

ORDINANCE NO. TC-1260,AAA

AN ORDINANCE RELATING TO THE TRAFFIC CODE FOR THE CITY OF OVERLAND PARK, KANSAS, AMENDING AND REPEALING EXISTING OVERLAND PARK MUNICIPAL CODE SECTIONS 12.04.001 AND 12.04.135.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

SECTION 1. Overland Park Municipal Code Section 12.04.001 is hereby amended to read as follows:

12.04.001 Definitions.

The following words and phrases when used in this ordinance shall, for the purpose of this ordinance and other traffic ordinances, have the meanings respectively ascribed to them in this section unless otherwise defined in the text of the section.

Alcohol Concentration. The number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.

Alcoholic Liquor. Alcohol, spirits, wine, beer, and every liquid or solid, patented or not, containing alcohol, spirits, wine, or beer and capable of being consumed as a beverage by a human being, but shall not include any beer or cereal malt beverage containing not more than 3.2% alcohol by weight.

Alley or Alleyway. A street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic.

All-terrain Vehicle. Any motorized non-highway vehicle 45 inches or less in width, having a dry weight of 650 pounds or less, traveling on three or more low-pressure tires, and having a seat designed to be straddled by the operator.

Arterial Street. Any U. S. or state numbered route, controlled access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways.

Authorized Emergency Vehicle. Such fire department vehicles, police bicycles or police vehicles which are publicly owned; motor vehicles operated by ambulance services permitted by the emergency medical services board and such other publicly or privately owned vehicles as are designated as emergency vehicles by the Board of County Commissioners, pursuant to K.S.A. 8-2010 and amendments thereto.

Bicycle. Every device propelled by human power upon which any person may ride, having two tandem wheels, either of which is more than 14 inches in diameter.

Bus. Every motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation.

Business District. The territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks or office buildings, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

Cancellation of a Driver's License. Cancellation of a driver's license means the annulment or termination by formal action of the division of a person's driver's license because of some error or defect in the license or because the licensee is not entitled to such license, but the cancellation of a license is without prejudice; and application for a new license may be made at any time after such cancellation.

Cereal Malt Beverage. Any fermented but undistilled liquor brewed or made from malt or from a mixture of malt and/or malt substitute, but not including any such liquor which is more than 3.2% alcohol by weight.

Chief of Police. The Chief of Police of the City, or any member of the police department of the City designated by the Chief of Police to act in his place.

City or this City. The City of Overland Park, Kansas.

City Traffic Engineer. The Chief Traffic Engineer for the City or any member of the City Traffic Department designated by the Chief Traffic Engineer to act in his place.

Commission. The Secretary of Transportation.

Controlled-Access Highway. Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

Crosswalk.

- (a) That part of a roadway at an intersection included within the connections of the lateral lines of sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or
- (b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

Department. Department of Transportation.

Director. The director of vehicles.

Division. The division of vehicles of the department of revenue.

Divided Highway. A highway divided into two or more roadways by leaving an intervening space or by a physical barrier or by a clearly indicated dividing section so constructed as to

impede vehicular traffic.

Double Parking. The standing or stopping of a vehicle in the line of traffic and (a) to the rear of a vehicle angle parked, or to the rear of a space where a vehicle may be parked at any angle to the curb or edge of the roadway, or (b) to the roadway side of a vehicle parked parallel with the curb or edge of the roadway or the roadway side of the space in which a vehicle may be parked parallel to the curb or edge of the roadway.

Drawbar. Drawbar means a bar across the rear of a motor vehicle, or a device securely attached to the motor vehicle, which maintains a fixed position and to which a towbar may be coupled.

Driveaway-Towaway Operations. Any operation in which any motor vehicle, trailer or semitrailer, singly or in combination, new or used, constitutes the commodity being transported, when one set or more of wheels of any such vehicle are on the roadway during the course of transportation, whether or not any such vehicle furnishes the motive power.

Driver. Every person who drives or is in actual physical control of a vehicle.

Driver's License. Driver's license means any license to operate a motor vehicle issued under the laws of this state.

Electric-assisted Bicycle. A bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle's electric motor must have a power output of no more than 1,000 watts, be incapable of propelling the device at a speed of more than 20 miles per hour on level ground and incapable of further increasing the speed of the device when human power alone is used to propel the device beyond 20 miles per hour.

Electric Personal Assistive Mobility Device. A self-balancing two non-tandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less.

Essential Parts. All integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation.

Explosives. Any chemical compound or mechanical mixture that is commonly used or intended for the purpose of producing an explosion, and which contains any oxidizing and combustible units or other ingredients in such proportions, quantities, or packing that an ignition by fire, by friction, by concussion, by percussion, or by detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or of destroying life or limb.

Farm Tractor. Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry and such term shall include every self propelled implement of husbandry.

Flammable Liquid. Any liquid which has a flash point of 70 degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed cup test device.

Governing Body. The Mayor and Council of this City.

