

STATE OF COLORADO }
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 COUNTY OF ELBERT }

At a regular meeting of the Board of County Commissioners for Elbert County, State of Colorado, held at the Courthouse in Kiowa on Wednesday, the 13th day of April A.D. 2011, there were present:

Del Schwab	Commissioner Chairman
John Shipper	Commissioner
Kurt Schlegel	Commissioner
Deidre Delaney	Deputy, Clerk to the Board

When the following proceedings, among other, were had and done, to wit:

ORDINANCE NO. 11-02

**AN ORDINANCE FOR THE REGULATION OF TRAFFIC;
 REPEALING ALL ORDINANCES AND RESOLUTIONS
 IN CONFLICT THEREWITH; AND PROVIDING PENALTIES
 FOR VIOLATION THEREOF.**

WHEREAS, pursuant to section 30-15-401(1)(h), C.R.S., the Board of County Commissioners (hereinafter the "Board") is authorized to adopt ordinances to control and regulate the movement and parking of motor vehicles on public property; and

WHEREAS, section 42-4-110(1), C.R.S., authorizes all local authorities, including counties, to adopt by reference all or any part of a model traffic code; and

WHEREAS, the Board has previously adopted the 2003 edition of "Model Traffic Code for Colorado" and desires to replace the 2003 edition with the recently published 2010 edition; and

WHEREAS, the Board desires to adopt this ordinance establishing traffic enforcement and establishing the current authorities and priorities thereof on which Elbert County will rely, hereby superseding and revoking all prior ordinances and resolutions inconsistent or overlapping herewith.

NOW THEREFORE, BE IT ORDAINED by the Board of County Commissioners of the County of Elbert, as follows:

Section 1. Title.

This Ordinance shall be known and referred to as the "Elbert County Traffic Code Ordinance," and may be cited and referenced as such.

Section 2. Purpose.

The purpose of this Ordinance is to promote the general public welfare and safety by imposing and enforcing reasonable and necessary traffic restrictions in Elbert County.

Section 3. Scope.

This Ordinance shall apply throughout the unincorporated areas of Elbert County, including public, private, state and applicable federal lands. This Ordinance shall in no way limit application and enforcement of any statutes of the State of Colorado but shall be in addition thereto.

Section 4. Adoption of 2010 Model Traffic Code.

Pursuant to sections 42-4-110(1) and 30-15-401(1)(h), C.R.S., there is hereby adopted by reference Articles I and II, inclusive, of the 2010 edition of the "Model Traffic Code for Colorado," promulgated and published as such by the Colorado Department of Transportation, Safety and Traffic Engineering Branch, 4201 East Arkansas Avenue, EP 700, Denver, Colorado 80222. The subject matter of the Model Traffic Code relates primarily to comprehensive traffic control regulations. The purpose of this Ordinance is to provide a system of traffic regulations consistent with state law and generally conforming to similar regulations throughout the state and nation. Copies of the Model Traffic Code adopted herein are on file in the office of the Clerk and Recorder of Elbert County, and may be inspected during regular business hours.

Section 5. Violation.

It shall be unlawful for any person to violate any provision of this Ordinance.

Section 6. Penalty Assessment Procedure and Penalty Schedule.

- (a) Any person who violates any of the provisions of this Ordinance commits a traffic infraction, pursuant to section 30-15-402(1), C.R.S. The penalty assessment procedure provided in section 16-2-201, C.R.S., shall be followed by the arresting officer for any such violation of this Ordinance.
- (b) Elbert County hereby elects to have the provisions of section 42-2-127(5.5)(b), C.R.S., apply to violations of this Ordinance. If a violator receives a penalty assessment notice for a violation of this Ordinance, 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:
 - (1) for a violation having an assessment of three or more points, the points are reduced by two points;
 - (2) for a violation having an assessment of two points, the points are reduced by one point.
- (c) For its schedule of fines and penalties, Elbert County incorporates by this reference the schedule of fines and penalties set forth in section 42-4-1701, C.R.S. (as that section may



be amended), as those fines and penalties correspond to the sections of the Model Traffic Code adopted by this Ordinance, for all cases wherein the alleged violator acknowledges guilt or liability, is found guilty by a court of competent jurisdiction, or has judgment entered against him/her. If the penalty assessment procedure is not used, and the alleged offender is found guilty, court costs may be assessed in addition to the fine and penalties set forth in section 42-4-1701, C.R.S., and surcharges.

