

ORDINANCE NO. 2789

AN ORDINANCE REGULATING TRAFFIC UPON THE STREETS, ALLEYS AND HIGHWAYS OF THE CITY OF GARDNER, KANSAS; INCORPORATING BY REFERENCE THE “STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES: EDITION OF 2023” AND ALL ACTS SUPPLEMENTARY AND AMENDATORY THERETO, PREPARED AND PUBLISHED IN BOOKLET FORM BY THE LEAGUE OF KANSAS MUNICIPALITIES; CERTAIN CHAPTERS OF TITLE 10 OF THE MUNICIPAL CODE OF THE CITY OF GARDNER, KANSAS 2023 EDITION, WITH CERTAIN DELETIONS, OMISSIONS, CHANGES AND ADDITIONS; PRESCRIBING ADDITIONAL REGULATIONS; AND REPEALING ORDINANCE NO. 2761, UNDER THE PROVISIONS OF K.S.A. 12-3009 THROUGH 12-3012 AND K.S.A. 12-3301 AND 12-3302.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF GARDNER, KANSAS;

SECTION ONE: That certain standard code known as the “Standard Traffic Ordinance for Kansas Cities: Edition of 2023”, prepared and published by the League of Kansas Municipalities, is hereby incorporated by reference herein and made a part of this Ordinance, including supplements and amendments thereto, save and except such portions as may hereinafter be deleted, added, or amended, as authorized and in the manner prescribed by the Statutes of the State of Kansas.

SECTION TWO: That Ordinance 2761, as amended, is repealed and Chapter 10.05 is amended to read as follows:

CHAPTER 10.05 Standard Traffic Ordinance

10.05.010 STANDARD TRAFFIC ORDINANCE

The certain standard code known as the “Standard Traffic Ordinance for Kansas Cities: Edition of 2023”, prepared and published by the League of Kansas Municipalities, is hereby incorporated by reference herein and made a part of this chapter, including supplements and amendments thereto, save and except such portions as are hereinafter be deleted, added, or amended by this chapter. (K.S.A. 12-3009 through 12-3012, 12-3301 and 12-3302)

10.05.020 MARKED COPIES OF STANDARD CODE ON FILE.

No fewer than three copies of the standard code shall be marked or stamped “Official Copy as Incorporated by Ordinance No. 2789”. All sections or portions of the filed copies of the standard code shall be clearly marked to show deletions from the standard code. Any additions shall be clearly described to show such addition to said standard code, and a copy of the Ordinance shall be open to inspection and available to the public at all reasonable business hours. The Police Department, Municipal Court Judge and all administrative departments of the City charged with the enforcement of the Ordinance shall be supplied, at the cost of the City, such number of official copes of said standard code, similarly marked, deleted and changed, as may be deemed expedient.

SECTION THREE: That Ordinance 2761, as amended, is repealed and Chapter 10.10 is amended to read as follows:

CHAPTER 10.10 Local Traffic Regulations

10.10.010 AMENDMENTS TO STANDARD TRAFFIC ORDINANCE – PENALTIES.

The Governing Body of the City of Gardner, Kansas, on the basis of an engineering and traffic investigation conducted by the Police Department of the City of Gardner, Kansas, and adopted by the Governing Body of the City of Gardner, Kansas, pursuant to its authority under K.S.A. 8-1560, K.S.A. 8-2002 and all acts supplemental and amendatory thereto hereby deems it advisable to add Section 29.1, add Section 30 (b)(1)(C) and (D), add Section 33 (d), add Section 83.1, add Section 85.1, add Section 85.2, add Section 106 (a)(4), and replace Section 175.1 with Section 175.2 of said standard code adopted in GMC 10.05.010 to read as follows:

A. SECTION 29.1. Careless Driving

- (a) Any person who shall operate or halt any vehicle in such a manner as to indicate a careless or heedless disregard for the rights or the safety of others or in such manner as to endanger or to be likely to endanger any person and/or personal property, is guilty of careless driving.
- (b) This offense shall be considered a traffic infraction.

B. SECTION 30(b)(1). Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.

(b) Driving under the influence is:

(1) An Ordinance Violation,

(A) On a first conviction of a violation of this section, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;

(B) On a second conviction of a violation of this section the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the residence provided for in the house arrest agreement shall not be counted as part of 120 hours;

(C) On a third conviction of a violation of this Section, a person shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750.00 nor more than \$2,500.00. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program.

