

ORDINANCE NO. 317

**AN ORDINANCE AMENDING TITLE VII OF THE CODE OF THE CITY OF LAKE QUIVIRA, KANSAS REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF LAKE QUIVIRA, KANSAS; INCORPORATING BY REFERENCE THE “2021 STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES,” 48<sup>th</sup> EDITION, WITH AMENDMENTS THERETO; PROVIDING CERTAIN PENALTIES; AND PROVIDING THAT TITLE VII OF THE CODE OF THE CITY OF LAKE QUIVIRA, KANSAS BE AMENDED BY REPEALING CERTAIN SECTIONS THEREOF.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF LAKE QUIVIRA, KANSAS:**

SECTION 1. Section 1 of Title VII of the Code of the City of Lake Quivira, Kansas is hereby amended to read as follows:

**“Section 1. Standard Traffic Regulations**

**A. Incorporating Standard Traffic Ordinance.**

1. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Lake Quivira, Kansas, that certain standard traffic ordinance known as the “2021 Standard Traffic Ordinance for Kansas Cities,” 48<sup>th</sup> edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. At least one (1) copy of the “2021 Standard Traffic Ordinance” shall be marked or stamped “Official Copy as Incorporated by Ordinance No. 317” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this Ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of the 2021 Standard Traffic Ordinance shall be supplied, at the cost of the city, such number of official copies of said Standard Traffic Ordinance similarly marked, as may be deemed expedient.

**B. Traffic Regulations on Private Property.** Whenever the person or organization in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner shall cause to be posted at each entrance thereto a permanently lettered and clearly legible sign, approved in form by the City of Lake Quivira Chief of Police, with the following legend:

**“TRAFFIC REGULATIONS OF THE CITY OF LAKE QUIVIRA, KANSAS ENFORCED ON THIS PROPERTY. SPEED LIMIT 20 M.P.H. (OR AS POSTED)”**

such private property shall thereafter be deemed to be under the speed regulations of



the city and such traffic regulations as contained in Sections 32, 59, 81 and 82 of the 2021 Standard Traffic Ordinance for Kansas Cities, 48<sup>th</sup> Edition.

C. Traffic Infractions and Traffic Offenses.

1. An ordinance traffic infraction is a violation of any section of Title VII that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified a traffic infraction in K.S.A. 8-2118.

2. All traffic violations that are included within Title VII, and are not ordinance traffic infractions, as defined in subsection 1. of this subsection C., shall be considered traffic offenses.

D. 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 more than five hundred dollars (\$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 five hundred dollars (\$500.00).

SECTION 2. Section 2 of Title VII of the Code of the City of Lake Quivira, Kansas is hereby amended to read as follows:

**“Section 2. Amendments to Adopted Standard Traffic Ordinance**

A. Certain sections of the “2021 Standard Traffic Ordinance for Kansas Cities,” as adopted and incorporated pursuant to Section 1 of Article VII herein, are hereby amended as follows:

1. Article 6 of the “2021 Standard Traffic Ordinance for Kansas Cities,” is hereby amended by adding Section 29A which reads as follows:

**“Section 29A. Careless Driving.**

(a) No person shall operate or halt any vehicle in such a manner as to indicate a careless or heedless disregard for the rights or safety of others, or in such a manner as to endanger any person or property.

(b) Upon a first conviction for a violation of this section, a person shall be fined not less than \$25 nor more than \$500. On a second or subsequent conviction of a violation of this section, a person shall be fined not less than \$50 nor more than \$1000.”

2. Section 30 of the “2021 Standard Traffic Ordinance for Kansas Cities,” is hereby amended to read as follows:



**“Sec. 30. Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.**

(a) Driving under the influence is operating or attempting to operate any vehicle within this city while:

(1) The alcohol concentration in the person’s blood or breath as shown by any competent evidence, including other competent evidence, as defined in Section 1 of the Standard Traffic Ordinance, is .08 or more;

(2) The alcohol concentration in the person’s blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is .08 or more;

(3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;

(4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or

(5) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

(b) (1) (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 offender's 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, the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750.00 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.