- (d) In the case of multiple traffic offenses involving aggressive driving, the applicable penalty or penalty assessment shall be doubled for each traffic offense. For purposes of this subsection, "aggressive driving" means committing any two or more of the following violations in a single act or series of acts in close proximity to another motor vehicle:
- (1) exceeding the speed limits (1101);
 - (2) Following too closely (1008);
 - (3) failure to obey official traffic control devices (603);
 - (4) passing on shoulder of road (1004(2));
 - (5) failure to give an adequate signal (903);
 - (6) failure to yield right-of-way (701, 702, 703); and
 - (7) unsafe lane change (903).
- (e) The remedies provided in this ordinance shall be cumulative and in addition to any other federal, state or local remedy, criminal or civil, which may be available. Nothing contained herein shall be construed to preclude prosecution under any other applicable statute, ordinance, rule, order or regulation.

Section 7. Enforcement and Prosecution.

This Ordinance shall be enforced by the Elbert County Sheriff. All prosecutions for all offenses under this ordinance shall be by the District Attorney according to the Colorado County Court Rules of Criminal Procedure.

Section 8. Disposition of Fines and Forfeitures.

Unless otherwise provided by law, all fines and penalties, and the surcharge thereon, for the violation of this Ordinance shall be paid into the treasury of Elbert County, designated to a Law Enforcement Assistance Fund.

Section 9. Surcharges.

In addition to the fines and penalties prescribed in this Ordinance, any person convicted of a violation of this Ordinance shall be subject to the statutory surcharges for the Victims and Witness Assistance and Law Enforcement Fund, and for the Colorado Traumatic Brain Injury Trust Fund. These surcharges shall be paid to the clerk of the court by each person convicted of violating this Ordinance. The clerk shall transmit the moneys to the respective funds in accordance with section 30-15-402(2), C.R.S.



Section 10. Severability.

If any section, subsection, clause, sentence or phrase of this Ordinance are for any reason adjudged by any court of competent jurisdiction to be invalid, such invalidity shall not affect, impair or invalidate any other provisions of this Ordinance which can be given effect without such invalid provision. The Board hereby declares that it would have passed this Ordinance and each part or parts thereof, irrespective of the fact that anyone part or parts be declared invalid.

Section 11. Repeal.

Existing or parts of ordinances covering the same matters as embraced in this Ordinance are hereby repealed and all ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed, except that this repeal shall not affect or prevent the prosecution or punishment of any person for any act done or committed in violation of any ordinance hereby repealed prior to the taking effect of this Ordinance.

Section 12. Interpretation.

This ordinance shall be so interpreted and construed as to effectuate its general purpose to conform with the State's uniform system for the regulation of vehicles and traffic. Article and section headings of the Ordinance and adopted Model Traffic Code shall not be deemed to govern, limit, modify or in any manner affect the scope, meaning or extent of the provisions of any article or section thereof.

Section 14. Effective date.

This Ordinance shall be effective immediately and shall remain in effect until such time as this Ordinance is amended, temporarily suspended or repealed.

Section 15. Emergency.

The Board hereby finds, determines and declares that this Ordinance is necessary for the immediate preservation and protection of the health, safety and welfare of the citizens of Elbert County, Colorado. This Ordinance shall take effect immediately upon adoption on second and final reading.

Section 16. Certification.

The Elbert County Clerk shall certify to the passage of this Ordinance and shall have on file copies of this Ordinance and the adopted Model Traffic Code available for inspection by the public during normal working hours.

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ADOPTED ON SECOND AND FINAL READING, on the 13th day of April, 2011,
and ordered published in its entirety in the Elbert County News.

THE BOARD OF COMMISSIONERS
OF THE COUNTY OF ELBERT, COLORADO

BY: *Del Schwal*
DEL SCHWAB, CHAIRMAN

John Shipper
JOHN SHIPPER

Kurt Schlegel
KURT SCHLEGEL

ATTEST:

BY: *Diana Hartsough*
DIANA HARTSOUGH
ELBERT COUNTY CLERK AND RECORDER