

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF KYLE, TEXAS TO **REPEAL CHAPTER 38, DIVISION 2, PARAGRAPHS 38-41 THRU 38-44, AND TO AMEND THE CITY'S OFFICIAL CODE OF ORDINANCES CHAPTER 47 IN ITS ENTIRETY. TO PRESCRIBE THE LAWFUL TIME, MANNER, AND PLACE FOR PARKING, STOPPING, AND/OR STANDING OF AUTOMOBILES AND TRAILERS UPON BOTH PUBLIC RIGHTS OF WAY AND PRIVATE PROPERTY, PROVIDING A PENALTY FOR VIOLATIONS, PROVIDING FOR SEVERABILITY, AND PROVIDING AN EFFECTIVE DATE**

WHEREAS, the City of Kyle is authorized to make and enforce within its limits all ordinances and regulations as a usual and customary police power; and

WHEREAS, Kyle's City Council finds it in the city's best interests to create local regulations on vehicle parking, stopping, and standing to promote the orderly usage of city rights-of-way and to protect the value and view shed of private property within the city's jurisdictional limits; and

WHEREAS, the City Council finds that parking regulations for the City are limited in scope and specificity, and creating a local standard will result in a more orderly environment for the motoring public ; and

WHEREAS, the City Council finds that amending the parking ordinance to allow and regulate additional parking code, as provided for in this ordinance, is reasonable and proper for the good of the City.

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

Section 1. Findings. The foregoing recitals are hereby found to be true and correct and are hereby adopted by the City Council and made part hereof for all purposes as findings of fact.

Section 2. Enactment. Chapter 38 DIVISION 2. PARKING OF VEHICLES, TRAILERS, AND OTHER EQUIPMENT, Paragraphs 38-41—38-44 are hereby repealed and "Reserved." Paragraphs 38-41.—38.44 are readopted as a part of Chapter 47 of the City of Kyle City Code, TRAFFIC AND VEHICLES, which is hereby amended in its entirety as follows:

(NOTE - Many existing paragraphs were moved and renumbered for simplicity. Where appropriate, an attempt was made to maintain the foot notes found in the code currently – their existence or non-existence in this ordinance is not to be interpreted as an attempt to remove them or insert them back into the code. Footnotes shall continue to be used as needed for clarification of codification as determined at the time of codification. Formatting shall conform with established rules adopted in codification and shall not be determined by the formatting of the content of this ordinance.)

Chapter 47 – LOCAL TRAFFIC REGULATIONS

ARTICLE J. - IN GENERAL

Sec. 47-1. - Definitions.

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Active loading or unloading means the period of time in which a person or persons are physically engaged in the labor of loading or unloading.

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Apparatus means a group or combination of instruments, machinery, tools, materials, etc.

Boat means a vessel for use on water propelled by oars, paddles, sail, or ~~motor~~, and includes the trailer upon which it is transported.

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City means the City of Kyle, Texas.

Commercial contractor means a person who, for compensation or with the intent to sell, arranges or undertakes or offers to undertake or submits a bid to construct, alter, repair, add to, subtract from, improve, inspect, move, wreck or demolish, for another, any building, excavation or other structure, project, development or improvement attached to real estate, or to do any part thereof.

Commercial vehicle means a passenger automobile, truck, trailer, apparatus, implement or piece of off-highway construction or maintenance equipment, and/or combination of vehicles, that exceed 25-feet long, or 6-feet 8 inches (80-inches) wide, or 6-feet 10-inches tall (82-inches), that is not typically used for general household transportation purposes. Commercial vehicles typically feature trailer hitches, or roof/bed racks, or flat and/or stake-body transport beds, or exterior tool/storage boxes and cabinets, or are registered with a gross vehicle weight rating of 10,100 lbs. or more, or are designed to transport sixteen (16) or more passengers, or requires a commercial license to operate, or any combination thereof.

Construction vehicle means mobile construction equipment, both street legal and off-highway only, including but not limited to, dump trucks, graders, ~~dozers, trenchers~~, back-hoes, ~~front-end~~ loaders, skid loaders, and other similar equipment.

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Double parked means standing or parking a vehicle on the roadway side of a vehicle already stopped, standing or parked at the curb or roadside.

Driver's license means an authorization issued by the department of public safety for operation of a motor vehicle. The term includes a temporary license or instruction permit and an occupational license.

Equipment means a set of tools, devices, kit, peripherals, etc., assembled for a specific purpose to include though not limited to furniture, appliances, and any household items.

Farm equipment means tractors and all accessories and instruments associated with farming and ranching.

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Front yard means:

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(a) For the purposes of an interior lot only, the yard extending across the front of a lot.

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(b) For the purposes of a corner lot only, the yard extending across the front of a lot between the side lot line adjacent to an interior lot or other platted property and the side yard line. A corner lot shall be treated as having two front yards.

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Golf cart shall have the meaning assigned by the V.T.C.A., Transportation Code § 502.001, as amended, and means a motor vehicle commonly referred to as a golf cart which must have a minimum of four wheels and has an attainable top speed not greater than 25 miles per hour on a paved level surface and which is manufactured primarily for transporting persons on a golf course and in compliance with those federal motor vehicle safety standards for low-speed vehicles. Specifically excluded from this definition are those motorized conveyances commonly referred to as all-terrain vehicles ("ATVs"), off-road vehicles, four-wheelers, Mules, Gators and design-altered golf carts which have been altered to allow them to travel at a speed greater than 25 miles per hour.

