

CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
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ARTICLE 1. STANDARD TRAFFIC ORDINANCE

- 14-101. **INCORPORATING STANDARD TRAFFIC ORDINANCE.** There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Cheney, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2014, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. One copy of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Cheney, Kansas," 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 section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.
(Ord. 872; Code 2016)
- 14-102. **SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.** (a) An ordinance traffic infraction is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. Supp. 8-2118.
(b) All traffic violations which are included within this article, and which are not ordinance traffic infractions as defined in subsection (a) of this section, shall be considered traffic offenses.
(c) Any act which is made a traffic infraction or traffic offense by any of the provisions of this article, or any other ordinance of the City of Cheney, Kansas, shall also be considered a traffic infraction or traffic offense on any Cheney, Unified School District #268 property within the corporate limits of the City of Cheney, Kansas.
(Ord. 845; Code 2016)
- 14-103. **SAME; AMENDMENTS.** The following amendments are made to the Standard Traffic Ordinance for Kansas Cities, as adopted in Section 14-101 of the Code of the City of Cheney, Kansas:
- Sec. 20. Play Streets.
- (a) Subject to any applicable policies and/or procedures adopted by the governing body of the City of Cheney, the chief of police shall have the authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.
- (b) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or

portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

Sec. 83.1. Recreational Vehicle, Trailer, and Boat Parking on City Streets.

(a) It shall be unlawful for any owner or operator of a Recreational Vehicle, Trailer, and/or Boat to park such vehicle or trailer on any highway or street within the corporate city limits of the City of Cheney, Kansas, for longer than a 7 day period for purposes of storage of such recreational vehicle. Repositioning the vehicle upon the street or within the City shall not extend the maximum time that such vehicle is permitted to be stored on streets within the City.

(b) For purposes of this section, storage is hereby defined to be neither using such vehicle for the purposes for which it was designed and/or failure to remove such vehicle from the streets of Cheney, Kansas. Recreational vehicles may only be utilized within the City in conformance with all applicable codes of the City.

(c) Trailers attached to motor vehicles that are parked on any highway or street within the corporate limits of the city shall have reflective lights/tape that is visible for 450 feet by any approaching vehicle. Trailers attached to motor vehicles that block the view of person/persons operating a motor vehicle will not be allowed to park on any highway or street within the corporate city limits.

(d) Violation of this section is punishable by a fine of not less than \$25 nor more than \$100.

Sec. 106a. Consumption of Alcoholic Liquor or Cereal Malt Beverages.

(a) No person shall consume any alcoholic liquor or cereal malt beverage while operating or attempting to operate any vehicle upon any street or highway.

(b) A law enforcement officer may request a person who is operating or attempting to operate any vehicle to submit to a preliminary screening test of the person's breath or saliva, or both, if the officer has reasonable suspicion to believe that the person has been operating or attempting to operate a vehicle while consuming an alcoholic liquor or cereal malt beverage. Any person who operates or attempts to operate a vehicle within this state is deemed to have given consent to submit to one or more tests of the person's breath or other bodily substance to determine the presence of alcohol, pursuant to the provisions of K.S.A. 8-1001(a).

(c) An open container of a substance containing alcoholic liquor or cereal malt beverage within the reach of the person operating or attempting to operate a vehicle and the odor of alcoholic liquor or cereal malt beverage upon such person's breath shall be prima facie evidence that such person was operating or attempting to operate such vehicle while consuming an alcoholic liquor or cereal malt beverage.

(d) Violation of this section is punishable by a fine of not less than \$50 or more than \$200 or by imprisonment for six months, or both.

Sec. 106b. Transportation of Drug Paraphernalia.

(a) No person shall transport in any vehicle upon any highway or street any instrument, device or drug paraphernalia which is used to possess, conceal, smoke, administer, manufacture, or sell any illegal drug pursuant to the Kansas Uniform Controlled Substances Act (K.S.A. 65-4101 et seq.).

Sec. 106c. Careless Driving.

