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ORDINANCE NO. 2262

AN ORDINANCE AMENDING SECTIONS 10.04.001, 10.04.137, 10.04.141, 10.04.170, 10.04.181, 10.04.181.1, 10.04.197 AND 10.04.199 OF THE DERBY TRAFFIC ORDINANCE OF THE DERBY MUNICIPAL CODE AND REPEALING ALL CONFLICTING ORDINANCES OR PARTS THEREOF.

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

Section 1. Section 10.04.001 – Definitions is hereby amended to read as follows:

“10.04.001 - Definitions.

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

"Alcoholic beverage" means any alcoholic liquor, as defined by K.S.A. 41-102 and amendments thereto, or any cereal malt beverage, as defined by K.S.A. 41-2701 and amendments thereto.

"Alcohol concentration" means the number of grams of alcohol per one hundred milliliters of blood or per two hundred ten liters of breath.

"Alley" or "alleyway" means 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" means any motorized non-highway vehicle fifty inches or less in width, having a dry weight of one thousand five hundred pounds or less, traveling on three or more non highway tires. As used in this subsection, non-highway tire means any pneumatic tire six inches or more in width, designed for use on wheels with rim diameter of fourteen inches or less.

"Arterial street" means 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" means such fire department vehicles or police bicycles or police vehicles which are publicly owned; motor vehicles operated by ambulance services permitted by the emergency medical services board under the provisions of K.S.A. 65-6101 *et. seq.*, and amendments thereto; wreckers, tow trucks or car carriers, as defined by K.S.A. 66-1329, and amendments thereto, and having a certificate of public service from the state corporation commission; and such other publicly or privately owned vehicles which are designated as emergency vehicles pursuant to K.S.A. 8-2010, and amendments thereto.

"Autocycle" means a three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it.

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

"Bus" means every motor vehicle designed for carrying more than ten 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" means the territory contiguous to and including a highway when within any six hundred 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 three hundred feet of frontage on one side or three hundred feet collectively on both sides of the highway.

"Chief of police" means 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 or her place.

"Church bus" means every bus owned by a religious organization, and operated for the transportation of persons to or from services or activities of such religious organization. As used in this section, "religious organization" means any organization, church, body of communicants or group, gathered in common membership for mutual edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place.

"City" or "this city" means the city of Derby, Kansas.

"Commercial motor vehicle" means a motor vehicle designed or used to transport passengers or property, if:

1. The vehicle has a gross vehicle weight rating of twenty-six thousand one or more pounds or such lesser rating, as determined by rules and regulations adopted by the secretary, but shall not be more restrictive than the federal regulation;
2. The vehicle is designed to transport sixteen or more passengers, including the driver; or
3. The vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. 172, subpart F.

"Compression release engine braking system" means a hydraulically operated device that converts a power producing diesel engine into a power absorbing retarding mechanism.

"Controlled-access highway" means 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" means:

1. 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
2. Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

"Day care programs" means those which provide day service for development in self-help, social, recreational, and work skills for people with intellectual and other disabilities, giving priority to providing services for young people with severe intellectual and other disabilities.

"Day care program bus" means every bus used primarily to carry out functions of a day care program or used by a child care facility licensed by the Kansas department of health and environment who provides transportation for children six through eighteen years of age.

"Department" or "motor vehicle department" or "vehicle department" means the division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas.

"Director" means the director of vehicles.

"Divided highway" means 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.

"Division" means the division of vehicles of the department of revenue.

"Drag race" means the operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit.

"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" means 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" means every person who drives or is in actual physical control of a vehicle.

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

"Electric-assisted bicycle" means 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 one thousand watts, be incapable of propelling the device at a speed of more than twenty 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 twenty miles per hour.

"Electronic certificate of title" means any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. Supp. 8-135d, and amendments thereto.

"Electric personal assistive mobility device" means 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 fifteen miles per hour or less.

"Electric vehicle" means a vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electric energy storage devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

1. Residential electric service;
2. An electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, EVSE (Electric Vehicle Supply Equipment) or a public charging station.