Large motor vehicle means a motor vehicle, as defined below, which is more than 22 feet in length and/or more than seven feet in height from ground level. Motor vehicles more than seven feet in height due to adaptations specifically to accommodate disabled persons are exempted. This term includes but is not limited to recreational vehicles.

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Deleted: Motor vehicle means any motor driven or propelled vehicle required to be registered under the laws of the State of Texas, and includes trailers, semi trailers and house trailers as those terms are defined in of the Texas Transportation Code.

Leave means for a vehicle operator to vacate the immediate premises of a vehicle for any length of time, typically with the vehicle standing in an illegal fashion, or otherwise having come to rest in an illegal location.

Motor vehicle means any motor driven or propelled vehicle required to be registered under the laws of the State of Texas, as defined in the V.T.C.A., Transportation Code.

Nighttime shall have the meaning assigned by V.T.C.A., Transportation Code § 541.401(5) and means the period beginning one-half hour after sunset and ending one-half hour before sunrise.

Non-commercial vehicle means a passenger automobile, truck, motorcycle, or trailer, and/or combination of vehicles that do not exceed: 25-feet long; or, 8-feet 6-inches (102-inches) wide that is typically used for general household transportation purposes.

Off-highway vehicles (OHVs) means vehicles designed to travel on wheels or tracks in contact with the ground, designed primarily for use off the public highways and generally and commonly used to transport persons for recreational purposes.

Operate means the driving of a vehicle, whether legal or not.

Operator means any person driving and having physical control over a vehicle.

Park or parking means the standing of a vehicle, occupied or not, with the engine turned off, most often with the intention of short-term, temporary storage of the vehicle while it's left unattended, otherwise than temporarily for the purpose of, and while actually engaged in, loading or unloading merchandise or passengers.

Parking area means those areas accessible to the public by motor vehicular traffic and which are designated for temporary parking of motor vehicles, usually in places referred to as parking lots.

Personal watercraft means any equipment used by one or more individuals for recreational or transportation purposes in or on the water and which is powered by a motor and includes the trailer upon which it is transported.

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Properly registered vehicle or trailer means a conveyance, either drawn or self-propelled, duly and officially logged and accounted for by the jurisdiction of record for, but not limited to, the proper and current payment of periodic required taxes and fees (if required), and vehicle safety and operation inspection (if required).

Recreational vehicle includes, but is not limited to, any self-propelled vehicle containing sleeping and other facilities for habitation, or vehicle primarily used for recreational purposes, including but not limited to all-terrain vehicles, boats, boat trailers, camper trailers, jet skis, motorhomes and snowmobiles.

Side yard means any yard which is not a front yard or rear yard and which is behind the front building line, typically the area of yard located between the side of the structure and the side property line.

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Single-family residential zoning district means zoning districts as designated on the official zoning map of the city, and as described in the most recent update to the comprehensive plan.

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Standing means the voluntary interruption of a vehicle's travel for any length of time which results in a condition of no movement by the vehicle, whether the vehicle is attended by its operator or not. Standing is not parking or temporary storage, and does not necessarily have to impede or block traffic.

Stopping means the brief interruption of an attended vehicle's travel, both voluntary and involuntary, which results in a condition of no movement by the vehicle that impedes or has the potential to impede the regular and usual flow of traffic.

Structure means anything built or constructed, composed of parts, or arranged together in any way, including though not limited to containers.

Trailer means a vehicle, with or without motive power, designed to be drawn by a motor vehicle and to transport persons or property.

Trailer, boat means a trailer for the purpose of moving boats or personal watercraft from place to place.

Trailer, camper means a trailer containing sleeping and other facilities for habitation and intended to be towed or carried by another vehicle.

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

Trailer, semi 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.

Trailer, travel means a vehicular, portable structure built on a permanent chassis, designed by the manufacturer to be towed by another vehicle and used as a temporary dwelling or providing temporary living quarters usually for recreational use.

Trailer, utility includes, but is not limited to, a trailer generally used for the hauling of miscellaneous household, yard materials or snowmobiles or OHVs.

Vacant lot means a plot of land with no surface improvements, typically not in use for any reason. Farmland, pasturage, agricultural land, and property currently or imminently undergoing development activity for which a valid development permit is issued and active, are not to be considered vacant.

Vehicle means a device that can be used to transport or draw persons or property.

Vehicle load limit means any axle or gross weight limit as established by V.T.C.A., Transportation Code § 621.101.

(Ord. No. 339, § 2, 7-6-1999) (Ord. No. 783 , § 2, 3-4-2014)

Sec. 47-2. - Dual Character of Violations.

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Single-family residential zoning district means zoning districts as designated on the official zoning map of the city, and as described in the most recent update to the comprehensive plan.

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Violations to this Chapter may be pursued either as a violation of City Code, or as a violation of the V.T.C.A., Transportation Code, depending on the citation issuer's discretion and authority, but not both.

Secs. 47-3—47-25. - Reserved.