(a) No person shall operate or halt any vehicle in such manner as to indicate a careless or heedless disregard for the rights or safety of others, or in such a manner as to endanger, or be likely to endanger, any person or property. Any driver who does so shall be considered to be prima facie in violation of this section, provided, however, that this section shall not apply to a vehicle driven by a person upon property owned by him/her.

(b) No person, while driving, shall engage in any activity which interferes with the safe control of his/her vehicle.

(c) No person shall engage in any activity or commit any act which interferes with a driver's safe operation of a vehicle.

(d) Every person convicted of Careless Driving shall be punished by a fine of not more than \$500 or by a term of imprisonment for not more than six months, or by both such fine and imprisonment.

Sec. 114.4. Golf Carts.

(a) Golf carts may be operated upon the public highways, streets, roads and alleys within the corporate limits of the City of Cheney, Kansas; provided, however, that no golf cart may be operated upon any public highway, street, road and alley with a posted speed limit in excess of 30 miles per hour. No golf cart shall be operated on any interstate highway, federal highway or state highway; provided, however, that the provisions of this subsection shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit greater than 30 miles per hour.

(b) No golf cart shall be operated on any public highway, street, road or alley between sunset and sunrise.

(c) Every person operating a golf cart on the public highways, streets, roads and alleys of the City of Cheney, Kansas shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

Sec. 114.5. Work-Site Utility Vehicles.

(a) Work-site utility vehicles may be operated upon the public highways, streets, roads and alleys within the corporate limits of the City of Cheney, Kansas.

(b) No work-site utility vehicle shall be operated on any public highway, street, road or alley between sunset and sunrise unless such vehicle is equipped with lights as required by law for motorcycles. No work-site utility vehicle shall be operated on any interstate highway, federal highway or state highway.

(c) Every person operating a work-site utility vehicle on the public highways, streets, roads and alleys of the City of Cheney, Kansas shall be subject to all of the duties applicable to a driver of a vehicle imposed by law.

Sec. 114.6. Valid Driver's License Required.

No person under the age of 16 years old shall operate a work-site utility vehicle or golf cart on any public highway, street, road or alley within the corporate limits of the City of Cheney, Kansas. No such person shall operate a work-site utility vehicle or golf cart on any public highway, street, road or alley within the corporate limits of the City of Cheney, Kansas without a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment.

Sec. 114.7. Display of Slow-Moving Vehicle Emblem.

(a) It shall be illegal to operate a work-site utility vehicle or golf cart on any public highway, street, road or alley within the corporate limits of the City of Cheney, Kansas unless such vehicle displays a slow moving vehicle emblem on the rear of the vehicle.

(b) For the purpose of this section, "slow-moving vehicle emblem" has the same meaning as contained in K.S.A. 8-1717, and amendments thereto.

(c) The slow-moving vehicle emblem shall be mounted and displayed in compliance with K.S.A. 8-1717, and amendments thereto.

Sec. 114.8. Insurance Required.

(a) Every owner of a work-site utility vehicle or golf cart operated upon the public highways, streets, roads and alleys within the corporate limits of the City of Cheney, Kansas shall provide liability coverage in accordance with Section 200 and the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, et seq., and amendments thereto.

(b) All provisions of Section 200, including penalty provisions, shall be applicable to all owners and operators of work-site utility vehicles and golf carts operated upon the public highways, streets, roads and alleys within the corporate limits of the City of Cheney, Kansas.

Sec. 114.9. Registration and License; Fee; Application; Inspection.

Before operating any work-site utility vehicle or golf cart on any public highway, street, road or alley within the corporate limits of the City of Cheney, Kansas, the vehicle shall be registered with the City of Cheney, Kansas, upon inspection by its police department, and display a valid registration decal affixed and displayed in such a manner as to be clearly visible from the rear of the vehicle. The application shall be made upon forms provided by the City and each application shall contain the name of the owner, the owner's residence address, or bona fide place of business, and a brief description of the vehicle to be registered (including make, model and serial number, if applicable). Proof of insurance, as required in section 114.8, shall be furnished at the time of application for registration. The annual registration shall be renewable on January 1st of each year. The annual registration fee for a work-site utility vehicle or golf cart to be operated upon the public highways, streets, roads and alleys within the corporate limits of the City of Cheney, Kansas shall be \$30. The full amount of the license fee shall be required regardless of the time of year that the application is made. The license issued hereunder is not transferrable.

