

ORDINANCE NO. 2587

AN ORDINANCE RELATING TO THE DERBY TRAFFIC ORDINANCE FOR THE CITY OF DERBY, KANSAS; AMENDING SECTIONS 10.04.001, 10.04.114.2, 10.04.114.4, 10.04.114.5, 10.04.114.6 CONCERNING OPERATION OF SPECIAL PURPOSE VEHICLES WITHIN THE CITY.

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

Section 1. Section 10.04.001 of the Derby Municipal Code is hereby amended to read as follows:

10.04.001 Definitions.

The following words and phrases when used in this article 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, other than an electric-assisted bicycle, that is fifty-five inches or less in width measured from the outside of one tire rim to the outside of the other tire rim, 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.

"Antique" means any vehicle, including an antique military vehicle, more than thirty-five years old, propelled by a motor using petroleum fuel, steam or electricity, or any combination thereof, regardless of the age or type of components or equipment installed on the vehicle.

"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.

"Authorized utility or telecommunications vehicle" means (1) a motor vehicle operated by an authorized person as defined in K.S.A. 66-1710, and amendments thereto, for an electric or natural gas public utility as defined in K.S.A. 66-104, and amendments thereto, or a municipality-owned utility, when such motor vehicle is utilized for repairs that are needed on electric utility or natural gas equipment to restore necessary services or ensure public safety and is making use of visual signals meeting the requirements of K.S.A. 8-1731, and amendments thereto; and (2) a motor vehicle operated by a provider, as defined in K.S.A. 17-1902, and amendments thereto, or a wireless infrastructure provider or wireless services provider, as defined in K.S.A. 66-2019, and amendments thereto, when such vehicle is utilized for repairs and is making use of visual signal meeting the requirements of K.S.A. 8-1731 and amendments thereto.

"Auto cycle" 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.

"Digital network" means any online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers.

"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 less than seven hundred fifty watts that meets the requirements of one of the following three classes:

1. "Class 1 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor that provides assistance only when the rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty miles per hour;
2. "Class 2 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor that may be used exclusively to propel the bicycle and is not capable of providing assistance when the bicycle reaches the speed of twenty miles per hour; or
3. "Class 3 electric-assisted bicycle" means an electric-assisted bicycle equipped with a motor that provides assistance only when they rider is pedaling and ceases to provide assistance when the bicycle reaches the speed of twenty-eight miles per hour.

"Electric-assisted scooter" means every self-propelled vehicle, other than an electric-assisted bicycle, that has at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon when riding.

"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 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.

"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.

"Funeral escort" means a person or entity that provides escort services for funeral processions, including law enforcement personnel and agencies and groups designated to escort military funeral processions.

"Funeral lead vehicle" means any authorized law enforcement or nonlaw enforcement motor vehicle properly equipped pursuant to K.S.A. 8-1723, and amendments thereto, or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a "funeral lead vehicle."

"Funeral procession" means two or more vehicles accompanying the body of a deceased person or traveling to the cemetery, church, chapel or other location where the funeral service is to be held, in the daylight hours, including a funeral lead vehicle or a funeral escort.

"Golf cart" means a motor vehicle that does not have fewer 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.

"Habitual violator" means as defined as in K.S.A. 8-285.

"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, and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to, a fertilizer spreader or nurse tank 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. For the purpose of this section or for the purpose of the act of which this section is a part, "implement of husbandry" shall not include:

1. A truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;
2. A mixer-feed truck owned and used by a feedlot, as defined by K.S.A. 47-1501, and amendments thereto, and specifically designed and used exclusively for dispensing feed to livestock in such feedlot; or
3. A 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.

"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.

"Lien holder" means a person holding a security interest in a vehicle.

"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.

"Lightweight roadable vehicle" means a multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration.

"Local authorities" means the Kansas turnpike authority and every city, county and other local board or body having authority to adopt ordinances or regulations relating to vehicular traffic under the constitution and laws of this state.

"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.

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

"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, Utility Terrain Vehicle (UTV), 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, electric-assisted bicycle, or a motorized wheelchair that is self-propelled.

"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, except an electric-assisted bicycle or 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, other than an electric-assisted bicycle, having two tandem wheels or three wheels that may be propelled by either human power or helper motor, or by both, and 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 article, 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, 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.

"Passenger car" means every motor vehicle, except motorcycles and motor-driven cycles, designed for carrying ten passengers or less and used for the transportation of persons. 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.

"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 every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of 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" means every law enforcement officer, as defined in K.S.A. 21-5111, and amendments thereto, 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 not greater than seventy-five inches in width, measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of three thousand five hundred 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 "roadway" 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 K.S.A. 72-8301(g)(1) 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 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.

"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, Utility Terrain Vehicle (UTV) or worksite utility vehicle.

"Specially constructed vehicle" means 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.

"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 article, 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 article.

"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 K.S.A. Supp. 8-2118(c) as amended.

"Trailer" means 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.

"Transportation network company" or "TNC" means a corporation, partnership, sole proprietorship or other entity operating in Kansas that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract.

"Transportation network company driver" or "driver" means an individual who:

1. Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and
2. Uses a personal vehicle to provide services for riders matched through a digital network controlled by a transportation network company and receives, in exchange for providing the passenger a ride, compensation that exceed the individual's cost to provide the ride.