ARTICLE II. - PARKING

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DIVISION 1. - GENERALLY

DIVISION 2. - NON-COMMERCIAL VEHICLES

Sec. 47.26. - Restricted parking on streets.

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- (a) It is unlawful for a person to leave, stand or park a large motor vehicle, travel trailer, personal watercraft or boat, either attached or unattached to a motor vehicle on a public street in any zoning district in excess of 24 hours.
- (b) It is unlawful for a person to stop, park or leave standing any vehicle, whether attended or unattended, upon the main-traveled part of a street, in a manner or under any condition which leaves available less than twenty (20) feet of the width of the street for the free movement of vehicles, except in emergency situations.

Sec. 47.27. - Parking limited by specific time.

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When signs or markings are placed on a public street or in a public area giving notice thereof, no person shall stop, stand or park a vehicle for a period of time:

- (a) longer than the time indicated on the signs or markings; or
- (b) during a time expressly prohibited by signs or markings.

A separate violation of this section shall be deemed committed for each period of time, regardless of whether the violations occur on a single day and at the same location.

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Sec. 47.28. - Tow-away zones.

- (a) Notwithstanding any section of this chapter, any street, alley or city owned property or part thereof may be designated as a no parking tow-away zone by separate ordinance.
- (b) When signs or markings are placed giving notice thereof, no person shall park a vehicle in any area designated as a no parking tow-away zone.
- (c) Any person designated by the city may authorize the removal of a vehicle parked in a no parking tow-away zone. The owner and operator of the vehicle are liable for all reasonable towing and storage fees incurred in the removal and storage of the vehicle.

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Sec. 47.29. - Parking in public alleys.

(a) It is unlawful for a person to park a vehicle and leave it unattended within an alley in any manner or under any condition which leaves available less than ten feet of the width of the alley for the free movement of vehicles, except for the active and expeditious loading and unloading of freight.

(b) It is unlawful for a person to stop, stand or park a vehicle within an alley in any position which blocks a driveway entrance to any abutting property.

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Sec. 47.30. - Parking in front of residential mail boxes.

(a) It shall be unlawful for any person to park a vehicle on a public street from 10:00 a.m. to 3:00 p.m., Monday through Saturday within three feet of either side of a curbside single-family residential mailbox used for the delivery of mail by the United States Postal Service. The restrictions in this section shall not apply on federal holidays observed by the United States Postal Service or other days when mail is not delivered by the United States Postal Service.

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(b) Nothing in this section shall prohibit a person from temporarily parking a vehicle that remains attended for the purpose of loading or unloading passengers or cargo.

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Sec. 47.31. - Parking for certain purposes prohibited.

It is unlawful for a person to park a vehicle upon any street for the purpose of:

(a) displaying the vehicle for sale; or,

(b) repairing the vehicle, except repairs necessitated by an emergency; or,

(c) the display of advertising.

Sec. 47.32. - Parallel and angle parking.

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(a) Upon those streets that have been signed or marked for angle parking, it is unlawful for any person to park or stand a vehicle other than at the angle to the curb or edge of the roadway indicated by signs or markings.

(b) Whenever parking spaces are marked by lines on the pavement, whether for parallel or angle parking, a vehicle must be parked entirely within the lines of the parking space.

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Sec. 47.33. - Parking or loitering near hazardous or congested places.

(a) The city manager's designee is authorized to determine and designate, by signs or markings, places in which the stopping, standing or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic.

(b) When official signs or markings are placed at hazardous or congested places as authorized in subsection (a) of this section, it is unlawful for a person to stop, stand or park a vehicle in these designated places.

(c) It is unlawful for a person to loiter in medians or near corners, sidewalks, crosswalks or intersections of congested roads for the solicitation of money. The selling or promotion of goods and services is lawful, if:

(1) Carried on by Emergency services departments within city limits; or,

(2) Involves the selling of newspapers with a reflective vest; or,

(3) Is conducted by a non-profit with a permit and reflective vest.

(d) It is unlawful for a person to park a vehicle within a median, except for an emergency. Emergency services vehicles and municipal vehicles may park in medians if the situation is warranted.

Sec. 47.34. - Curb loading zones.

(a) The city manager's designee is authorized to determine the location of curb loading zones and shall place and maintain appropriate signs or markings indicating the zones and stating the hours during which they are applicable.

(b) The city manager's designee may designate temporary parking spaces on a public street for loading zone parking by placing signs giving notice of such designation for special events or circumstances.

(c) No person shall stop, stand or park a vehicle for any purpose or period of time, other than for the expeditious loading or unloading of passengers or freight, in any place officially designated by signs or markings as a curb loading zone during hours when the regulations applicable to the curb loading zone are effective.

Sec. 47.35. - Disabled parking spaces.

The city manager's designee is authorized to determine the location for parking spaces for vehicles transporting persons with disabilities, and shall place and maintain appropriate signs and markings indicating these parking spaces. No person shall stand or park a vehicle in a handicapped parking space unless authorized to do so under state law.

Sec. 47.36. - Parking prohibited on front and side yards.

It is unlawful for a person to park or allow to remain parked a motor vehicle, large motor vehicle, farm equipment, construction vehicle, boat, personal watercraft or trailer of any kind at any time in the side or front yard, in any single-family residential zoning district.

