

ORDINANCE NO. TC-1260,QQQ

AN ORDINANCE RELATING TO THE TRAFFIC CODE OF THE CITY OF OVERLAND PARK, KANSAS, ADDING NEW OVERLAND PARK MUNICIPAL CODE SECTION 12.04.1276.5; AMENDING AND REPEALING MUNICIPAL CODE SECTIONS 12.04.119, 12.04.119.1, 12.04.142, 12.04.181 AND 12.04.195.

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

SECTION 1. Overland Park Municipal Code Section 12.04.119 is hereby amended to read as follows:

**12.04.119 Child Restraints.**

- (a) Every driver who transports a child under the age of 14 years in a passenger car as defined by K.S.A. 8-1343a, and amendments thereto, shall provide for the protection of the child by properly using:
  - (1) For a child under the age of four (4) years in a passenger car, an appropriate child passenger restraining system that meets or exceeds the standards and specifications contained in Federal Motor Vehicle Safety Standard No. 213.
  - (2) For a child from four (4) years of age but under the age of eight (8) years and who weighs less than eighty (80) pounds or is less than four (4) feet nine (9) inches in height, an appropriate child safety restraining system that meets or exceeds the standards and specifications contained in Federal Motor Vehicle Safety Standard No. 213.
  - (3) For a child from eight (8) years of age but under the age of fourteen (14) years or who weighs more than eighty (80) pounds or is more than four (4) feet nine (9) 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) Upon conviction of a violation of this section, a minimum fine in the amount of \$60.00 per occurrence shall be imposed by the court. The failure to provide a child restraining system or safety belt for more than one child in the same passenger car at the same time shall be treated as a single violation.
- (e) The sixty (60) dollar fine provided for in subsection (d) shall be waived if the driver convicted of violating subsections (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 subsections (a)(1) and (a)(2), the law enforcement officer shall notify the driver of the waiver provisions of this subsection.

SECTION 2. Overland Park Municipal Code Section 12.04.119.1 is hereby amended to read as follows:

**12.04.119.1 Safety Belts.**

- (a) Except as provided in 12.04.119 and in subsection (b) or (c) herein, each occupant of a passenger car manufactured with safety belts in compliance with Federal Motor Vehicle Safety Standard No. 208, who is 18 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 a passenger car manufactured with safety belts in compliance with Federal Motor Vehicle Safety Standard No. 208, who is at least 14 years of age but less than 18 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) 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 their specified routes;
  - (4) An occupant of a passenger car is required to be protected by a safety restraining system under O.P.M.C. 12.04.119.
- (d) For purposes of 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 10 passengers or fewer, including vans, but excluding motorcycles, or a motor driven cycle.
- (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 a 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.

| SECTION 3. Overland Park Municipal Code Section 12.04.1276.5 is hereby added to read as follows:

| **12.04.1276.5 Texting While Driving.**

- (a) As used in this section:
  - (1) "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.

- (2) "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.
- (b) Except as provided in subsections (c) and (d), no person shall operate a motor vehicle on a public road or highway while using a wireless communications device to write, send or read a written communication.
- (c) The provisions of subsection (b) shall not apply to:
  - (1) A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officer's or emergency service personnel's employment;
  - (2) a motor vehicle stopped off the regular traveled portion of the roadway;
  - (3) a person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call;
  - (4) a person who receives an emergency, traffic or weather alert message; or
  - (5) a person receiving a message related to the operation or navigation of the motor vehicle.
- (d) The provisions of subsection (b) shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:
  - (1) Report current or ongoing illegal activity to law enforcement;
  - (2) prevent imminent injury to a person or property; or
  - (3) relay information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle.
- (e) From and after the effective date of this act and prior to January 1, 2011, a law enforcement officer shall issue a warning citation to anyone violating subsection (b).

SECTION 4. Overland Park Municipal Code Section 12.04.142 is hereby amended to read as follows:

**12.04.142 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 18 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 or motorized bicycle unless he 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 10 inches measured from the center of the handlebars.

- (2) No person under the age of 18 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 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 5. Overland Park Municipal Code Section 12.04.181 is hereby amended to read as follows:

**12.04.181 Sun Screening Devices and Other Applications Prohibited on Windshields, Certain Windows and Head lamps.**

- (a) For the purpose of this section 12.04.181, and amendments thereto:
  - (1) "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;
  - (2) "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;
  - (3) "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;
  - (4) "nonreflective" means a product or material designed to absorb light rather than to reflect it.
- (b) Any person who installs a sun screening device on a motor vehicle which is not in compliance with the provisions of subsection (c) of this section and amendments thereto, upon conviction, shall be guilty of a public offense and shall be punished as provided in section 1.12.010.
- (c) No motor vehicle required to be registered in this City and which is operated on the highways of this City shall be equipped with one-way glass or any sun screening device, as defined in subsection (a), and used in conjunction with windshields, side wings, side windows or rear windows that do not meet the following requirements:
  - (1) A sun screening device when used in conjunction with the windshield shall be nonreflective and shall not be red, yellow or amber in color. A sun screening device shall be used only along the top of the windshield and shall not extend downward beyond the ASI line which is clearly defined and marked;
  - (2) a sun screening device when used in conjunction with the side wings or side windows located at the immediate right and left of the driver, the side windows behind the driver and the rear most window shall be nonreflective; and
  - (3) the total light transmission shall not be less than 35% when a sun screening device is used in conjunction with other existing sun screening devices.

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- (d) Subsection (c)(3) shall not apply to a window of a law enforcement motor vehicle that is clearly identified as such by words or other symbols on the outside of the vehicle.
- (e) This section shall not prohibit labels, stickers or other informational signs that are required or permitted by state law.
- (f) No motor vehicle required to be registered in this state which is operated on the highways of this City shall be equipped with head lamps which are covered with any sun screening device, adhesive film or other glaze or application which, when such lamps are not in operation, is highly reflective or otherwise nontransparent.

SECTION 6. Overland Park Municipal Code Section 12.04.195 is hereby amended to read as follows:

**12.04.195 Vehicle License; Illegal Tag.**

- (a) No person shall park, leave unattended, operate or drive any motor vehicle or a motorized bicycle upon a street or highway within this City unless such vehicle carries the currently effective license or registered number plate or plates including any registration decal required by the laws of Kansas and issued to the owner of any such vehicle to be displayed on the vehicles registered.
- (b) No person or persons shall 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. It shall be unlawful for any person to attach and display on any vehicle a license plate which is covered, in whole or in part, with any clear or opaque material or any other plastic-like material that affects the plate's visibility or reflectivity.
- (c) No person shall carry or display a registered number plate or plates or registration decal upon any vehicle not lawfully issued for such vehicle.
- (d) Sections (a) and (c) are subject to the applicable exemptions allowed in K.S.A. 8-135 and K.S.A. 8-198, and amendments thereto.

SECTION 7. Existing Overland Park Municipal Code Sections 12.04.119, 12.04.119.1, 12.04.142, 12.04.181 and 12.04.195 are hereby repealed.

SECTION 8. This ordinance shall take effect and be in force from and after its publication in an official City newspaper.

PASSED by the City Council this 12<sup>th</sup> day of July, 2010.

APPROVED by the Mayor this 12<sup>th</sup> day of July, 2010.

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Carl Gerlach, Mayor

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ATTEST

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Marian Cook  
City Clerk

APPROVED AS TO FORM:

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John J. Knoll  
Senior Assistant City Attorney