(2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A), (b)(1)(B), or (b)(1)(C), 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) Any person 18 years of age or older convicted of violating this section who had one or more children under the age of 18 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.



(d) If a person is charged with a violation of subsection (a)(4) or (a)(5), the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.

(e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

(f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division including any finding regarding the alcohol concentration in the offender's blood or breath. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(h) For the purpose of determining whether a conviction is a first, second, or third conviction in sentencing under this section:

(1) Convictions for a violation of this section, K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) Any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:

(A) Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto, or section 30.1 of the Standard Traffic Ordinance;

(B) Operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;



(C) Involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)(3) or (a)(5), and amendments thereto;

(D) Aggravated battery as described in K.S.A. 21-5413(b)(3) or (b)(4), and amendments thereto; and

(E) Aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) **Conviction** includes:

(A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an offense described in subsection (h)(2); and

(B) Conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (h)(1) or (h)(2);

(4) Multiple convictions of any crime described in subsection (h)(1) or (h)(2) arising from the same arrest shall only be counted as one conviction;

(5) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(6) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, only once during the person's lifetime.

(i) For the purposes of determining whether an offense is comparable, the following shall be considered:

(1) The name of the out-of-jurisdiction offense;

(2) The elements of the out-of-jurisdiction offense;

(3) Whether the out-of-jurisdiction offense prohibits similar conduct prohibited by the closest approximate Kansas offense.

(j) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(k) Upon conviction of a person of a violation of this section, the court may order the convicted person to pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(l) Upon the filing of a complaint, citation, or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(m) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq.*, or K.S.A 22-2906 *et seq.*, and amendments thereto, shall not constitute plea bargaining.

(n) The alternatives set out in subsection (a) may be pleaded in the alternative, and the city may, but shall not be required to, elect one or more of such alternatives prior to submission of the case to the fact finder.

(o) As used in this section:

(1) **Imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

(2) **Drug** includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto.”

3. Section 33 of the “2021 Standard Traffic Ordinance for Kansas Cities,” is hereby amended to read as follows:

**“Section 33. Maximum Speed Limits.**

(a) Except when a special hazard exists that requires a lower speed for compliance with Section 32 of the Standard Traffic Ordinance and K.S.A. 8-1557, and amendments thereto, the limits of speed specified in this section or established as authorized by law shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits:

(1) Twenty (20) miles per hour in all locations within the private gated community of Quivira Incorporated within the City of Lake Quivira;

(2) Twenty-five (25) miles per hour in all other locations, unless otherwise posted;

(3) Thirty (30) miles per hour in the following locations:



Holliday Drive, beginning at the East city limit of Lake Quivira, and continuing West as posted;

Renner Rd., as posted;

(4) Thirty-five (35) miles per hour in the following locations:

Holliday Drive, as posted;

Quivira Lane.

(b) No person shall drive a school bus to or from school, or interschool or intraschool functions or activities, at a speed in excess of the maximum speed limits provided in subsection (a), except that the board of education of any school district may establish by board policy lower maximum speed limits for the operation of such district's school buses. The provisions of this subsection relating to school buses shall apply to buses used for the transportation of students enrolled in community colleges or area vocational schools, when such buses are transporting students to or from school, or functions or activities.

(c) The maximum speed limits established by or pursuant to this section may be altered as authorized in K.S.A 8-1559 and 8-1560, and amendments thereto."

4. Section 114.4 of the "2021 Standard Traffic Ordinance for Kansas Cities," is hereby amended to read as follows:

**"Sec. 114.4. Operation and Use of Golf Carts**

(a) The operation of a golf cart is authorized on private property and on public streets and roadways within the corporate city limits of Lake Quivira, except the operation of a golf cart is hereby prohibited on the following roadways:

(1) Holliday Drive

(2) Quivira Lane

(3) Renner Road

(b) No golf cart shall be operated on any public street or roadway between sunset and sunrise unless equipped with lights required for motorcycles as set forth in Sections 183 through 187 of the Standard Traffic Ordinance.