Sec. 47.37. - Exceptions.

(a) It is an exception to the prohibition in section 47.36 if all wheels of the motor vehicle, large motor vehicle, travel trailer, boat or personal watercraft parked in the front yard are on a permanently maintained parking area extending from the curb, street, or alley in a contiguous course, and constructed of any combination of:

(1) Approved ground covering with barriers or permanent curbing to define the driveway;

(2) Concrete;

(3) Brick; or

(4) Asphalt; or

(5) Pavers.

(b) It is an exception to the prohibition in 47.36 if the motor vehicle, large motor vehicle, travel trailer, boat or personal watercraft is parked in the side yard and the vehicle is screened from view from the public right-of-way by an opaque fence at least six feet in height.

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Sec. 47.38. - Parking prohibited on vacant lots.

(a) It is unlawful for a person to park or allow to remain parked at any time on a vacant lot in any zoning district more than two of the following:

- (1) A motor vehicle;
- (2) A large motor vehicle;
- (3) A travel trailer;
- (4) A boat or personal watercraft.

(b) It is unlawful for a person to park or allow to remain parked a semi-trailer, pole trailer, or any other trailer, commercial vehicle, construction vehicle or farm equipment on a vacant lot in any zoning district. Agriculture-related equipment may be parked/left standing on lots or parcels actively used for agricultural/silvicultural purposes.

Sec. 47.39. – Parking other than Non-Commercial vehicles in residential areas.

(a) Except as provided in subsection (a)(1), (2), or (3) of this section, no person shall park or leave standing any trailers, utility trailers, recreational vehicles, campers, boats, watercraft, snowmobiles, OHVs, structures, equipment, or apparatuses on a city street, road or public right-of-way within a residential district in the city. This does not apply to trash, recycling, compost receptacles used or regulated by the city or other contracted disposal service when placed overnight. Exceptions to paragraph (a) are granted for the following:

- (1) Actively loading or unloading the recreational vehicle, trailer, utility trailer, camper, or boat.
 - (2) Structures, equipment, and apparatuses may be left standing on the right-of-way temporarily for purposes such as loading/unloading and movement onto private property, and:
 - a. Not to exceed 24 hours regardless of whether the property is moved to a different location within the public right-of-way.
 - b. Remains contiguous/abutted to the curb of the residence (not further than 18 inches).
 - c. Does not obstruct traffic or create any safety hazards to motorists, pedestrians, etc.
 - d. Reoccurrence of the specific property left on the public right-of-way does not exceed once per 30 days.
 - (3) For a period of not more than 72 hours, once every 30 days, a trailer, utility trailer, camper, personal watercraft, or other recreational vehicle may be parked or left standing on a city street, road or public right-of-way if the trailer or recreational vehicle does not create a traffic hazard, and:
 - a. The trailer, utility trailer, camper, boat, snowmobiles, OHVs, [or] other recreational vehicle is parked or left standing continuous to a residence by the occupant of that residence or by a person visiting the residence with the residential occupants' permission and the trailer, utility trailer, camper, boat, other recreational vehicle is not parked in a manner to violate any state laws.
 - b. It shall not be a defense that the trailers, utility trailers, campers, boats, snowmobiles, OHVs, or other recreational vehicles, have been moved to a different location within the public right-of-way.
- (b) No person shall park or leave standing any trailers, utility trailers, campers, boats, snowmobiles, OHVs, other recreational vehicles, structures, equipment, or apparatuses within the city limits in such a manner to impede a safe traffic flow.
- (c) It shall be prima facie evidence that any property left in the public right-of-way is abandoned if it is not a motor vehicle or trailer as defined in this division.

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- (d) Any vehicle parked or left standing in the public right-of-way that is not legally and properly registered and inspected as required by the county and state in which it is registered shall be considered abandoned/illegally parked or left standing and subject to citation or removal/tow by the Kyle Police Department as according to state law.
- (e) Structures, equipment and apparatuses will be considered abandoned property if not removed after 48 hours. The city maintains the authority to remove such property and may do so if said property is not removed within 48 hours. If said structures, equipment or apparatuses are obstructing traffic or creating a hazard, it shall be removed immediately. If said structure, equipment and apparatuses are not properly registered, an order shall be submitted to Municipal Court for the disposition of the property.
- (f) The entirety of this division shall not apply to city, state, county or contracted individuals or companies by the same while performing services of official capacity, i.e. vehicles being used to provide any municipal service such as the installation, repair or maintenance of any public street, asset or property, collection of garbage, grounds keeping, etc.; and vehicles being used to install, repair or maintain any public service or utility such as telephone, electricity, cable television, gas, water or sewer lines.
- (g) All costs associated with property removal shall be borne by the owner, operator, person in control of the property or other person responsible for the property.

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Sec. 47-40. - Procedures for abatement.