"Essential parts" mean 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.

"Exhibition of speed or acceleration" means those acts which cause or create unnecessary rapid acceleration, unnecessary tire squeal, skid, smoke, or slide upon acceleration or stopping including the casting of tread, gravel, dirt or other road surface materials from the tires; acts that simulate a temporary race; acts that cause the vehicle to unnecessarily turn abruptly, sway or lose traction with the road surface.

"Explosives" means 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 combustive 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" means every motor vehicle designed and used as a farm implement power unit operated with or without other attached farm implements in any manner consistent with the structural design of such power unit.

"Farm trailer" means every trailer and semitrailer as those terms are defined in this section, designed and used primarily as a farm vehicle.

"Flammable liquid" means any liquid which has a flash point of seventy degrees Fahrenheit, or less, as determined by a tagliabue or equivalent closed-cup test device.

"Golf cart" means a motor vehicle that has not less than three wheels in contact with the ground, an unladen weight of not more than one thousand eight hundred pounds, is designed to be and is operated at not more than twenty-five miles per hour and is designed to carry not more than four persons including the driver.

"Governing body" means the mayor and council of this city.

"Gross weight" means the weight of a vehicle without load plus the weight of any load thereon.

"Highway" means every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term highway shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions. See also Street or Highway.

"House trailer" means:

1. A trailer or semitrailer 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
2. A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph 1, 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.
3. "House trailer" does not include a manufactured home or a mobile home, as such terms are defined in K.S.A. 58-4202.

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

"Ignition interlock device" means a device which uses a breath analysis mechanism to prevent a person from operating a motor vehicle if such person has consumed an alcoholic beverage.

"Implement of husbandry" means every vehicle designed or adapted and used exclusively for agricultural operations, including feedlots, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to:

1. A farm tractor;
2. A self-propelled farm implement;
3. A fertilizer spreader, nurse tank or truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership;
4. A truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung; or
5. A mixer-feed truck owned and used by a feedlot, as defined by K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing feed to livestock in such feedlot.

"Intersection" means:

1. 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
2. Where a highway includes two roadways thirty 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 thirty feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

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

“Interstate system” refers to the national system of interstate and defense highways.

"Laned roadway" means a roadway which is divided into two or more clearly marked lanes for vehicular traffic.

"License" or "license to operate a motor vehicle" means 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:

1. Any temporary license or instruction permit;
2. The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and
3. Any nonresident's operating privilege.

"Light transmission" means the ratio of the amount of total light to pass through a product or material including any safety glazing material to the amount of the total light falling on the product or material and the glazing.

"Low speed vehicle" means any four-wheeled electric vehicle whose top speed is greater than twenty miles per hour but not greater than twenty-five 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.

"Luminous reflectants" means the ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or material.

"Mail" means to deposit in the United States mail properly addressed and with postage prepaid.

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

"Micro utility truck" means any motor vehicle which is not less than forty-eight inches in width, has an overall length, including the bumper, of not more than one hundred sixty inches, has an unladen weight, including fuel and fluids, of more than one thousand five hundred pounds, can exceed forty miles per hour as originally manufactured and is manufactured with a metal cab. Micro utility truck does not include a work-site utility vehicle or recreational off-highway vehicle.

“Motor home” means every motor vehicle designed to provide temporary living quarters for recreational, camping or travel use.

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

"Motorcycle" means every motor vehicle, including autocycles, 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" means 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 or an electric-assisted bicycle.

"Motorized bicycle" means every device having two tandem wheels or three wheels which may be propelled by either human power or helper motor, or both, and which has: (1) A motor which produces not more than 3.5 brake horsepower; (2) a cylinder capacity of not more than one hundred thirty cubic centimeters; (3) an automatic transmission; and (4) the capability of a maximum design speed of no more than thirty miles per hour.

"Motorized scooter" means every motor vehicle that is a two- or three-wheeled device that has handlebars, is designed to be stood or sat upon by the operator, and is powered by an engine or electric motor that is capable of propelling the device with or without human propulsion; provided, that the term shall not include motorized bicycles, motorcycles, motor-driven cycles, low powered cycles or motorized wheelchairs as defined in this chapter.