The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

(D) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

SECTION 30(b)(2)

(2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

C. SECTION 33(a)(1) Maximum Speed Limits

(a)(1) Deleted.

SECTION 33(d). Maximum Speed Limits

(d) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this section or established as hereinafter authorized shall be the maximum lawful speeds, and no persons shall drive a vehicle at a speed in excess of such maximum limits.

1. 25 miles per hour on any street or highway unless posted otherwise;
2. 20 miles per hour in any park unless posted otherwise; and
3. School zones shall have reduced limits as posted while school is in session.

Whenever it is determined on the basis of an engineering and traffic investigation that any speed limit posted is greater or less than is reasonable or safe under the conditions found to exist, the Governing Body shall declare and determine a reasonable and safe speed limit and cause appropriate signs to be erected as set forth in the Gardner Speed Limit Map maintained by the City Engineer.

D. SECTION 83.1. Vehicle Idling Prohibited

1. Definitions.

IDLE—The motor vehicle operating mode consisting of a nonleaded, throttled engine speed at the revolutions per minute specified by the manufacturer.

and
MOTOR VEHICLE—any on road, self-propelled vehicle that is required to be registered and have a license plate by the Department of Motor Vehicles.

PERSON—Corporations, companies, associates, societies, firms, partnerships, and joint-stock companies as well as individuals, and shall also include all political subdivisions of this state or any agencies or instrumentalists thereof.

PUBLIC AND PRIVATE PROPERTY—All real estate within the City, including Inter alia, public and private parking lots, on which a motor vehicle may be physically located except for the public streets and highways within the city.

RESTRICTED IDLING ZONES—Areas within City limits that are considered moderate to high emission zones.

2. Idling Prohibited; Motor Vehicles.

A. No person shall cause, suffer, allow or permit the engine of a motor vehicle to idle for more than ten (10) consecutive minutes if the vehicle is within one of the designated areas of limited idling zones that include:

1. Any City parking lot or city property,
2. Any City owned or operated park area including but not limited to the municipal golf course,
3. Pick-up or drop-off areas on all school property, parking lots, and commercial delivery/loading zones,
4. Commercial and Industrial delivery zones, including but not limited to private drives or area leading to the delivery zone.

B. Subsection A of this section shall not apply to the following:

1. Emergency vehicles,
2. RV's, school buses, other modes of public transit, and charter buses,
3. Temperatures below 32 degrees and in excess of 85 degrees per the National Oceanic and Atmospheric Administration (NOAA).

C. Upon conviction of a first offense of this section, the defendant shall be fined not less than \$50.00 nor more than \$1,000.00. Upon conviction for a second offense, within a twenty-four (24) month period, the defendant shall be fined not less than \$100.00 nor more than \$1,000.00. Upon conviction of a third offense of this section, within a twenty-four (24) month period, the defendant shall be fined not less than \$250.00 nor more than \$1,000.00. No portion of any minimum fine assessed pursuant to this section shall be suspended nor shall the defendant be placed on parole from any portion of the penalty assessed.

E. SECTION 85.1. Parking In Certain Designated Areas Prohibited

- (a) No person shall park, stop, or operate a motor vehicle in or on any private or public parking area or lot that is posted with notice of prohibited parking signs posted as provided herein.
- (b) The provisions of this section shall not be applicable to any parking lot or area unless the following signage is clearly and properly posted at all entrances to said parking areas or lots, to-wit:

NOTICE

Pursuant to City of Gardner Standard Traffic Ordinance Section 85.1, no parking, stopping, or operation of a motor vehicle is permitted in this parking area or lot during the hours of _____ to _____. Conviction of a violation of this section shall result in a minimum fine of \$100.00.

- (c) The provisions of this section shall not apply to individuals conducting business or working on the premises of building served by the posted parking areas or lots.
- (d) Upon conviction of a first offense of this section, the defendant shall be fined not less than \$100.00 nor more than \$1,000.00. Upon conviction for a second offense, within any given twelve-month period, the defendant shall be fined not less than \$250.00 and not more than \$1,000.00. Upon conviction of a third offense of this section during any twenty-four month period, the defendant shall be fined not less than \$500.00 nor more than \$1,000.00. No portion of any minimum fine assessed pursuant to this section shall be suspended nor shall the defendant be placed on parole from any portion of the penalty assessed.