- (a) The city is obligated to abide by abatement guidelines only for properly registered recreational vehicles and trailers.
- (b) The police department, when desiring to remove a properly registered vehicle or trailer from the public right-of-way, shall comply with the applicable procedures in this section.
- (c) This section does not remove authority of the city to remove/tow vehicles that are abandoned, obstructing traffic, or creating a hazardous situation as outlined in the Texas Transportation Code.
- (d) A written notice stating the nature of the vehicle or trailer and that it must be removed and abated before the expiration of a ten-day period following the date of the notice, shall be mailed, by certified mail with a five-day return receipt requested, to the last known registered owner of the trailer, any lienholder of record and the owner or the occupant of the private premises whereupon such trailer is closest, adjacent and continuous to. If the notice is returned undelivered by the United States Post Office, official action to abate such nuisance shall be continued to a date not less than ten days from the date of such return.
- (e) The Police Department may direct the removal of a trailer that is in violation of this section.
- (f) If the trailer is not removed and abated, in addition to any other procedure authorized by this division, a complaint may also be filed in municipal court for the violation of maintaining a trailer in the public right-of-way; provided that such notice shall not be a requirement for any such complaint being filed in municipal court.
- (g) The administration of the procedures of this section shall be carried out by employees of the city except that the removal of vehicles or parts thereof from property may be accomplished by any other duly authorized person, including authorized wrecker service operators or contractors acting at the direction of the city.

Secs. 47-41—47-60. - Reserved.

DIVISION 3. - COMMERCIAL VEHICLES

Sec. 47-61. - Parking of commercial vehicles.

Commercial vehicles shall not be parked and left overnight upon any public street or public way in the city.

(Ord. No. 339, § 3, 7-6-1999)

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Sec. 47-62. - Commercial vehicles within residential areas.

It shall be unlawful for any person or any owner to leave, park or stand any commercial vehicle within any area zoned as residential according to chapter 53 Zoning.

(Ord. No. 339, § 4, 7-6-1999)

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Sec. 47-63. - Exceptions.

The following vehicles are exempt from the terms of this division while engaged in the listed activity:

- (1) Emergency vehicles (as defined by state law) responding to or from, or at the scene of, an emergency call;
- (2) Vehicles being used to provide any municipal service such as the installation, repair or maintenance of any public street, asset or property, collection of garbage, grounds keeping, etc.; and
- (3) Vehicles being used to install, repair or maintain any public service or utility such as telephone, electricity, cable television, gas, water or sewer line.
- (4) Vehicles engaged expeditiously loading and unloading passengers, freight or merchandise for a period of less than sixty (60) minutes.
- (5) Vehicles engaged in expeditiously loading or unloading freight related to home or business moving for a period of four (4) hours.

(Ord. No. 339, § 5, 7-6-1999)

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Sec. 47-64. - Parking on private property.

It shall be unlawful to park any commercial vehicle on any private property without the consent of the owner of the property.

(Ord. No. 339, § 8, 7-6-1999)

Deleted: 47.53. - Restricted parking on streets. (a) It is unlawful for a person to leave, stand or park a large motor vehicle, travel trailer, personal watercraft or boat, either attached or unattached to a motor vehicle on a public street in any single family residential zoning district in excess of 24 hours. (b) It is unlawful for a person to park a commercial vehicle larger than one-ton capacity, farm equipment or construction vehicle on a street in any single family residential zoning district for a period of more than 60 minutes, except during the process of loading and unloading or active use.

Secs. 47-65—47-70. - Reserved.

DIVISION IV. ENFORCEMENT

Sec. 47-71. - Enforcement Authority.

The chief of police and members of the police department, both regular and reserve officers, code enforcement, and parking technicians, are empowered to enforce this article, as well as persons appointed by the city.

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Deleted: manager are authorized to enforce this division.

(Ord. No. 339, § 6, 7 6 1999)

Sec. 47.72. - Enforcement.

(a) An order filed pursuant to this article may be enforced by:

- (1) A fine as established below in ARTICLE VIII. PENALTY; and
- (2) Impounding the vehicle if the offender has committed three or more parking or stopping offenses in the past calendar year; and
- (3) Imposing an additional fine if the original fine is not paid within a specified time.
- (4) Disposition of property.

Moved (insertion) [27]

Moved (insertion) [28]

Moved (insertion) [29]

Moved (insertion) [30]

Sec. 47-73. - Prima facie evidence.

In any prosecution charging a violation of this article governing the standing or parking of a vehicle, proof that the particular vehicle described in the complaint was parked in violation of this article, together with proof that the defendant named in the complaint was, at the time of such parking, the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during, which such violation occurred.

(Ord. No. 339, § 10, 7-6-1999)

Sec. 47-74. - Impoundment.

Any vehicle which shall be or remain standing or parked upon any public street, avenue, way, alley or other public place that is deemed a hazard may be removed by or upon an order of a police officer. The owner of such vehicle shall be responsible for the payment of any fees incurred for the towing and/or storage of said vehicle.

Moved (insertion) [31]

Sec. 47.75. - Interference with enforcement.

(a) It is unlawful for any person to obstruct, prevent, hinder or interfere with any person engaged in enforcing the provisions of this article. Unlawful interference may include, but is not limited to such actions as:

- (1) Obstructing, preventing, hindering or interfering with any person executing an order of impoundment; or
- (2) Removing, erasing, tampering with or defacing marks made by parking enforcement officers to note the time or location vehicle was found; or
- (3) Removing, destroying or defacing a ticket from another vehicle; or
- (4) Cause or permit placing a ticket from another vehicle on one's vehicle; or,
- (5) Cause or permit placing a previously issued ticket on one's own or another's vehicle.