(Ord. 845; Code 2016)

14-104.

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 nor more than \$500. 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 \$500.00. A person tried and convicted for violation of an ordinance, traffic infraction or other traffic offense for which no fine has been established in a schedule of fines shall pay a fine fixed by the Court not to exceed \$2,500. (Ord. 845; Code 2016)

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

- 14-201. TRAFFIC CONTROL DEVICES AND MARKINGS. The Standard Traffic Ordinance as adopted is hereby modified by adding thereto the following:
The governing body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this chapter, other traffic ordinances and the state laws. The city shall place and maintain such traffic control signs, signals and devices when and as may be required by the authority of the governing body to make effective the provisions of this chapter and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this section shall be marked and labeled on a map of the City of Cheney for the purpose of displaying all such traffic control devices and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business.
(Code 1996)
- 14-202. PARKING PROHIBITED. (a) The Governing Body having determined it in the best interest of the health, safety and welfare of the citizens of Cheney, Kansas that, during the hours the Cheney Public Library is open, non-library patron vehicle parking be prohibited on the North side of First Street commencing 28 feet East of its intersection with an alley between Main Street and Marshal Street and continuing East for 70 feet and, said non-library patron vehicle parking is hereby prohibited during the hours the Cheney Public Library is open.
The Governing Body having determined it in the best interest of the health, safety and welfare of the citizens of Cheney, Kansas that, during the hours the Cheney Public Library is open, non-library patron vehicle parking be prohibited in the second parking space North of First Street on the West side of Main Street and, said non-library patron vehicle parking is hereby prohibited during the hours the Cheney Public Library is open.
(b) Definitions. (1) "Vehicle" - as used in this provision shall mean every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway.
(2) "Parking" - shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and actually engaged in loading and unloading passengers or property.
(c) Penalty. Upon the posting of signs prohibiting non-library patron vehicle parking as provided herein, any owner or operator of a vehicle parked in violation of the provisions of this ordinance shall, upon being found guilty of violating the provisions of this ordinance, be subject to a fine of not more than Twenty-five Dollars (\$25.00) plus court costs and administrative fees.
(Ord. 797, Sec. 1:3; Code 2016)
- 14-203. U-TURN PROHIBITED IN BUSINESS DISTRICT. No vehicle shall be turned so as to proceed in an opposite direction upon any street in the business district between the extended north line of Second Street at its intersection with Main Street, and the extended south line of First Street at its intersection with Main Street, at any time or under any circumstances. (Code 1976)
- 14-204. U-TURN PROHIBITED AT INTERSECTION OF SIXTH AND MAIN STREETS. No vehicle shall be turned so as to proceed in an opposite direction in, upon or about the intersection of Sixth and Main Streets in the city. (Code 1976)