"Motorized skateboard" means a self-propelled device which has a motor or engine, a deck on which a person may ride and at least two wheels in contact with the ground.

"Motorized wheelchair" means any self-propelled vehicle designed specifically for use by a physically disabled person and such vehicle is incapable of a speed in excess of fifteen miles per hour.

"Narrow width lane" means a lane that is too narrow for a bicycle and a vehicle to travel safely side-by-side within the lane.

"Nonreflective" means a product or material designed to absorb light rather than to reflect it.

"Nonresident" means every person who is not a resident of this state.

"Nonresident's operating privilege" means 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" means 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" means 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.

"Official traffic-control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

"Oil well servicing," "oil well clean-out" or "oil well drilling machinery or equipment" means a vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is oil well servicing, oil well clean-out or oil well drilling machinery or equipment.

"Ordinance traffic infraction" is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. 8-2118, as amended.

"Other competent evidence" includes:

1. Alcohol concentration tests obtained from samples taken three hours or more after the operation or attempted operation of a vehicle; and
2. Readings obtained from a partial alcohol concentration test on a breath testing machine.

"Owner" means a person who holds the legal title of the vehicle, or in the event a vehicle is the subject of an agreement for the conditional sale thereof with the right of purchase upon performance of the conditions stated in the agreement and with the immediate right of possession vested in the conditional vendee or in the event a vehicle is subject to a lease of thirty days or more with an immediate right of possession vested in the lessee; or in the event a party having a security interest in a vehicle is entitled to possession, then such conditional vendee or lessee or secured party shall be deemed the owner for the purpose of this code.

"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.

"Passenger vehicle" means every motor vehicle, as defined in this title, including passenger cars where the term is used in this code, which is designed primarily to carry ten or fewer passengers, and which is not used as a truck.

"Pedestrian" means:

1. Any person afoot;
2. 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
3. Any person using an electric personal assistive mobility device.

"Person" means every natural person, firm, partnership, association or corporation.

"Person with a disability" means any individual who:

1. Has a severe visual impairment;
2. Cannot walk one hundred feet without stopping to rest;
3. Cannot walk without the use of or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;
4. 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 sixty mm/hg on room air at rest;
5. Uses portable oxygen;
6. 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
7. Is severely limited in such person's ability to walk at least one hundred feet due to an arthritic, neurological or orthopedic condition.

"Pickup truck" means a light truck with an open body bed with low sides and not specifically designed for business or commercial use.

"Pneumatic tire" means every tire in which compressed air is designed to support the load.

"Pole trailer" means any two-wheel vehicle used as a trailer with bolsters that support the load, and do not have a rack or body extending to the tractor drawing the load.

"Police officer" means every law enforcement officer authorized to direct or regulate traffic or to make arrests for violations of traffic regulations.

"Private road or driveway" means 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.

"Racing" means the use of one or more vehicles in an attempt to out-gain, out-distance or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes.

"Railroad" means a carrier of persons or property upon cars operated upon stationary rails.

"Railroad sign or signal" means 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" means a steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails.

"Recreational off-highway vehicle" means any motor vehicle more than fifty but not greater than sixty-four inches in width, having a dry weight of two thousand pounds or less, traveling on four or more nonhighway tires.

"Recreational vehicle" means 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 forty feet; but such term shall not include a unit which has no electrical system which operates above twelve volts and has no provisions for plumbing, heating and any other component or feature for which a standard is adopted by the state uniform standards code for mobile homes and recreational vehicles.

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

"Residence district" means the territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of three hundred feet or more is in the main improved with residences or residences and buildings in use for business.

"Revocation of driver's license" means 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 or restoration 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" means 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" means the portions of a highway which are 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 indicates that the road construction zone has ended.

"Roadway" means 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 "road-way" as used herein shall refer to any such roadway separately but not to all such roadways collectively.