Gross Weight. The weight of a vehicle without load plus the weight of any load thereon.

Highway. See Street or Highway.

House Trailer.

- (a) A trailer or semi-trailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place, either permanently or temporarily, and is equipped for use as a conveyance on streets and highways; or
- (b) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph (a), but which is used instead permanently or temporarily for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.

Identifying Numbers. The numbers, and letters, if any, on a vehicle designated by the division for the purpose of identifying the vehicle.

Implement of Husbandry. Every vehicle designed or adapted and used exclusively for agricultural operations, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to, a fertilizer spreader except as otherwise provided in this section or any "nurse tank" used in connection therewith, regardless of ownership. A truck mounted fertilizer spreader used or manufactured principally to spread animal dung is not an implement of husbandry for the purpose of this section or for the purpose of the ordinance of which this section is a part.

Intersection.

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; or
- (b) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highway shall be regarded as a separate intersection.

The junction of an alley with a street or highway shall not constitute an intersection.

Intoxicating Liquor. Any alcoholic liquor, beer, cereal malt beverage, non-alcoholic malt beverage, spirit or wine.

Laned Roadway. A roadway which is divided into two or more clearly marked lanes for vehicular traffic.

Legal age for consumption of cereal malt beverage means (1) with respect to persons born before July 1, 1966, 20 years of age; and (2) with respects to persons born on or after July 1, 1966, 21 years of age.

License or License to Operate a Motor Vehicle. Any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

- (a) Any temporary license or instruction permit;
- (b) the privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and
- (c) any nonresident's operating privilege.

~~Low power Cycle. Low power cycle means every vehicle and every bicycle and triycle with not to exceed one brake horsepower provided by battery in addition to human power.~~

Low Pressure Tire. Any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of 12 inches or less, and utilizing an operating pressure of 10 pounds per square inch or less as recommended by the vehicle manufacturer.

Low-speed Vehicle. Any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured in compliance with the national highway and traffic safety administration standards for low-speed vehicles in 49 C.F.R. 571.500.

Mail. To deposit in the United States mail properly addressed and with postage prepaid.

Manufacturer. Every person engaged in the business of constructing or assembling vehicles of a type required to be registered in this state.

Metal Tire. Every tire the surface of which, in contact with the highway, is wholly or partly of metal or other hard nonresilient material.

Motorcycle. Every motor vehicle having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor.

Motor-Driven Cycle. Every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, and every bicycle with motor attached except a motorized bicycle, a low-power cycle or an electric-assisted bicycle.

Motorized Bicycle. Every device having two tandem wheels or three wheels which may be propelled by either human power or helper motor, or by both, and which has: A motor which produces not more than 3.5 brake horsepower; a cylinder capacity of not more than 130 cubic centimeters; an automatic transmission; and the capability of a maximum design speed of no more than thirty miles per hour except a low-power cycle.

Motorized Wheelchair. Any self-propelled vehicle, designed specifically for use by a physically disabled person, that is incapable of a speed in excess of 15 miles per hour.

Motor Home. Every motor vehicle designed, used or maintained primarily as a mobile dwelling, office, or commercial space.

Motor Vehicle. Every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled and every vehicle which is propelled by electric power obtained from overhead trolley wires, but not operated upon rails.

Nonresident. Every person who is not a resident of this state.

Nonresident's Operating Privilege. The privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state.

Official Time Standard. Whenever certain hours are specified they shall mean standard time or daylight-saving time as may be in current use in this City.

Official Traffic-Control Devices. All signs, signals, markings, and devices, not inconsistent with this ordinance, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.

Owner. A person, other than a lienholder, having the property in or title to a vehicle; and such term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security.

Park or Parking. Means the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

Parkway. The parkway of a street shall be defined as the area extending a maximum of 15 feet back from the edge of the street or curbline, excluding the area improved and used as a parking lot or driveway.

Passenger Car. A motor vehicle with motive power designed for carrying 10 passengers or fewer, including vans, but excluding motorcycles, trailers, or vehicles constructed on a truck chassis registered for a gross weight of more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds or a vehicle constructed with special features for occasional off-road operation.

Passenger Vehicle. Every motor vehicle which is designed to carry 10 or fewer passengers, and which is not used as a truck.

Pedestrian. Any person afoot; any person in a wheelchair, either manually or mechanically propelled, or other low powered, mechanically propelled vehicle designed specifically for use by a physically disabled person; or any person using an electric personal assistive mobility device.

Person. Every natural person, firm, association, partnership or corporation.

Person with a Disability. Person with a disability means any individual who:

- (a) has a severe visual impairment;
- (b) cannot walk 200 feet without stopping to rest;
- (c) cannot walk without the use of or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;
- (d) is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest;
- (e) uses portable oxygen;
- (f) has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American Heart Association; or
- (g) is severely limited in such person's ability to walk due to an arthritic, neurological or orthopedic condition.

Pneumatic Tire. Every tire in which compressed air is designed to support the load.

Pole Trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections.

