

ORDINANCE NO. ____

AN ORDINANCE OF THE CITY OF KYLE, TEXAS, TO AMEND CHAPTER 47, TRAFFIC AND VEHICLES, ARTICLE IV, TRAFFIC CONTROL DEVICES, BY ESTABLISHING A PROCESS TO CONDUCT SIGNAL ANALYSIS FOR PLACEMENT OF TRAFFIC REGULATORY SIGNS; PROVIDING FOR A PENALTY FOR VIOLATION HEREOF; REPEALING ALL PARTS OF ORDINANCES IN CONFLICT; PROVIDING A SEVERABILITY CLAUSE; AND OPEN MEETINGS CLAUSE; AND PROVIDING FOR RELATED MATTERS.

WHEREAS, the regulation of traffic, motor vehicles and conveyances upon all public streets, roadway and right-of-ways within the City limits of the City of Kyle (the "City") is essential and necessary to protect the traveling public and to preserve and protect the public safety of the City; and

WHEREAS, section 311.001 of the Transportation Code provides that "a home-rule municipality has exclusive control over and under the public highways, streets, and alleys of the municipality; and

WHEREAS, the Police Chief; City Engineer; Public Works Director; City Manager; and, City Council have reviewed the issues that are the subject matter of this Ordinance; and

WHEREAS, the City Council of the City find that the safety and welfare of the citizens of the City requires that traffic regulatory signs be provided at such points within the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS THAT:

SECTION 1. Findings. The recitals are hereby found to be true and correct and are hereby incorporated as part of this Ordinance.

SECTION 2: Amendments to Chapter 47. Chapter 47 ("Traffic and Vehicles") shall be amended as set forth herein and incorporated by reference, which is entitled "Traffic Control Devices" and which shall have the full force of law and shall be amended by adding Sections 47-116 and 47-119 to 47-125 as follows:

**ARTICLE IV
TRAFFIC CONTROL DEVICES**

Sec. 47-116. – Definitions

Signal Warrant Analysis. An engineering study of traffic conditions, pedestrian characteristics, and physical characteristics of the location to determine whether installation of a traffic control signal is justified at a particular location in order to improve the overall safety and/or operation of the intersection.

Traffic control device. A sign, signal, marking, or device that is placed or erected by the City or police officer having jurisdiction and is used to regulate, warn, or guide traffic.

Traffic Engineer. An employee or contractor designated by the city manager who is trained and qualified to perform the duties of the traffic engineer as set forth within this Ordinance.

Traffic Engineer Study. The traffic engineer shall be responsible for conducting the comprehensive traffic engineering study to analyze and determine the need for a traffic control device. The engineering traffic study shall consist of traffic volume survey, gap study, speed study, a field site survey and any other analysis requested by the Director of Public Works.

(Sections 47-117 and 47-118 shall remain unchanged)

Sec. 47-119. – Applicability

- a. All public highways, streets, and alleys within the city are subject to compliance with this chapter.
- b. The sections, provisions, and regulations set forth in this chapter shall apply to the control, use, installation, regulation, licensing and permitting of traffic regulatory signs within the city.

Sec. 47-120. – Process

An individual or group desiring a traffic control device or change in regulatory designation with the accompanying signage may file a report with Director of Public Works to request the traffic analysis for the installation of the traffic control device. The individual or group shall pay a deposit fee upfront to complete a Signal Warrant Analysis as established in the City's Fee Ordinance. After the City conducts the necessary review, a determination will be made if a traffic control device is warranted (authorized) or unwarranted (unauthorized). If such a device is warranted, the deposit will be refunded by the City. If signage is unwarranted, the fee will not be reimbursed, but the City Council may still vote to install the traffic control device.

Sec. 47-121. – Fees

All fees associated with this Article shall be listed in the City's Fee Ordinance. Fees must be deposited upon submission of the written request and may, or may not, be returned upon the completion of the Signal Warrant Analysis per Section 47-120.

Sec. 47-122. – Installation Authority

The Director of Public Works, subject to the approval of the city council, shall place and maintain traffic control signs, signals and devices when and as required under the traffic ordinances of this city to make effective the provisions of such ordinances and may place and maintain such additional traffic control devices as may be necessary to regulate traffic under the traffic ordinances of this city or under state law, or to guide or warn traffic.

Sec. 47-123. – Obedience to—Burden of providing proof of existence.

- a. The driver of any vehicle shall obey the instructions of any applicable traffic control device, signal, sign, or curb or street marking placed in accordance with any law or ordinance, unless otherwise directed by a police officer, or unless in circumstances (such as authorized emergency vehicles in certain cases) when compliance is excused by law or ordinance.
- b. In any prosecution for any violation of this title, it shall not be necessary for the state or city to prove the installation, or authority therefor, of any traffic control device, signal, sign, or curb or street marking; but any person charged with such violation shall have the right to prove as a defense that the traffic control device, signal, sign or marking was not authorized by the City Council.

Sec. 47-124. – Interference with devices

That it shall be unlawful for any person to willfully deface, injure, move, remove, obstruct or interfere with any traffic regulatory sign under the provisions of this chapter.

Sec. 47-125. – Penalty

Any person violating any provisions of this Ordinance shall be subject to the penalty provided in Section 1-14 of the Code of Ordinances.

SECTION 3. Conflicting Ordinances or Resolutions. All resolutions or ordinances or parts thereof conflicting or inconsistent with the provisions of this ordinance as adopted and amended herein, are hereby REPEALED to the extent of such conflict. In the event of a conflict or inconsistency between this ordinance and any other resolution, code or ordinance of the City, or parts thereof, the terms and provisions of this ordinance shall govern.

SECTION 4. Severability. If any section, subsection, sentence, clause, phrase, or word of this ordinance is declared unconstitutional or invalid for any purpose, the remainder of this ordinance shall not be affected thereby and to this end the provisions of this ordinance are declared to be severable.

SECTION 5. Open Meetings. It is hereby officially found and determined that the meeting at which this ordinance is passed was open to the public as required and that public notice of the time, place, and purpose of said meeting was given as required by the Open Meetings Act.

SECTION 6. Effective Date. This ordinance shall be effective from and after its approval and passage in accordance with the Texas Local Government Code and the city charter.

PASSED AND APPROVED on first reading this ____ day of July, 2016.

FINALLY PASSED AND APPROVED on this ____ day of _____, 2016.

THE CITY OF KYLE, TEXAS

R. Todd Webster, Mayor

ATTEST:

Jennifer A. Vetrano, City Secretary