(b) Parking technicians are authorized to issue citations for violations of this section.

Moved (insertion) [32]

Moved (insertion) [34]

Moved (insertion) [33]

Sec. 47.76. - Parking citations; notices.

(a) A parking citation serves as summons under this article.

(b) A parking citation may be issued by a parking technician, a park ranger, a police officer, a code enforcement officer, or any other authorized parking enforcement agent designated by or upon authority of the city.

(c) If the owner or operator of the vehicle is not present at the time the citation is issued, the person issuing the citation may affix the citation to the vehicle in a conspicuous place.

(d) The citation shall include:

(1) The charged offense;

(2) The date, time and location of the violation;

(3) The make, model and state license plate number of the vehicle, or if the license plate number is not visible or legible, the VIN number or state inspection number in lieu of the license number, or, in the absence of any of the preceding, any other applicable identifying information.

ARTICLE III. - SPECIFIC STREET REGULATIONS^[1]

Footnotes:

--- (1) ---

State Law reference— Authority to alter speed limits, V.T.C.A., Transportation Code § 545.356.

Moved (insertion) [36]

Sec. 47-77. - Regulations on file.

The speed limits, parking regulations, stop, yield and through streets and other specific street traffic regulations are not printed in this Code, but are on file in the city secretary's office.

Secs. 47-78—47-100. - Reserved.

ARTICLE IV. - TRAFFIC CONTROL DEVICES^[2]

Footnotes:

--- (2) ---

State Law reference— Traffic control devices, V.T.C.A., Transportation Code § 544.001 et seq.

Moved (insertion) [37]

Sec. 47-101. - Director of public works duty to install; file report.

(a) The city council shall by ordinance direct that the director of public works shall have the duty of erecting or installing upon, over, along, or beside any highway, street or alley signs, signals and markings, or cause the same to be erected, installed or placed in accordance with this article and consistent with the Texas Manual of Uniform Traffic Control Devices for Streets and Highways, volumes I and II. Said traffic control devices shall be installed immediately or as soon as such specific device, sign or signal can be procured.

(b) Whenever the director of public works has erected and installed any official traffic control device, signal or sign at any location in the city, or has caused the same to be done under his directions, in obedience to this article, the Texas Manual of Uniform Traffic Control Devices for Streets and Highways, volumes I and II, or another ordinance directing the erection of such device, signal or sign shall thereafter file a report with the city secretary in writing and signed officially by the director of public works, where the same was erected or installed. The city secretary shall file and maintain such report of the director of public works among the official papers of the office of the city secretary.

(Ord. No. 102B, § 6, 6-17-1980)

Sec. 47-102. - Records to be prima facie evidence.

It being unlawful for any person other than the director of public works, acting pursuant to an ordinance of the city, to install or cause to be installed any signal, sign or device purporting to direct the use of the streets or the activities on those streets of pedestrians, vehicles, motor vehicles, or animals; proof, in any prosecution for a violation of this article or any traffic ordinance of the city, that any traffic control device, sign, signal or marking was actually in place on any street shall constitute prima facie evidence that the same was installed by the director of public works pursuant to the authority of this article and of the ordinance directing the installation of such device, signal or marking.

(Ord. No. 102B, § 7, 6-17-1980)

Secs. 47-103—47-149. - Reserved.

ARTICLE V. - SCHOOL CROSSING GUARDS⁽³⁾

Footnotes:

--- (3) ---

State Law reference— School crossing guards, V.T.C.A., Local Government Code § 343.001 et seq.

Sec. 47-150. - Appointment; compensation; equipment.

- (a) The authorities of the city's schools may appoint school guards for each school.
- (b) The appointed school crossing guards may be nonpaid volunteers or may be hired for compensation.
- (c) Compensation for hired school crossing guards will be the responsibility of the school system authority.
- (d) All the school crossing guard equipment to be furnished by the school system.

(Ord. No. 219, § 1, 4-7-1987)

Sec. 47-151. – Instruction required; safety equipment.

- (a) School crossing guards shall attend a minimum of eight hours of instruction from the city police department in conjunction with the school authorities pertaining to the duties and authority of a school crossing guard before being allowed to act in the capacity of a school crossing guard.
- (b) School crossing guards shall be required to wear distinctive, highly visible, and uniformly marked safety vests and other equipment, as appropriate, to be approved by the city police department.

(Ord. No. 219, § 2, 4-7-1987)

Sec. 47-152. – Instruction Content.

- (a) Instruction of school crossing guards shall be in the form of classroom training and actual crossing instruction.
- (b) Instruction of school crossing guards shall contain, but not be limited to:

- (1) School rules.
- (2) Legal authority.
- (3) Crossing safety procedures.
- (4) Emergency procedures.

(Ord. No. 219, § 3, 4-7-1987)

Sec. 47-153. - Authority.

School crossing guards shall have the authority to control the crossing of children in locations approved by the city.

(Ord. No. 219, § 4, 4-7-1987)

Sec. 47-154. - Article not to limit.

This article does not limit the authority of the city to employ school crossing guards.