F. SECTION 85.2. Parking Restrictions in Residential Zoning Districts.

- (a) No person shall park any motor vehicle other than an operable passenger car; passenger van with rear side windows and rear passenger seats; pickup truck not modified with aerial buckets or platforms (e.g. "cherry pickers"), welding equipment, and mechanical lifts or arms designed to assist in loading and unloading freight, or motorcycle; on any street or alley within a residential zoning district except when necessary for loading and unloading or within the performance of a service, and construction vehicles while being used in connection with construction or maintenance authorized by the City or upon property in the block the vehicle is parked.
- (b) Passenger car, passenger van, pickup truck, or motorcycle means a vehicle licensed for use on public streets; designed primarily for the transportation of people as opposed to equipment, freight, or other vehicles; and sold primarily to individuals for personal use.
- (c) Trailers attached or detached from a passenger car, passenger van, pickup truck, or motorcycle are not allowed.
- (d) Upon conviction of a first offense of this section, the defendant shall be fined not less than \$100.00 nor more than \$1,000.00. Upon conviction for a second offense, within any given twelve-month period, the defendant shall be fined not less than \$250.00 and not more than \$1,000.00. Upon conviction of a third offense of this section during any twenty-four-month period, the defendant shall be fined not less than \$500.00 nor more than \$1,000.00.

G. SECTION 135.1 Electric-Assisted Scooters, Traffic Law Application

(d) A person riding an electric assisted scooter shall not be required to maintain: (1) vehicle liability insurance coverage; (2) a driver's license; (3) vehicle registration; (4) a certificate of title; or (5) a license plate. An electric-assisted scooter shall not be considered a motor vehicle.

(e) It shall be unlawful for any person to operate an electric-assisted scooter at a speed in excess of seventeen (17) miles per hour.

(f) It shall be unlawful for any person to operate an electric-assisted scooter on a street with a posted speed limit greater than thirty-five (35) miles per hour.

H. SECTION 175.1 Compression Release Engine Braking System.

(a) It shall be unlawful for the driver of any motor vehicle to use or cause to be used or operated any compression release engine braking system; provided, however, that such brakes may be used in an emergency situation where the use of an engine braking mechanical exhaust device is necessary for the protection of persons or property.

(b) Upon conviction of a first offense of this section, the defendant shall be mandated to appear in court and shall be fined not less than \$250.00 nor more than \$1,000. Upon conviction of a second offense of this section, within a twenty-four (24) month period, the defendant shall be mandated to appear in court and shall be fined not less than \$350.00 nor more than \$1,000. Upon conviction of a third offense of this section, within a twenty-four (24) month period, the defendant shall be mandated to appear in court and shall be fined not less than \$500.00 nor more than \$1,000. No portion of any minimum fine assessed pursuant to this section shall be suspended nor shall the defendant be placed on parole from any portion of the penalty assessed.

(c) Definition: Compression Release Engine Braking System. A hydraulically operated device that converts a power producing diesel engine into a power absorbing retarding mechanism. (K.S.A. Supp 8-1761).

10.10.020 INVALIDITY IN PART. If any section, subsection, sentence, clause or phrase of this Chapter is for any reason held to be invalid by any court of competent jurisdiction such decision shall not affect the validity of the remaining portions of this Chapter.

10.10.030 PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than \$10.00 nor more than \$2,500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$2,500.00.

10.10.040 CONFLICTING ORDINANCES. Where this chapter conflicts with any other state or federal ordinance, statute, or regulation, the most restrictive ordinance, statute, or regulation shall apply. All local ordinances, or parts of local ordinances, in conflict herewith be and the same are hereby repealed.

SECTION FOUR: This ordinance shall take effect and be in force from and after its publication as provided by law.

PASSED and APPROVED this 18th day of December, 2023.

(SEAL) CITY OF GARDNER, KANSAS

/s/

Todd Winters, Mayor

Attest:

/s/

Renee Rich, Interim City Clerk

Approved as to form:

/s/

Ryan B. Denk, City Attorney