

To: Mayor Campbell and Members of the City Council

From: Judy K. Parks, City Attorney

Date: April 21, 2015

Subject: Revision of Municipal Code Provision on Use of Child Seats

The Ames Municipal Code Traffic chapter has a provision that requires children being transported in vehicles to be secured in child restraint seats. That code section is section 26.83. This ordinance was enacted in 2004 and was modeled directly on the Child Restraint statute in the Iowa Motor Vehicle Code.

In the intervening years since enactment of the municipal child restraint ordinance, the State Child Restraint law has undergone several revisions, including expanding the age range of children it protects. The City child restraint ordinance has not changed, however, and a recent prosecution made it clear that it would be beneficial to consider revising it so that it again mirrors State law. Making the standard inside the city again consistent in all respects with that which applies outside the city would eliminate confusion for law enforcement and drivers, and it would ultimately protect a larger group of children.

Code changes are typically initiated at the direction of the City Council, so I am bringing this situation to your attention to ask for your favorable consideration by referring this request to the Legal Department to prepare a revised child restraint ordinance that mirrors the State child restraint law, for first reading at a future meeting.

ORDINANCE NO.

AN ORDINANCE TO AMEND THE MUNICIPAL CODE OF THE CITY OF AMES, IOWA, BY REPEALING SECTION 26.83 AND ENACTING A NEW SECTION 26.83 THEREOF, FOR THE PURPOSE OF REVISING REGULATIONS REGARDING CHILD RESTRAINT SYSTEMS TO COINCIDE WITH THE STATE OF IOWA CHILD RESTRAINT LAW; REPEALING ANY AND ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT TO THE EXTENT OF SUCH CONFLICT; PROVIDING A PENALTY; AND ESTABLISHING AN EFFECTIVE DATE.

BE IT ENACTED, by the City Council for the City of Ames, Iowa, that:

Section One. The Municipal Code of the City of Ames, Iowa shall be and the same is hereby amended by repealing Section 26.83 and enacting a new Section 26.83 as follows:

“Sec. 26.83. FAILURE TO SECURE CHILD.

(1) A child under one year of age and weighing less than twenty pounds who is being transported in a motor vehicle subject to registration, except a school bus or motorcycle, shall be secured during transit in a rear-facing child restraint system that is used in accordance with the manufacturer’s instructions.

(a) A child under six years of age who does not meet the description in paragraph ‘1’ and who is being transported in a motor vehicle subject to registration, except a school bus or motorcycle, shall be secured during transit by a child restraint system that is used in accordance with the manufacturer’s instructions.

(2) A child at least six years of age but under eighteen years of age who is being transported in a motor vehicle subject to registration, except a school bus or motorcycle, shall be secured during transit by a child restraint system that is used in accordance with the manufacturer’s instructions or by a safety belt or safety harness of a type approved under section 321.445, Code of Iowa.

(3) This section does not apply to the following:

(a) Peace officers acting on official duty.

(b) The transportation of children in 1965 model year or older vehicles, authorized emergency vehicles, buses, or motor homes or motorsports recreational vehicles, except when a child is transported in a motor home’s or motorsports recreational vehicle’s passenger seat situated directly to the driver’s right.

(c) The transportation of a child who has been certified by a physician licensed under chapter 148, Code of Iowa, as having a medical, physical, or mental condition that prevents or makes inadvisable securing the child in a child restraint system, safety belt, or safety harness.

(d) A back seat occupant of a motor vehicle for whom no safety belt is available because all safety belts are being used by other occupants or cannot be used due to the use of a child restraint system in the seating position for which a belt is provided.

(4) A person who violates this section is guilty of a simple misdemeanor punishable as a scheduled violation. Violations shall be charged as follows:

(a) An operator who transports a passenger under fourteen years of age in violation of subsection 1 or 2 may be charged with a violation of this section.

(b) If a passenger fourteen years of age or older is unable to properly fasten a seatbelt due to a temporary or permanent disability, an operator who transports such a person in violation of subsection 2 may be

charged with a violation of this section. Otherwise, a passenger fourteen years of age or older who violates subsection 2 shall be charged in lieu of the operator.

(c) If a child under fourteen years of age, or a child fourteen years of age or older who is unable to fasten a seatbelt due to a temporary or permanent disability, is being transported in a taxicab in a manner that is not in compliance with subsection 1 or 2, the parent, legal guardian, or other responsible adult traveling with the child shall be served with a citation for a violation of this section in lieu of the taxicab operator. Otherwise, if a passenger being transported in the taxicab is fourteen years of age or older, the citation shall be served on the passenger in lieu of the taxicab operator.

(5) A person who is first charged for a violation of subsection 1 and who has not purchased or otherwise acquired a child restraint system shall not be convicted if the person produces in court, within a reasonable time, proof that the person has purchased or otherwise acquired a child restraint system which meets federal motor vehicle safety standards.

(6) Failure to use a child restraint system, safety belts, or safety harnesses as required by this section does not constitute negligence nor is the failure admissible as evidence in a civil action.

(7) For purposes of this section, ‘child restraint system’ means a specially designed seating system, including a belt-positioning seat or a booster seat, that meets federal motor vehicle safety standards set forth in 49 C.F.R. §571.213.”

Section Two. Violation of the provisions of this ordinance shall constitute a simple misdemeanor punishable as a scheduled violation set out under section 805.8A, subsection 14, paragraph “c,” Code of Iowa.

Section Three. All ordinances, or parts of ordinances, in conflict herewith are hereby repealed to the extent of such conflict, if any.

Section Four. This ordinance shall be in full force and effect from and after its passage and publication as required by law.

Passed this _____ day of _____, _____.

Diane R. Voss, City Clerk

Ann H. Campbell, Mayor