"Safety hitch" means 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" means 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.

"Samples" includes breath supplied directly for testing, which breath is not preserved.

"School bus" means every motor vehicle defined and designated as a school bus in subsection (g)(1) of K.S.A. 72-8301 as amended.

"School crossing guard" means a person eighteen years of age and older or any person under eighteen years of age who is being directly supervised by a person at least eighteen years of age, acting with or without compensation and who is authorized under K.S.A. 8-15,104, and amendments thereto, to supervise, direct, monitor, or otherwise assist school children at a street or intersection in the vicinity of a school crosswalk or bus stop.

"Secretary" means the Secretary of Transportation.

"Security agreement" means a written agreement which reserves or creates a security interest.

"Security interest" means an interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions.

"Self-propelled farm implement." means every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design.

"Semitrailer" means every vehicle of the trailer type so designed and used in conjunction with a motor vehicle that some part of its own weight and that of its own load rests upon or is carried by another vehicle.

"Sidestrip" means that portion of the right-of-way of a street or highway lying between the curb or edge of the traveled roadway and the adjacent boundary of such right-of-way.

"Sidewalk" means 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" means every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load.

"Special mobile equipment" means 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: Ditch digging apparatus, well boring apparatus and road 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.

"Special purpose vehicle" means any golf cart, micro utility truck or worksite utility vehicle.

"Specially constructed vehicle" means any vehicle which shall not have been originally constructed under a distinctive name, make, model or type, or which, if originally otherwise constructed shall have been materially altered by the removal of essential parts, or by the addition or substitution of essential parts, new or used, derived from other vehicles or makes of vehicles.

"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" means 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" means 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.

"Sun screening devices" means a film material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun.

"Suspension of a driver's license" means the temporary withdrawal by formal action of the division of a person's license or privilege to operate a motor vehicle on the highways.

"Through highway" means 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" means 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.

"Toxic vapors" means vapors from the following substances or products containing such substances:

1. Alcohols, including methyl, isopropyl, propyl, or butyl;
2. Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
3. Acetone;
4. Benzene;
5. Carbon tetrachloride;
6. Cyclohexane;
7. Freons, including freon 11, freon 12 and other halogenated hydrocarbons;
8. Hexane;
9. Methyl ethyl ketone;
10. Methyl isobutyl ketone;
11. Naptha;
12. Perchlorethylene;
13. Toluene;
14. Trichloroethane; or
15. Xylene.

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

"Traffic-control signal" means any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

"Traffic-control signal preemption device" means any device, instrument, or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal.

"Traffic infraction" means a violation of any of the statutory provisions listed in subsection (c) of K.S.A. Supp. 8-2118 as amended.

"Trailer" means every vehicle without motive power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle.

"Travel trailer" means every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes.

"Truck" means a motor vehicle which is used for the transportation or delivery of freight and merchandise or more than ten passengers.

"Truck-camper" means 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" means 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 or load so drawn.

"Urban district" means 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 one hundred feet for a distance of a quarter of a mile or more.

"Vehicle" means 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 devices, motorized skateboards, motorized scooters, and devices moved exclusively by human power or used exclusively upon stationary rails or tracks.

"Wide-base single tires" means all tires having a section width, as specified by the manufacturer, of fourteen inches or more.

"Wireless communication device" means any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages or a laptop computer.

Wireless communication device does not include a device which is voice-operated and which allows the user to send or receive a text based communication without the use of either hand, except to activate or deactivate a feature or function.

"Work-site utility vehicle" means any motor vehicle which is not less than forty-eight inches in width, has an unladen weight, including fuel and fluids, of more than eight hundred pounds and is equipped with four or more nonhighway tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck.

"Wrecker" or "tow truck" means any motor vehicle equipped with booms, winches or similar equipment specifically designed for recovery or towing of vehicles.

"Write, send or read a written communication" means using a wireless communication device to manually type, send or read a written communication, including, but not limited to, a text message, instant message or electronic mail."

Section 2. Section 10.04.137 – Riding on motorcycles is hereby amended to read as follows:

“10.04.137 - Riding on motorcycles.