- 14-205. U-TURN PERMITTED WITH CAUTION; WHERE. Under no circumstances shall any such turn be made on any other street in the city unless it can be made in safety and without interfering in any manner with other traffic or pedestrians, nor shall any such turn be made at any location other than in an intersection other than those referred to in sections 14-203 and 14-204. (Code 1976)
- 14-206. CARELESS DRIVING; PROHIBITED. No person shall operate or halt any vehicle in such a manner so as to indicate a careless or heedless disregard for the rights or safety of others or in such a manner as to endanger or be likely to endanger any person or property. Any driver of any vehicle who does so shall be considered to be prima facie in violation of this section; provided, however, that this section shall not apply to a vehicle driven by a person upon property owned by him or her. (Code 1976)
- 14-207. INTERFERING WITH SAFE CONTROL OF VEHICLE. No person while driving shall engage in any activity which interferes with the safe control of his or her vehicle. (Code 1976)
- 14-208. INTERFERING WITH DRIVER'S OPERATION OF VEHICLE. No person shall engage in any activity, or commit any act which interferes with the driver's safe operation of a vehicle. (Code 1976)
- 14-209. MAIN TRAFFICWAYS. (a) Main Street. Main Street from the south city limits north to the Atchison, Topeka & Santa Fe Railroad right-of-way a distance of approximately 2,700 feet in the city is designated a main trafficway.
- (b) First Avenue. First Avenue from the east line of Wolf Street to the east end of Lincoln Street, and from the east line of Main Street to the west line of Taylor Street in the city is a main trafficway.
- (c) Second Avenue. Second Avenue from the west city limits to the west line of Wolf Street, and from the east line of Filmore Street to the west line of Adams Street, and from the each line of Main Street to the west line of Washington Street in the city is a main trafficway.
- (d) Third Avenue. Third Avenue from the west city limits to the west line of Main Street, and from the east line of Main Street to the west line of Washington Street in the city is a main trafficway.
- (e) Fourth Avenue. Fourth Avenue from the east line of Main Street to the west line of Washington Street in the city is a main trafficway.
- (f) Fifth Avenue. Fifth Avenue from the west city limits to the east line of Wolfe Street, and from the west line of Jefferson Street to the east line of Washington Street in the city is a main trafficway.
- (g) Leighty Drive. Leighty Drive from the west city limits to the west line of Wolf Street in the city is a main trafficway.
- (h) Sixth Avenue. Sixth Avenue from the west line of Adams Street to the west line of Main Street, from the east line of Garfield Street to the east line of Washington Street, and from 391st Street, thence east 180 feet more or less, in the city is a main trafficway.
- (i) Roosevelt Street. Roosevelt Street from the north line of Second Street to the south line of Third Street in the city is a main trafficway.
- (j) Wolf Street. Wolf Street from the railroad right-of-way line to the south line of Sixth Street in the city is a main trafficway.

- (k) Crestview Court. Crestview Court from the south point of beginning to the north line of First Street in the city is a main trafficway.
 - (l) Filmore Street. Filmore Street from the south line of First Street to the north line of Fifth Street in the city is a main trafficway.
 - (m) Lincoln Street. Lincoln Street from the south line of First Street to the south line of Sixth Street in the city is a main trafficway.
 - (n) Adams Street. Adams Street from the railroad right-of-way to the south line of First Street, and from the south line of Second Street to the north line of Fifth Street, and from the north line of Sixth Street to the north city limits is a main trafficway.
 - (o) Marshall Street. Marshall Street from the south line of Second Street to the north line of Fifth Street in the city is a main trafficway.
 - (p) Jefferson Street. Jefferson Street from the south line of First Street to the south line of Fifth Street in the city is a main trafficway.
 - (q) Garfield Street. Garfield Street from the railroad right-of-way line to the north line of Sixth Street in the city is a main trafficway.
 - (r) Washington Street. Washington Street from the south line of First Street to the north line of Sixth Street in the city is a main trafficway.
 - (s) Harrison Street. Harrison Street from the south line of First Street to the south line of Third Street in the city is a main trafficway.
 - (t) South Avenue. South Avenue from the east line of Main Street to the east city limits is a main trafficway.
 - (u) Avenue A. Avenue A from the east line of Main Street to the east line of the alley in block 68 in the city is a main trafficway.
 - (v) Avenue B. Avenue B from the east line of Main Street to the east line of the alley in block 73 in the city is a main trafficway.
- (Code 2016)