Police Officer. Every law enforcement officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

Private Road or Driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons.

Railroad. A carrier of persons or property upon cars, other than streetcars, operated upon stationary rails.

Railroad Sign or Signal. Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train.

Railroad Train. A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

Recreational Vehicle. A vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motive power or is mounted on or drawn by another vehicle, and which has a body width

not exceeding eight feet and a body length not exceeding 40 feet; but such term shall not include a unit which has no electrical system which operates above 12 volts and has no provisions for plumbing, heating, and any other component or feature for which a standard is adopted by K.S.A. 75-1212 et seq.

Registration. The registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles.

Residential District. Any place or area where the property is zoned for residential occupancy including single family, two family, and multifamily dwellings and territory contiguous thereto for 300 feet in any direction.

Revocation of Driver's License. The termination by formal action of the division of a person's license or privilege to operate a motor vehicle on the highways, which termination shall not be subject to renewal except that an application for a new license may be presented and acted upon by the division after the expiration of the applicable period of time prescribed by state law.

Right-of-Way. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other.

Road Construction Zone. That portion of the highway which is identified by posted or moving signs as being a construction or maintenance work area. The zone starts at the first sign identifying the zone and continues until a posted or moving sign indicating the construction zone has terminated.

Roadway. That portion of a highway improved, designed or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways, the term "roadway" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

Safety Hitch. A chain, cable, or other material of sufficient weight which will prevent the towed vehicle from breaking loose in the event the towbar or drawbar fails or becomes disconnected.

Safety Zone. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone.

Secretary. The Secretary of the Kansas Department of Transportation.

School Bus. Every bus designed primarily for the transportation of pupils, students or school personnel to or from school or to or from school related functions or activities. This definition includes every such bus which is owned by a school district, or privately owned and contracted for, leased or hired by a school district, and operated for such transportation, and every such bus which is privately owned and operated for such transportation, but does not include within its meaning public transportation leased by a school district for a particular trip or event.

Semitrailer. Every vehicle, with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle.

Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians.

Solid Rubber Tire. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

Specially Constructed Vehicle. Every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction.

Special Mobile Equipment. Every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

Stand or Standing. Means the halting of a vehicle whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers.

State. The State of Kansas.

Stop. When required means complete cessation from movement.

Stop or Stopping. When prohibited means any halting even momentarily of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal.

Street or Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word "highway" or the word "street" is used in this ordinance, it shall mean street, avenue, boulevard, thoroughfare, trafficway, alley and other public way for vehicular travel by whatever name unless the context clearly indicates otherwise.

Suspension of a Driver's License. The temporary withdrawal by formal action of the division of a person's license or privilege to operate a motor vehicle on the highways, which temporary withdrawal shall be for a period specifically designated by the division.

Through Highway. Every highway or portion thereof on which vehicular traffic is given

preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such highway in obedience to either a stop sign, yield sign or other traffic-control device, when such signs or devices are erected as provided in this ordinance.

Tow Bar. A rigid piece of material which is structurally adequate to hold any weight vehicle towed and which is properly and securely mounted to the towed vehicle without excessive slack but with sufficient play to allow for universal action of the connection and which is equipped with a suitable locking device to prevent accidental separation of the towing vehicle and the towed vehicle.

Traffic. Pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any highway for purposes of travel.

Traffic-Control Signal. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

Trailer. Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no part of its weight rests upon the towing vehicle.

Truck. Every motor vehicle designed, used, or maintained primarily for the transportation of property including, but not limited to, motor vehicles or any combination of vehicles that exceed 20 feet in length, or exceed seven feet in height, or exceed eight feet in width, or are registered for a gross vehicle weight of more than 12,000 pounds.

Truck-Camper. Any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space.

Truck Tractor. Every motor vehicle designed and used primarily for drawing other vehicles and not so constructed as to carry a load other than a part of the weight of the vehicle and load so drawn.

Urban District. The territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses, situated at intervals of less than 100 feet for a distance of a quarter of a mile or more.

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks.

SECTION 2. Overland Park Municipal Code Section 12.04.135 is hereby amended to read as follows:

12.04.135 ~~Low Power Cycles, Electric-Assisted Bicycles, Traffic Law Application.~~

Vehicle registration and driver=s license shall not be required for operation of an electric-assisted bicycle. Traffic regulations applicable to bicycles shall apply to ~~low power cycles and~~

electric-assisted bicycles except tricycles with no brake horse power.

SECTION 3. Existing Overland Park Municipal Code Sections 12.04.001 and 12.04.135 are hereby repealed.

SECTION 4. This ordinance shall take effect and be in force from and after its publication in *The Overland Park Sun*, an official City newspaper.

PASSED by the City Council this ____ day of February, 2004.

APPROVED by the Mayor this ____ day of February, 2004.

Ed Eilert, Mayor

ATTEST:

Marian Cook
City Clerk

APPROVED AS TO FORM:

Tammy M. Owens
Assistant City Attorney