- A. A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed

for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.

- B. A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle. This subsection shall not apply to any person riding within an autocycle.
- C. No person shall operate a motorcycle while carrying any package, bundle or other article which prevents him from keeping both hands on the handlebars.
- D. No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator.”

Section 3. Section 10.04.141 – Equipment for motorcycle operator or rider is hereby amended to read as follows:

“10.04.141 - Equipment for motorcycle operator or rider.

- A. No person under the age of eighteen years shall operate or ride upon a motorcycle or a motorized bicycle unless wearing a helmet which complies with minimum guidelines established by the National Highway Traffic Safety Administration pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.
- B. No person shall allow or permit any person under the age of eighteen years to:
 - 1. Operate a motorcycle or motorized bicycle or to ride as a passenger upon a motorcycle or motorized bicycle without being in compliance with the provisions of subsection A.; or
 - 2. Operate a motorcycle or to ride as a passenger upon a motorcycle without being in compliance with the provisions of subsection C.
- C.
 - 1. No person shall operate a motorcycle unless he or she is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant, except when the motorcycle is equipped with a windscreen which has a minimum height of ten inches measured from the center of the handlebars.
 - 2. No person under the age of eighteen years shall ride as a passenger on a motorcycle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant.
- D. This section shall not apply to persons riding within an enclosed cab, an autocycle or on a golf cart, nor shall it apply to any person operating or riding any industrial or cargo-type vehicle having three wheels and commonly known as a truckster.”

Section 4. Section 10.04.170 – Lighting equipment and warning devices on church buses and day care program buses is hereby amended to read as follows:

“10.04.170 - Lighting equipment and warning devices on church buses and day care program buses.

- A. Any church bus, or day care program bus, in addition to any other equipment and distinctive markings required by law, may be equipped with:
 - 1. Signal lamps which conform to the requirements of Section 10.04.169, and rules and regulations adopted pursuant thereto; and
 - 2. A stop signal arm which conforms to requirements therefor applicable to school buses which have been adopted by rules and regulations of the state board of education”

Section 5. Section 10.04.181 – Child passenger safety restraining system is hereby amended to read as follows:

“10.04.181 - Child passenger safety restraining system.

- A. Every driver who transports a child under the age of fourteen years in a passenger car or an autocycle on a highway shall provide for the protection of such child by properly using:
 - 1. For a child under the age of four years an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in Federal Motor Vehicle Safety Standard No. 213;
 - 2. For a child four years of age, but under the age of eight years and who weighs less than eighty pounds or is less than four feet nine inches in height, an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in Federal Motor Vehicle Safety Standard No. 213; or
 - 3. For a child eight years of age but under the age of fourteen years or who weighs more than eighty pounds or is more than four feet nine inches in height, a safety belt manufactured in compliance with Federal Motor Vehicle Safety Standard No. 208.
- B. If the number of children subject to the requirements of subsection A exceeds the number of passenger securing locations available for use by children affected by such requirements, and all of these securing locations are in use by children, then there is not a violation of this section.
- C. If a securing location only has a lap safety belt available, the provisions of subsection A.2 shall not apply and the child shall be secured in accordance with the provisions of subsection A.3.
- D. It shall be unlawful for any driver to violate the provisions of subsection A and upon conviction such driver shall be punished by a fine of sixty dollars. The failure to provide a child safety restraining system or safety belt for more than one child in the same passenger car or autocycle at the same time shall be treated as a single violation. Any conviction under the provisions of this subsection shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.
- E. The sixty-dollar fine provided for in subsection D shall be waived if the driver convicted of violating subsection A.1 or A.2 provides proof to the court that such driver has purchased or

acquired the appropriate and approved child passenger safety restraining system. At the time of issuing the citation for a violation of subsection A.1 or A.2, the law enforcement officer shall notify the driver of the waiver provisions of this subsection.