- 14-210. BICYCLES; PARKING LIMITED TO DESIGNATED PLACES. It is unlawful for any person to park or leave a bicycle on any street, alley, highway, sidewalk, or sidewalk area, or other public place or way, unless such bicycle is parked in a bicycle rack or is within an area designated for parking bicycles.
(Code 1976)
- 14-211. SAME; BICYCLE RACKS; CITY COUNCIL APPROVAL. Bicycle racks in areas designated for parking bicycles shall not be located on any streets, sidewalks or other public property without prior approval of the city council.
(Code 1976)
- 14-212. SAME; YIELDING RIGHT-OF-WAY ON SIDEWALKS REQUIRED. Whenever a bicycle is ridden on a sidewalk or in the sidewalk area, the operator of the bicycle shall yield the right-of-way to all pedestrians on the sidewalk or in the sidewalk area.
(Code 1976)
- 14-213. SPEED LIMITS; ALTERATIONS. The governing body having determined it in the best interest of the health, safety and welfare of the citizens of Cheney, Kansas that the speed limit permitted pursuant to the Standard Traffic Ordinance for Kansas Cities, as adopted in Section 14-101 of the Code of the City of Cheney, Kansas is not reasonable under the existing conditions, hereby determines and

declares that the speed limit shall be 20 miles per hour upon the following streets or portions of streets within the corporate limits of the City of Cheney, Kansas:

Adams Street from Fourth Avenue to Sixth Avenue;
Filmore Street from Fifth Avenue to Sixth Avenue;
Lincoln Street from Fourth Avenue to Sixth Avenue;
Main Street from Fifth Avenue to Shadybrook Drive;
Marshall Street from Fourth Avenue to Fifth Avenue;
Fifth Avenue from Jefferson Street to Filmore Street;
Sixth Avenue from Garfield Street to Wolf Street; and
Seventh Avenue from Marshal Street to Adams Street.

(Ord. 845; Code 2016)

14-214. CROSSING YELLOW LINES; PROHIBITED WHEN. It shall be unlawful for the driver of any vehicle to back across any roadway marked with two adjacent yellow lines; or to turn left cross any roadway marked with two adjacent yellow lines unless such turn is into an intersection, alley, private road or driveway.
(Code 1976)

14-215. SAME; PERMITTED WHEN. The driver of a vehicle intending to turn left or turning left across two adjacent yellow lines may do so only when such turning can be done safely and when otherwise permitted under the Standard Traffic Ordinance.
(Code 1976)

14-216. J-TURNS. It shall be considered a traffic infraction to cross double yellow lines for the purpose of entering or leaving a parking space.
(Ord. 693, Sec. 2; Code 1996)

14-217. TRUCK ROUTES. (a) No truck or other commercial vehicle with the gross vehicle weight in excess of 12,000 pounds shall be operated upon any street unless such street is designated as a truck route with appropriate signs, except that trucks and commercial vehicles may operate on streets not designated as truck routes for the purpose of making deliveries to, picking up trash from, or otherwise serving premises located on the streets not designated as truck routes.

(b) The following streets are hereby designated as truck routes; South Avenue from Washington to Adams, Main Street from 39th Street South, and north to the north city limits, 6th Ave. from 391st St West to 375th St West, Santa Fe from Main to 391st St West.

(Ord. 681, Sec. 1:2; Code 2016)

14-218. STREET PARKING.

(a) Prohibited or Limited.

(1) Non law enforcement vehicle parking is prohibited on the south side of First Avenue commencing 75 feet west of its intersection with Main Street and continuing west for approximately 82 feet to the intersection of First Avenue and an alley.

(2) Parking is limited to 15 minutes on the west side of Main Street commencing 157 feet north of its intersection with First Avenue and continuing north for approximately 25 feet north on Main Street.

(3) Non-library patron parking is prohibited on the north side of First Avenue commencing 28 feet east of its intersection with an alley between Main

Street and Marshal Street and continuing east for 70 feet, during the hours the Cheney Public Library is open.

(4) Non-library patron parking is prohibited in the second parking space north of First Avenue on the west side of Main Street, during the hours the Cheney Public Library is open.

(5) Parking in the first parking space south of First Avenue on the west side of Main Street is limited to 15 minutes, during the hours the Cheney City Hall is open.

(6) Parking is limited to 15 minutes on the south side of Second Street commencing 92 feet west of its intersection with Main Street and continuing west for approximately 60 feet to the intersection of Second Street and an alley.

(7) Parking is prohibited on the south side of Sixth Avenue commencing at its intersection with Main Street and continuing west to the intersection of Sixth Avenue and Adams Street.

(b) Definitions.

