

Book: 626 Page: 371-375

Receipt #: 53727

Total Fees: No Charge

Pages Recorded: 5

Cashier Initials: MTH

Date Recorded: 1/13/2025 11:47:13 AM
0062600371

RESOLUTION NO. 01-2025

A RESOLUTION BY THE CHEROKEE COUNTY, KANSAS BOARD OF COMMISSIONERS
REGULATING TRAFFIC ON COUNTY ROADS

WHEREAS K.S.A. 19-101 *et. Seq.*, and K.S.A. 19-212 authorize the Cherokee County, Kansas Board of Commissioners (the Board) to transact all County business and perform all powers of local legislation deemed appropriate, and to make all contracts and do all other acts in relation to the property and concerns of the County, necessary to the exercise of its corporate or administrative powers;

WHEREAS Cherokee County Roads were not constructed to accommodate heavy loads associated with certain vehicles transporting products in and through Cherokee County;

WHEREAS the Road and Bridge Supervisor has made an investigation of Cherokee County Roads and determined such roads are subject to damage due to excessive traffic and operations of certain types of vehicles, and therefore recommends the Board adopt appropriate regulations to protect the interest of the County;

WHEREAS heavy traffic and operation of certain vehicles on Cherokee County Roads creates a special condition leading to damage, premature wear, and deterioration, impairing the utility and safety of such roads.

WHEREAS it is the nature of certain types of construction projects to create increased traffic and other damaging activity on Cherokee County Roads;

WHEREAS, K.S.A. 8-2001 authorizes the adoption of additional traffic regulations by local authorities that are not in conflict with the Uniform Act Regulating Traffic, K.S.A. 8-1401, *et seq.*, (the Act);

WHEREAS, K.S.A. 8-2002(a)(14) allows local authorities, with respect to streets and highways under their jurisdiction, and within the reasonable exercise of the police power, to prohibit or regulate the use of heavily traveled streets by any class or kind of traffic found to be incompatible with the normal and safe movement of traffic;

WHEREAS, K.S.A. 8-1912, and amendments thereto, authorizes the Board of County Commissioners to prohibit the operation of trucks or other commercial vehicles, or may impose limitations as to the weight or size thereof, on designated roadways;

WHEREAS, K.S.A. 8-2002(a)(22) authorizes local authorities, with respect to streets and highways under their jurisdiction, and within the reasonable exercise of the police power, to adopt and enforce such temporary or experimental regulations as may be necessary to cover emergencies or special conditions;

WHEREAS, K.S.A. 19-101a authorizes counties to perform all powers of local legislation and administration, including exercise of the police power, as the Board deems appropriate and K.S.A. 19-212 authorizes counties to perform such other duties respecting roads as may be provided by law; and

WHEREAS, the Board, being fully advised on the traffic recommendations and after careful consideration, finds the further regulation of Cherokee County public roads to be in the best interest of the public safety.

NOW, THEREFORE, BE IT RESOLVED, by the Board of County Commissioners of Cherokee County, Kansas, the following traffic regulation is hereby established:

Section 1. Definition.

- (a) **Agricultural Activity.** As used herein, "Agricultural Activity" means:
 - i. the transportation of any crop, seed, fertilizer, or other product for the purpose of planting, harvesting, treating, or maintaining an agricultural crop; or
 - ii. the transportation of machinery or equipment for the purpose of planting, harvesting, treating, or maintaining an agricultural crop, or maintaining agricultural land.
- (b) **Cherokee County Roads.** As used herein, "Cherokee County Roads" means all roads located within the boundaries of Cherokee County, Kansas, but outside the incorporated city limits of any city, for which Cherokee County, Kansas is primarily responsible for the construction and maintenance thereof.
- (c) **Residential Construction Project.** The organized process of constructing, renovating, improving, or demolishing, a single-family dwelling or the real property or structures associated with a single-family dwelling.
- (d) **Local Traffic.** As used herein, "Local Traffic" means operation of a Restricted Vehicle on a County Road:
 - i. By a Cherokee County resident or a business entity with a registered principal place of business located in Cherokee County to the extent it is reasonably necessary to utilize a County Roads for ingress or egress to or from the owner's residence or place of business; or
 - ii. if such vehicle is being utilized to transport materials to or from a residence or place of business in Cherokee County to the extent it is reasonably necessary to utilize a County Roads for ingress or egress to or from the residence or place of business; or

- iii. if such vehicle is being utilized for a Residential Construction Project.
- (e) **Regulated Vehicle.** As used herein, "Regulated Vehicle" means any vehicle designed, used, or maintained for the transportation of persons or property with a gross vehicle weight exceeding 50,000 pounds.

Section 2. Regulated Vehicles Prohibited.