(Ord. No. 219, § 5, 4-7-1987)

Sec. 47-155. - City not obligated to provide guards.

The authorities of the city schools and the city shall not, by this article, be obligated to provide school crossing guards.

(Ord. No. 219, § 6, 4-7-1987)

Secs. 47-156—47-181. - Reserved.

ARTICLE VI. - GOLF CARTS

Sec. 47-182. - Permitted locations of operation.

Golf carts are permitted to be operated on:

- (1) Streets ("permitted streets") that provides for no more than two lanes of vehicular traffic per direction, where the posted speed limit is 35 miles per hour or less, and the street is not designated as part of a state highway system, including Interstate Highway 35;
- (2) A "public highway" as defined by the V.T.C.A., Transportation Code § 502.001, if the public highway is in the corporate limits of the city; and,
- (3) A parking area as defined by this chapter.

(Ord. No. 783 , § 3, 3-4-2014)

Sec. 47-183. - Registration permit.

- (a) All golf carts operated on permitted locations shall be registered with the city. The chief of police shall establish registration procedures and shall cause a permit to be issued to all applicants who have fulfilled the proper registration requirements. The city council of the city shall review and approve the registration requirements before the requirements are effective.

(c) The cost for the permit from the city shall be \$20.00, and the permit shall expire on annually on December 31.

(Ord. No. 783 , § 4, 3-4-2014)

Sec. 47-184. - Required equipment.

(a) A golf cart must be equipped with the following equipment as mandated by the V.T.C.A., Transportation Code § 551.404(a), as amended, and/or required by the city to operate on permitted locations:

- (1) Operational headlamps;
- (2) Operational tail lamps;
- (3) Side reflectors;
- (4) Operational parking brake; and
- (5) Rearview mirror(s)

(b) A golf cart that is operated at a speed of not more than 25 miles per hour shall display a slow-moving-vehicle emblem when it is operated on a public highway, as defined by V.T.C.A., Transportation Code § 502.001.

(c) Additionally, golf carts driven during the nighttime shall be equipped with the following:

- (1) Turn signals;
- (2) Horn;
- (3) Brake lights; and
- (4) Seat belts.

(d) Equipment and its installation must meet standards provided by Texas Transportation Code, as amended.

(e) All such safety equipment shall be maintained as required by state law.

(Ord. No. 783 , § 5, 3-4-2014)

Sec. 47-185. - Operation regulations.

(a) All registered operators of golf carts shall:

- (1) Be licensed to operate a motor vehicle as provided by V.T.C.A., Transportation Code § 521.021, as amended, and carry a valid driver's license as provided by V.T.C.A., Transportation Code § 521.025, and all driver's license permissions and restrictions shall apply to the operating of a golf cart;
- (2) Abide by all traffic regulations applicable to vehicular traffic when operating a golf cart in the city;
- (3) Use standard hand signals for turning during daylight if the operator's golf cart is not equipped with turn signals;
- (4) Not operate or park a golf cart on a sidewalk at any time;
- (5) Not pull any object or person with a golf cart in a permitted location;
- (6) Maintain financial responsibility as required for other passenger vehicles in the V.T.C.A., Transportation Code § 601.051;

(7) Not intentionally or knowingly allow an unlicensed or unregistered operator to operate a golf cart in violation of this chapter;

(8) Not exceed the seating capacity of the golf cart as designed by the manufacturer;

(9) Be allowed to cross streets which are otherwise not permitted locations under this article.

(b) Operators and passengers of golf carts shall:

(1) Remain seated at all times while the golf cart is in motion;

(2) Be three years old or older.

(Ord. No. 783 , § 6, 3-4-2014)

Sec. 47-186. - Reserved.

ARTICLE VII. - USE OF PORTABLE ELECTRONIC DEVICES WHILE OPERATING A MOTOR VEHICLE OR BICYCLE

Sec. 47-187. - Definitions.

Engaging in a call means talking, dialing, or listening on a hand-held wireless communication device, including holding a wireless communication device to activate or deactivate the device.

Hand-held wireless communication device means a text-messaging device or other electronic, two-way communication device that uses a commercial mobile service, as defined by 47 U.S.C. § 332, that is designed to receive and transmit voice communication, text message or pictorial communication, or both, whether by internet or other electronic means. The term also includes devices such as mobile telephones, personal digital assistants (PDA), MP3 or other portable music players, electronic reading devices, laptop computers or tablets, portable computing devices, portable global positioning or navigation systems, pagers, electronic game devices and broadband personal communication devices.

Hands-free wireless communication device means a mobile telephone, a device with speakerphone capability, a telephone attachment, or another function or other piece of equipment, regardless of whether or not permanently installed in a motor vehicle, that allows use of the wireless communication device without use of either of the operator's hands (or prosthetic device or aid in the case of a physically disabled person).

Operating a motor vehicle includes motor vehicle that is moving, stopped or standing on a public street, highway or right-of-way, unless it is lawfully parked as that term is defined herein.

Park or parked shall mean for the operator to completely cease movement of a motor vehicle in a lawful manner and location. For the purposes of this article, "parked" does not mean a vehicle stopped in a lane of traffic due to either a lawful traffic control device, or the conditions on the roadway, or traffic congestion patterns then existing.

