to any lot in any residential-zoned district subject to the following restrictions:
 1. The permit shall only allow the vehicle to be parked on the public right-of-way that is directly in front of the applicant's single-family or multi-family dwelling for a period of time which shall not exceed fifteen calendar days within any calendar year.

10.04.300. - 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.

10.04.310. - 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:
 - 1. That is open or has a broken seal; or
 - 2. 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:
- 1. Drink an alcoholic beverage; or
 - 2. Have in his or her possession an open alcoholic beverage container.
- (b) The provisions of this subsection (2) shall not apply to:
- 1. 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;
 - 2. 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));
 - 3. 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
 - 4. 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.

10.04.320. - 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.

10.04.330. - Section 1409, Compulsory insurance – penalty – legislative intent.

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

10.04.340. - 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 town 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.

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 Board of Trustees hereby declare 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. Violations of this ordinance shall be punishable in accordance with Section 1.16.010 of the Municipal Code of the Town of Firestone, Colorado, which reads in its entirety as follows:

A. No person shall violate any of the provisions of the ordinances of the Town. Except in cases where a different punishment is prescribed by any ordinance of the Town, any person, at least ten years of age but not yet eighteen years of age, who violates any of the provisions of the ordinances of the Town, shall be punished by a fine not exceeding, at the time of the commission of the offense, the maximum fine established by the state for municipal ordinance violations.

B. No person shall violate any of the provisions of the ordinances of the Town. Except in cases where a different punishment is prescribed by any ordinance of the Town, any person eighteen years of age or older at the time of the violation, who violates any of the provisions of the ordinances of the Town, shall be punished by a fine not exceeding, at the time of the commission of the offense, the maximum fine established by the state for municipal ordinance violations or by imprisonment not to exceed 364 days, or both such fine and imprisonment.

C. Any person convicted of a violation of the Model Traffic Code as adopted by the Town shall be punished by a fine not exceeding the maximum amount established by the state for municipal ordinance violations except that any person convicted of the offenses of Model Traffic Code Sec. 1101, speeding more than twenty-four miles over the maximum permissible speed, Model Traffic Code Sec. 1105, speed contest, Model Traffic Code Sec. 1401 reckless driving, Model Traffic Code Sec. 1413, eluding or attempting to elude a peace officer or Model Traffic Code Sec. 1409, compulsory insurance shall be subject to imprisonment not to exceed 364 days or both such fine and imprisonment.

D. Each such person shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of the ordinances of Firestone,

Colorado, is committed, continued or permitted by any such person, and he or she shall be punished accordingly.

Section 4. All other ordinances or portions thereof inconsistent or conflicting with this ordinance or any portion hereof are hereby repealed to the extent of such inconsistency or conflict.


INTRODUCED, READ, ADOPTED, APPROVED, AND ORDERED PUBLISHED IN FULL this 27th day of April, 2022.



ATTEST:


Jessica Koenig, CMC, Town Clerk

TOWN OF FIRESTONE, COLORADO


Drew Alan Peterson, Mayor

APPROVED AS TO FORM:


William P. Hayashi, Town Attorney