

**TOWN OF BUENA VISTA, COLORADO
ORDINANCE NO. 15
(SERIES OF 2020)**

**AN ORDINANCE AMENDING SECTIONS 2-99 AND 2-100(E) OF THE
TOWN OF BUENA VISTA MUNICIPAL CODE TO MAKE CERTAIN
MUNICIPAL CODE VIOLATIONS ELIGIBLE FOR PROCESSING VIA
THE PENALTY ASSESSMENT PROCESS**

WHEREAS, Sections 2-99 and 2-100(e) of the Town of Buena Vista Municipal Code (the "Code") currently authorize the Municipal Judge to designate municipal traffic and other Code offenses as eligible for processing via penalty assessments and to establish a schedule of fines for such violations;

WHEREAS, the Board of Trustees desires to expressly designate certain Code offenses as eligible for penalty assessments and subject such offenses to a schedule of fines as established by the Board of Trustees via resolution from time-to-time;

WHEREAS, nothing set forth herein is intended to alter the authority of the Municipal Judge to designate municipal traffic and other Code offenses as eligible for a penalty assessment process unless such offenses have already be designated by the Board of Trustees; and

WHEREAS, it is the intent of the Board of Trustees that this Ordinance will allow the Town to more efficiently address certain Code violations and reduce the burden on the Municipal Court, which otherwise would be required to address such violations in open court.

WHEREAS, NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO AS FOLLOWS:

Section 1. Section 2-99 of the Code is hereby repealed and reenacted to read as follows:

Sec. 2-99. - Penalty assessment generally.

(a) Except as expressly designated in this Subsection (a) or otherwise designated in this Code, the Municipal Judge may designate violations of this Code that may be processed by use of a penalty assessment notice and shall establish a schedule of fines to be paid for each such violation. The following Code violations shall be eligible for processing as penalty assessments as set forth herein and shall be subject to a schedule of fines to be paid for each such violation as adopted by the Board of Trustees from time-to-time:

- (1) Section 7.2. – Committing of nuisance unlawful.
- (2) Section 7-14. – Snow or ice deposits.
- (3) Section 7-15. - Unlawful use of trash receptacle.

- (4) Section 7-73. – Duty of property owner to cut.
- (5) Section 7-125. – Dogs at Large
- (6) Section 7-201. – Camping on private property.
- (7) Section 7-202. - Camping on public property
- (8) Section 8-42. - Parking on private property.
- (9) Section 8-43. - Parking on public property.
- (10) Section 8-44. - Short-term and/or long-term storage of recreational/camping vehicles and utility trailers.

(b) At the time that any person may be issued a citation or summons and complaint for the commission of a municipal traffic or penal offense which has been designated by the Municipal Judge or the Board of Trustees as being an offense for which a penalty assessment may be issued, the officer may, except when prohibited by Subsection (h) of this Section, offer to give a penalty assessment notice to the defendant. Such penalty assessment notice shall contain the name and address of the defendant; the license number of the vehicle involved, if any; the number of the defendant's driver's license, if any; a citation of the municipal ordinance or code alleged to have been violated; a brief description of the offense; the date and approximate location thereof; the amount of the fine and surcharge prescribed for such offense; the number of penalty points, if any, prescribed for such offense pursuant to Section 42-2-123, C.R.S.; the date the penalty assessment notice is served upon the defendant; shall direct the defendant to appear in the Municipal Court at a specified date and time in the event the penalty is not paid; the signature of the arresting officer; and a place for the defendant to indicate an understanding that payment of the applicable fine or penalty constitutes an acknowledgement of guilt or liability as well as such other information as may be required by law to constitute such penalty assessment notice to be a summons and complaint, should the prescribed penalty not be paid within twenty (20) days following service of the penalty assessment notice upon the defendant. One (1) copy of the penalty assessment notice shall be served upon the defendant and one (1) copy filed with the Clerk of the Municipal Court. The court appearance date specified in the penalty assessment notice must be at least thirty (30) days after the date such penalty assessment notice is served, unless the defendant demands an earlier court appearance date.

(c) The applicable fine or penalty and surcharge may be paid at the office of the Clerk of the Municipal Court, either in person or by postmarking such payment within twenty (20) days from the date the penalty assessment notice is served upon the defendant.

(d) In the case of a defendant who would otherwise be eligible to be issued a penalty assessment notice but does not furnish satisfactory evidence of

identity or who the citing officer reasonably believes will disregard the summons portion of such notice, the defendant may nevertheless be issued a penalty assessment notice if the defendant consents to be taken by the officer to the nearest mailbox and mail the amount of the fine or penalty and surcharge to the Clerk of the Municipal Court.

(e) Acceptance of a penalty assessment notice and payment of the prescribed fine or penalty and surcharge to the Clerk of the Municipal Court shall be deemed an acknowledgement of guilt or liability by the defendant and shall constitute a complete satisfaction for the violation.

(f) If the defendant refuses to accept service of the penalty assessment notice when such notice is tendered, the arresting officer shall forthwith issue and serve upon the defendant a summons and complaint, and such summons and complaint shall be processed in the manner provided by law.

(g) If the defendant accepts service of the penalty assessment notice but fails to pay the prescribed penalty within twenty (20) days thereafter, the notice shall be construed to be a summons and complaint and shall be processed in the manner provided by law.

(h) A summons and complaint, and not a penalty assessment notice, shall be issued when it appears:

(1) The offense is not one (1) which has been designated as being capable of being handled by use of a penalty assessment notice;

(2) The alleged violation has caused, or contributed to the cause of, an accident resulting in appreciable damage to the property of another or an injury or death to any person; or

(3) The defendant has, in the course of the same transaction, violated a municipal law eligible for a penalty assessment notice, and has also violated and been charged with one (1) or more municipal violations which are not designated as eligible for a penalty assessment notice.

Section 2. Section 2-100(e) of the Code is hereby amended to read as follows:

(e) Payment of penalty assessment before appearance.

(1) The Municipal Court Clerk shall accept payment of a penalty assessment for a noncriminal violation without an appearance before the Municipal Court if:

a. Payment is made at any time prior to the date set for first appearance; and

b. Payment is allowable by and in accordance with a penalty assessment schedule established by the Municipal Judge or the Board of Trustees and is accompanied by payment for any costs and/or surcharges.

(2) At the time of payment, the defendant shall sign a waiver of rights and acknowledgement of liability upon a form approved by the Municipal Court.

(3) This procedure shall constitute an entry in satisfaction of judgment.

Section 3. Severability. 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 declares that it would have passed this Ordinance and each part or parts hereof irrespective of the fact that any part or parts be declared unconstitutional or invalid.

Section 4. Safety. This Ordinance is deemed necessary for the protection of the health, welfare and safety of the community.

INTRODUCED, READ, ADOPTED AND ORDERED PUBLISHED this 27th day of October, 2020.

THIS ORDINANCE SHALL BECOME EFFECTIVE THIRTY DAYS FROM PUBLICATION.

TOWN OF BUENA VISTA, COLORADO

By: _____
Duff Lacy, Mayor

ATTEST:

Paula Barnett, Town Clerk