Except as provided herein, it shall be unlawful for any person or entity to operate or cause to be operated, any Regulated Vehicle on Cherokee County Roads.

Section 3. Exceptions.

The prohibition stated in Section 2 shall not apply to any vehicle engaged in any of the following:

- (a) operating a restricted vehicle pursuant to a valid Permit issued by the County;
- (b) emergency services of any fire, police, or ambulance service;
- (c) repair or maintenance of an existing public or governmental utility upon any property accessible only from Cherokee County Roads;
- (d) repair, maintenance, or construction of Cherokee County Roads;
- (e) Agricultural Activity, as defined herein; or
- (f) Local Traffic, as defined herein.

Section 4. Permits.

- (a) **Permit Authorized.** The County Road and Bridge Supervisor may issue a County Road Use Permit authorizing Regulated Vehicles to operate on Cherokee County Roads if, in the Road and Bridge Supervisor's opinion, issuing such permit serves the best interest of Cherokee County.
- (b) **Application.** Application for a County Road Use Permit must be made on a form provided by the Road and Bridge Supervisor.
- (c) **Applicant.** Any person or entity may apply for a County Road Use Permit. If applicable, the applicant shall list any agents, subcontractors, or other parties who intend to operate a Regulated Vehicle pursuant to the County Road Use Permit.
- (d) **Permit Period.** If granted, a County Road Use Permit shall be for a limited period of time, as determined by the Road and Bridge Supervisor. No permit shall be issued for a period of time exceeding one year.

- (e) **Limitations.** The Road and Bridge Supervisor may impose any limits on a County Road Use Permit the Road and Bridge Supervisor deems necessary and appropriate to protect the interest of Cherokee County. Such limits may include, but are not limited to: (i) the type of Regulated Vehicles authorized to operate on Cherokee County Roads; (ii) the number of trips a regulated vehicle may complete within a given time period; (iii) the Cherokee County Roads available for use; and (iv) the time of day Regulated Vehicles are authorized to operate on Cherokee County Roads. The Road and Bridge Supervisor may also require Applicant to execute a Road Use Agreement as a condition of any permit authorized by this Resolution.
- (f) **Inspection.** Any person operating a Regulated Vehicle on a Cherokee County Road shall carry the original permit or a legible copy thereof in the Regulated Vehicle. Upon demand by law enforcement or any agent of Cherokee County, Kansas, the operator of a Regulated Vehicle shall provide the applicable permit for review or inspection.
- (g) **Review.** Any decision of the Road and Bridge Supervisor regarding denial of an application, limitations imposed, or fees assessed may be appealed to the Board of County Commissioners by submitting a written request to the Board within 10 days of such decision. Such hearing shall be held within 30 days of the date such request was received by the Board.
- (h) **Application Fee.** Each applicant shall submit a \$200 nonrefundable application fee with each application for a County Road Use Permit. No fee shall be assessed upon an application made by the State of Kansas or any political subdivision thereof.
- (i) **Bond.** If the Road and Bridge Supervisor determines damage, including excessive wear on roadway surfaces, is likely to be caused to Cherokee County Roads, roadway structures, or adjacent right-of-ways, the Road and Bridge Supervisor may require any person applying for a County Road Use Permit post a bond, in an amount determined by the Road and Bridge Supervisor, conditioned upon compensation of any damage, prior to issuing a County Road Use Permit.

Section 5. Liability.

- (a) Any person operating a Regulated Vehicle on Cherokee County Roads shall be liable for all damage, including excessive wear on roadway surfaces, caused to such roads, roadway structures, or adjacent right-of-ways caused by such operation.
- (b) In the event the operator of a Regulated Vehicle is not the owner of such vehicle, but is operating the same with the express or implied permission of the owner, said owner and operator shall be jointly and severally liable for any damage.
- (c) In the event the operator or owner of a Regulated Vehicle is operating the same as an agent for another person or entity, the principal, such principal, owner, and operator shall be jointly and severally liable for any damage.

(d) Compensation for any damage may be recovered in a civil action brought by Cherokee County, Kansas or as restitution in any prosecution for a violation of this Resolution.

Section 6. Penalty.

Any person or entity violating any provision of this Resolution shall be guilty of an unclassified misdemeanor and shall be fined not less than \$100, nor more than \$500 for each violation.

Section 8. Effective Date.

This resolution shall be effective upon publication once in the official County newspaper.

BE IT RESOLVED this 13th day of January 2025 by the Cherokee County Board of Commissioners.

Approved:

Attest

Myra Carlisle-Frazier
Myra Carlisle-Frazier
County Commissioner

Rebecca Brassart
Rebecca Brassart
County Clerk

Lorie Johnson
Lorie Johnson
County Commissioner

Cory Moates
Cory Moates
County Commissioner