"Transportation network company rider" or "rider" means an individual or person who uses a transportation network company's digital network to connect with a transportation network driver who provides prearranged rides to the rider in the driver's personal vehicle between points chosen by the rider.

"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.

"Utility Terrain Vehicle" (UTV) or Side-by-Side (SxS) or Recreational Off-Highway Vehicle (ROV) shall have the same meaning and definition as "Work-Site Utility Vehicle."

"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, non-straddle seating, 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 10.04.114.2 of the Derby Municipal Code is hereby amended to read as follows:

10.04.114.2 Unlawful operation of a micro utility truck.

- A. It shall be unlawful for any person to operate a micro utility truck:
1. On any interstate highway, federal highway, or state highway; or
 2. Within the corporate limits of the city.

Section 3. Section 10.04.114.4 of the Derby Municipal Code is hereby amended to read as follows:

10.04.114.4 Unlawful operation of a golf cart.

- A. Except as provided below it shall be unlawful for any person to operate a golf cart on any street or roadway within the corporate limits of the city unless:
1. The speed limit is thirty miles per hour or less and,
 2. The operator of the golf cart has a valid driver's license and,
 3. The golf cart is registered as a special purpose vehicle with the police department and displays a valid registration and is insured in accordance with Section 10.04.114.6 of this chapter.
- B. Notwithstanding the provisions of Section 10.04.114.4 above, it shall be unlawful for any person to operate a golf cart:
1. On any state highway, federal highway or interstate highway within the corporate city limits.
 2. On any sidewalk, jogging path, trail or any location normally used for pedestrian traffic unless designated as a golf cart path.
 3. On any street or roadway within the corporate limits of the city between sunset and sunrise unless equipped with: (1) lights as required by state law for motorcycles; and (2) a properly mounted slow-moving vehicle emblem as required by K.S.A. 8-1717, and amendments thereto.
 4. On private property without permission of the owner(s).
 5. In a manner where the golf cart suddenly leaves a golf cart path or other place of safety and drives or proceeds into the path of a vehicle which is so close as to constitute an immediate hazard.
 6. In a manner where the number of occupants on the golf cart exceeds the number of factory-installed seats.
- C. The provision of this section shall not prohibit a golf cart from crossing a street or highway with speed limits above thirty miles per hour. For any streets with speed limits of forty miles per hour or greater, golf carts must cross at a signalized intersection.
- D. The provisions of this section shall not prohibit the operation of any golf cart in the course of authorized duties on behalf of any governmental entity.

- E. Violation of this section shall be punishable by a fine of not more than one thousand dollars or by imprisonment for not more than six months or by both such fine and imprisonment.

Section 4. Section 10.04.114.5 of the Derby Municipal Code is hereby amended to read as follows:

10.04.114.5 Unlawful operation of a Utility Terrain Vehicle (UTV) work-site utility vehicles.

- A. It shall be unlawful for any person to operate a UTV or work-site utility vehicle:
 - 1. On any interstate highway, federal highway, or state highway; or
 - 2. On any public highway or street within the corporate limits of the city
- B. Notwithstanding the provisions of subsection A, work-site utility vehicles may be operated to cross a federal highway or state highway.
- C. Notwithstanding the provisions of subsection A.1, persons engaged in agricultural purposes may operate a work-site utility vehicle on a federal highway or state highway under the following conditions:
 - 1. The operator of the work-site utility vehicle must be a licensed driver and be operating within the restrictions of the operator's license;
 - 2. The federal highway or state highway must have a posted speed limit of sixty-five miles per hour or less;
 - 3. The operator of the work-site utility vehicle must operate the work-site utility vehicle as near to the right side of the roadway as practicable, except when making or preparing to make a left turn; and
 - 4. The purpose of the trip using the work-site utility vehicle must be for agricultural purposes.
- D. No work-site utility vehicle shall be operated on any public highway, street, or road between sunset and sunrise unless equipped with lights as required by law for motorcycles.

Section 5. Section 10.04.114.6 of the Derby Municipal Code is hereby amended to read as follows:

10.04.114.6 Special purpose vehicles; registration and license; application; fee.

- A. No special purpose vehicle shall be operated on a highway, street or other property open to use by the public and located within the corporate limits of the city unless such vehicle is first registered with the police department and displays a valid annual registration decal so as to be clearly visible from the rear of the vehicle.
- B. Application for registration shall be made on forms provided by the city. Each application shall include the name of the owner, the address of the owner's residence or bona fide place of business, and a brief description of the vehicle to be registered including make, model and serial number, if any. Proof of insurance, as required by this ordinance, shall be furnished at the time of application for registration.

- C. The annual registration fee for a special purpose vehicle shall be twenty-five, regardless of when the application is made. Such fee shall be paid in full with the application. Registrations shall be valid for the calendar year.
- D. Registration decals issued hereunder are nontransferable.
- E. Violation of this section shall be deemed a traffic infraction and the municipal court shall establish a fine therefore.
- F. The provisions of this section shall not prohibit the operation of any special purpose vehicle in the course of authorized duties on behalf of any governmental entity.

Section 6. 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 7. 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 8. 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 14th day of January, 2025 and **SIGNED** by the Mayor.

Seal:

/s/Mark A. Staats
Mayor

Attest:

/s/Lynn Ciarleglio
City Clerk

Approved as to form:

/s/Jacqueline R. Butler
City Attorney