Text message means a two-way communication (whether real-time or asynchronous) in which data (composed in whole or in part of text, numbers, images, or symbols) is sent, entered, or received by a method other than by voice and transmitted through either a short message service (SMS) or a computer network. This term includes instant messaging and e-mail. The term does not include a communication transmitted through a global positioning or navigation system.

(Ord. No. 867 , § 1, 9-1-2015)

Sec. 47-188. - Prohibited.

It is an offense if the person uses a hand-held wireless communication device while operating a motor vehicle or bicycle to:

- (1) Engage in a call;
- (2) Send, read or write a text message;
- (3) Take or view pictures or written text whether transmitted by internet or other electronic means, or access or view an internet website or software application;
- (4) Engage in gaming; or
- (5) Engage in any other use of the device while operating a motor vehicle. This includes holding the hand-held wireless communication device.

(Ord. No. 867 , § 1, 9-1-2015)

Sec. 47-189. - Exceptions.

This article does not apply to an operator of a motor vehicle using a hand-held wireless communication device:

- (1) While the vehicle is legally parked as that term is defined herein, or is being driven on private property;
- (2) That is used with a hands-free wireless communication device;
- (3) If the operator is a law enforcement officer, firefighter, member of a governmental or private emergency medical services function, or member of a governmental emergency management function, and the operator is using the device to conduct official business related to the position; or
- (4) Who is licensed by the Federal Communications Commission while operating a radio frequency device, other than a hand held wireless communication device; or an operator using a two-way radio communication device.

(Ord. No. 867 , § 1, 9-1-2015)

Sec. 47-190. - Affirmative defense.

It shall be an affirmative defense to prosecution under this article that the person was using a hand-held wireless communication device for the purpose of:

- (1) Reporting illegal activity to a law enforcement agency;
- (2) Communicating with an emergency response operator, a fire department, a law enforcement agency, a hospital, a physician's office, or a health clinic regarding a medical or other emergency situation; or
- (3) In the reasonable belief that a person's life or safety is in immediate danger.

(Ord. No. 867 , § 1, 9-1-2015)

Secs. 47-191—47-200. - Reserved.

ARTICLE VIII. PENALTY

Sec. 47-201. - Penalty.

Any person who shall violate any of the provisions of this chapter, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of \$200.00. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

Sec. 47-202. – Special Penalty for the Use of Portable Electronic Devices While Operating a Motor Vehicle or Bicycle.

(a) A person convicted of an offense under this article shall be fined in accordance with the following:

- (1) First offense shall have a minimum fine of \$100.00 and a maximum fine of \$500.00;
- (2) Second offense shall have a minimum fine of \$200.00 and a maximum fine of \$500.00; and
- (3) Third and subsequent offenses shall have a minimum fine of \$500.00.

(b) Each day's violations shall constitute a separate and distinct offense. Any prior conviction under this article will count towards a second and third charge regardless of when it occurred.

(c) An offense under this article is not a moving violation and may not be made a part of a person's driving record or insurance record.

(d) To the extent that this article conflicts with the V.T.C.A., Transportation Code § 545.424, as amended, regarding the use of wireless communication devices while operating a motor vehicle by minors, or V.T.C.A., Transportation Code § 545.425, as amended, regarding use of wireless communication devices in school crossing zones, state law shall control.

(Ord. No. 867 , § 1, 9-1-2015)

Sec. 47.203. – Penalties for parking violations.

(a) Any person who shall violate any of the provisions of this chapter, or shall fail to comply therewith, or with any of the requirements thereof, within the city limits shall be deemed guilty of an offense and shall be liable for a fine not to exceed the sum of \$200.00 but not less than \$30, except for disabled parking violations which shall be a minimum of \$250. Each day the violation exists shall constitute a separate offense. Such penalty shall be in addition to all the other remedies provided herein.

(b) In addition to the penalties provided for in subsection (a), a vehicle with three or more unpaid adjudicated parking violations within a calendar year may be either immobilized by the attachment of a vehicle immobilizing device or impounded and towed to a vehicle storage facility at the owner's expense in accordance with the provisions of this article.

(c) An administrative fee of \$25.00 to defray the city's costs in administering and enforcing orders pursuant to this article will be charged for each vehicle ordered immobilized or impounded.

(d) Special hazard designations of certain No Parking Zones made by the Fire Marshall or his or her appointee, shall have fines doubled for violators parking in said hazard designated zones, which typically are high traffic roads or necessary thoroughfares for emergency service vehicles with narrow pavement width curb face to curb face. Such designations shall be adopted by ordinance of the City Council, and signage placed to indicate such designation before parking fines shall be doubled in any designated area.

Moved (insertion) [12]

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.

Moved (insertion) [1]

Moved (insertion) [3]

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.

Moved (insertion) [2]

Section 5. 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.

Moved (insertion) [4]

PASSED AND APPROVED on this the _____ day of _____, 2017.
FINALLY PASSED AND APPROVED on this the _____ day of _____, 2017.

Moved (insertion) [5]

ATTEST: _____ **The City of Kyle, Texas**

Jennifer A. Vetrano, City Secretary R. Todd Webster, Mayor