- F. No driver charged with violating the provisions of this section shall be convicted if such driver produces in the office of the arresting officer or in court proof that the child was fourteen years of age or older at the time the violation was alleged to have occurred.
- G. Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of this section shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.
- H. As used in this section passenger car means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying ten passengers or fewer, including vans, but does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis registered for a gross weight of more than twelve thousand pounds or a farm truck registered for a gross weight of more than sixteen thousand pounds.”

Section 6. Section 10.04.181.1 – Seat belts is hereby amended to read as follows:

“10.04.181.1 - Seat belts.

- A. Except as provided in Section 10.04.181 and in subsections B or C of this section, each occupant of either a passenger car manufactured with safety belts in compliance with Federal Motor Vehicle Safety Standard No. 208 or an autocycle, who is eighteen years of age or older, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion.
- B. Each occupant of either a passenger car manufactured with safety belts in compliance with Federal Motor Vehicle Safety Standard No. 208 or an autocycle, who is at least fourteen years of age but less than eighteen years of age, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion.
- C. Every driver who transports a person who is at least fourteen years of age but under 18 years of age shall provide for the protection of such person by properly ensuring that such child has a safety belt properly fastened about such person's body at all times when the passenger car or autocycle is in motion.
- D. This section does not apply to:
 1. An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;
 2. Carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes;
 3. Newspaper delivery persons while actually engaged in delivery of newspapers along with their specified routes; or

4. An occupant of a passenger car required to be protected by a safety restraining system under the child passenger safety act.
- E. Law enforcement officers shall not stop drivers for violations of subsection A by a back seat occupant in the absence of another violation of law. A citation for violation of subsection A by a back seat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.
- F. Penalties.
 1. Persons violating subsection A.1 shall be fined ten dollars and no court costs; and
 2. Persons violating subsection A.2 shall be fined sixty dollars and no court costs.
- G. As used in this section, passenger car means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying ten passengers or fewer, including vans, but does not include a motorcycle or a motor-driven cycle.”

Section 7. Section 10.04.197 – Vehicle license; illegal tag is hereby amended to read as follows:

“10.04.197 - Vehicle license; illegal tag.

- A. It shall be unlawful for any person to:
 1. Operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle which is not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year, including any registration decal required to be affixed to any such license plate pursuant to K.S.A. 8-134, and amendments thereto, subject to the exemptions allowed in K.S.A. 8-135, 8-198 and 8-1751a, and amendments thereto. A violation of this section by a person unlawfully claiming that a motor vehicle is exempt from registration as a self-propelled crane under subsection (b) of K.S.A. 8-128 and amendments thereto, shall constitute a violation punishable by a fine of not less than five hundred dollars. A person shall not be charged with a violation of this subsection for failing to display a registration decal on any vehicle except those included under K.S.A. 8-1,101 and K.S.A. 2014 Supp. 8-143m and 8-1,152, and amendments thereto, up to and including the 10th day following the expiration of the registration if the person is able to produce a printed payment receipt or electronic payment receipt from an online electronic payment processing system for the current 12-month registration period. Any charge for failing to display a registration decal up to and including the 10th day following the expiration of the registration shall be dismissed if the person produces in court a registration receipt for the current 12-month registration period which was valid at the time of arrest.
 2. Display or cause or permit to be displayed, or to have in possession, any registration receipt, certificate of title, registration license plate, registration decal, accessible parking placard or accessible parking identification card knowing the same to be

fictional or to have been canceled, revoked, suspended or altered. A violation of this subsection 2 shall constitute an ordinance violation punishable by a fine of not less than one hundred dollars and forfeiture of the item. A mandatory court appearance shall be required of any person violating this subsection 2. This subsection 2 shall not apply to the possession of:

- i. Model year license plates displayed on antique vehicles as allowed under K.S.A. 8-172, and amendments thereto; or
 - ii. Distinctive license plates allowed under K.S.A. 8-1,147, and amendments thereto.
3. Lend to or knowingly permit the use by one not entitled thereto any registration receipt, certificate of title, registration license plate or registration decal issued to the person so lending or permitting the use thereof.
 4. Remove, conceal, alter, mark or deface the license number plate or plates or any other mark of identification upon any vehicle. License plates shall be kept clean and they shall be placed on all vehicles within the city as required by law so as to be plainly legible.
 5. Carry or display a registered number plate or plates or registration decal upon any vehicle not lawfully issued for such vehicle.
- B. Any person violating subsections A.1, 2 or 3 shall be punished by a fine not exceeding two thousand five hundred dollars, or by imprisonment for not less than thirty days nor more than six months, or by both such fine and imprisonment. Any person violating subsections A.4 or 5 shall be punished as provided in Section 10.04.207D of this ordinance.”

Section 8. Section 10.04.199 – Motor vehicle liability insurance is hereby amended to read as follows:

“10.04.199 - Motor vehicle liability insurance.

- A. Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101 *et seq.*, for every motor vehicle owned by such person, unless such motor vehicle: (1) is included under an approved self-insurance plan as provided in K.S.A. 40-3104(f).; (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101 *et seq.*.
- B. An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.

- C. No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.
- D. 1. Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. Such evidence of financial security which meets the requirements of subsection E. may be displayed on a cellular phone or any other type of portable electronic device. The law enforcement officer to whom such evidence of financial security is displayed shall view only such evidence of financial responsibility. Such law enforcement officer shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall transmit a copy of the insurance verification form prescribed by the secretary of revenue with the copy of the citation transmitted to the court.
2. No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection E. is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.
- E. Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections B, C or D shall be convicted if such person produces in court, within ten days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. Such evidence of financial security may be produced by displaying such information on a cellular phone or any other type of portable electronic device. Any person to whom such evidence of financial security is displayed on a cellular phone or any other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle, and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance.
- F. Any person violating any provision of this section shall be guilty of a violation of this ordinance and subject to a fine of not less than three hundred dollars nor more than one thousand dollars or by imprisonment for a term of not more than six months, or both such fine and imprisonment, except that any person convicted of violating any provision of this

section within three years of any such prior conviction shall be guilty of a violation of this ordinance and subject to a fine of not less than eight hundred dollars nor more than two thousand five hundred dollars or by imprisonment for a term not to exceed one year, or both such fine and imprisonment.”

Section 9. Repeal

Original sections 10.04.001, 10.04.137, 10.04.141, 10.04.170, 10.04.181, 10.04.181.1, 10.04.197, and 10.04.199 of the Derby Municipal Code are hereby repealed. All other provisions of the Municipal Code of the City of Derby, Kansas shall remain in full force and effect except as specifically amended herein. All other ordinances or parts of other ordinances in conflict herewith are repealed. However, any section of an existing ordinance not in conflict herewith is not repealed and remains in full force and effect.

Section 10. Severability

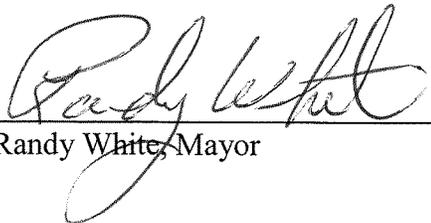
Should any section, clause, sentence, or phrase of this ordinance be found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, such invalidity shall not affect the validity of any remaining provisions herein.

Section 11. Effective Date

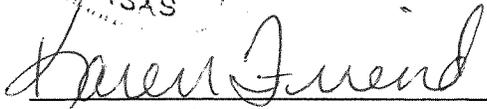
This Ordinance shall take effect and be in force from and after its passage and publication of the ordinance or a summary thereof once in the City’s official newspaper as provided by State law.

PASSED by the City Council this 22nd day of December, 2015 and **SIGNED** by the Mayor.



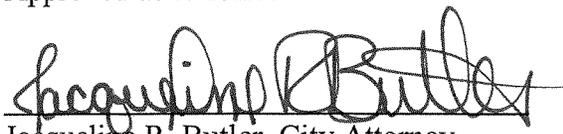


Randy White, Mayor



Karen Friend, City Clerk

Approved as to form:



Jacqueline R. Butler, City Attorney