5. Section 114.5 of the "2021 Standard Traffic Ordinance for Kansas Cities," is hereby amended to read as follows:

**"Section 114.5. Operation and Use of Work-Site Utility Vehicles**

(a) It shall be unlawful for any person to operate a work-site utility vehicle within the corporate city limits of Lake Quivira except as specifically authorized herein.



(b) The operation of a work-site utility vehicle is authorized on private property and on public streets and roadways within the corporate city limits of Lake Quivira, except the following roadways:

- (1) Holliday Drive
- (2) Quivira Lane
- (3) Renner Road

(c) Notwithstanding the provisions of subsection (b), the operation of a work-site utility vehicle is allowed on Holliday Drive, Quivira Lane, or Renner Road, if such vehicle is operated during the course of public maintenance or repair of such roadway.

(d) No work-site utility vehicle shall be operated on any public street or roadway between sunset and sunrise unless equipped with lights required for motorcycles as set forth in Sections 183 through 187 of the Standard Traffic Ordinance.”

6. Section 126.2 of the “2021 Standard Traffic Ordinance for Kansas Cities,” is hereby amended to read as follows:

**“Section 126.2 Use of Wireless Communication Devices**

(a) Except as provided in subsections (b) and (c), no person shall operate a motor vehicle on a public road or highway or on a Roadway while using a wireless communications device to write, send or read a written communication. As used in this Section 126.2 herein, the term “Roadway” means any improved surface, intended to serve as a surface for vehicular travel, whether publicly or privately maintained.

(b) The provisions of subsection (a) 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, public road or highway;
- (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.

(c) The provisions of subsection (a) 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.”



**SECTION 3. Repeal.** Sections 1 and 2 of Title VII of the Code of the City of Lake Quivira, Kansas, as such sections existed prior to the above amendments, are hereby repealed. Sections 1.5, 3, 4, 10, and 12 of Title VII of the Code of the City of Lake Quivira, Kansas, are hereby repealed

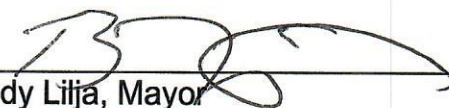
**SECTION 4. Severability.** If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

**SECTION 5. Savings Clause.** Neither the adoption of this Ordinance, nor the future repeal or amendment of any section or part or portion thereof, shall in any manner affect the prosecution for violation of this Ordinance, nor be construed as a waiver of any license, fee or penalty at said effective date and unpaid under this Ordinance, nor be construed as affecting any of the provisions of this Ordinance relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder shall continue in full force and effect.


**SECTION 6. Effective Date.** This ordinance shall be in full force and effect from and after its passage, approval and publication in the official City newspaper, all as provided by law.

PASSED BY THE City Council the 4 day of October, 2021.


APPROVED BY THE Mayor the 4 day of October, 2021.

  
Brady Lilja, Mayor

ATTEST:

  
Kathy Bounds, City Clerk

APPROVED AS TO FORM:

  
Michelle D. Daise, City Attorney





**Ordinance No. 317 Summary**

On October 4, 2021, the Governing Body of the City of Lake Quivira, Kansas passed Ordinance No. 317 providing for the incorporation by reference of the "2021 Standard Traffic Ordinance for Kansas Cities," 48<sup>th</sup> Edition with amendments thereto, providing for certain penalties and providing that certain sections of the Code of the City of Lake Quivira, Kansas be amended or repealed.

A complete text of the Ordinance may be obtained or viewed free of charge at the office of the City Clerk, 10 Crescent Blvd. A copy of the Ordinance will also be available at [www.cityoflakequivira.org](http://www.cityoflakequivira.org) for one week from the date of this publication.

This summary is hereby certified by Michelle D. Daise, City Attorney, as prescribed by K.S.A. 12-3007.

Dated the 4th day of October, 2021.

/s/ Michelle D. Daise

Michelle D. Daise, City Attorney