(1) Parking - The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and actually engaged in loading and unloading passengers or property.

(2) Vehicle - Every device in, upon, or by which any person or property is or may be transported or drawn upon a roadway.
(Ord. 869; Code 2016)

14-219.

PENALTY. Upon the posting of signs prohibiting non-law enforcement vehicle parking, prohibiting non-library patron vehicle parking, and limiting parking to 15 minutes as provided in this article, any owner or operator of a vehicle parked in violation of the provisions of this article shall, upon being found guilty of violating the provisions of this article, be subject to a fine of not more than \$25 plus court costs and administrative fees. (Ord. 839; Code 2016)

ARTICLE 3. ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY

- 14-301. DEFINITIONS. For the purpose of this article, the following terms, phrases, words and their derivations shall have the following meanings:
- (a) Highway. - The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word "highway" or the word "street" is used in this article, it means street, avenue, boulevard, thoroughfare, alley, and other public way for vehicular travel by whatever name, unless the context clearly indicates otherwise.
 - (b) Motor Vehicle. - Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively on stationary rails or tracks.
 - (c) Owner or Occupant. - A party having fee simple title in the real property, or a party having a leasehold interest in the real property, or a party who is the beneficiary of a private easement for the purpose of egress or ingress to or from said real property.
(Code 1996)
- 14-302. IMPOUNDING VEHICLES. The police department may cause to be impounded:
- (a) Any motor vehicle unlawfully parked on a highway in violation of any provision of a city ordinance which prohibits the parking of vehicles at the place where or time when the impounded motor vehicle is found.
 - (b) Any motor vehicle that has been abandoned and left on a highway or other property open to use by the public for a period in excess of 48 hours pursuant to K.S.A. 8-1102.
 - (c) Any motor vehicle which:
 - (1) Is subject to removal pursuant to K.S.A. 8-1570, or 8-1102, or
 - (2) Is subject to seizure and forfeiture under the laws of the state, or
 - (3) Is subject to being held for use as evidence in a criminal trial.
 - (d) Any motor vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety or to the motor vehicle.
 - (e) Any motor vehicle which has been abandoned or parked on any real property, other than public property or property open to use by the public, may be moved and disposed of in accordance with the terms of this article by the police department upon the request of the owner or occupant of such real property. The real property referred to herein shall not be owned or leased by the person who abandons or parks said vehicle or by the owner or lessee of such vehicle. The city or any person, partnership, corporation or their agent conducting a business enterprise for the purpose of towing vehicles which removes such vehicle from the real property at the request of the police department shall have a possessory lien on such vehicle for the cost incurred in removing, towing and storing such vehicle. For purposes of this article, common areas shall be construed not to mean public property or property open to the public. (Code 1996)
- 14-303. SAME. The police department may authorize storage of such impounded motor vehicles at any location, public or private, which is zoned for the storage of motor vehicles. (Code 1996)

14-304.

NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE.

(a) When Owner Present. When the police department intends to impound a motor vehicle pursuant to section 14-302 and the owner of the motor vehicle is then present, the police department shall before the motor vehicle is removed, provide the owner with a notice, in the form prescribed by the police department that the motor vehicle is being impounded, that towing and storage charges will be assessed against the impounded motor vehicle, that the owner may claim and regain possession of the impounded motor vehicle at the location to which it is being removed for storage without prepayment of towing and storage charges and that the owner may request a hearing as to the propriety of the impoundment and as to the amount of and the owner's liability for the towing and storage charges. The notice shall also state the location where the impounded motor vehicle will be stored and the place where the owner may make his or her request for the hearing. The notice shall also state, in prominent language, that failure by the owner to request a hearing within five days after receipt of the notice may act as a waiver of his or her right to a hearing and that this may result in the placing of a lien against the motor vehicle for the towing and storage charges without further notice to the owner; and that the motor vehicle be sold at public auction to the highest bidder for cash after 15 days from the date of the mailing of the notice. The owner of the impounded motor vehicle shall sign the notice as an acknowledgment that he or she has received a copy of the notice and a copy of the notice shall be provided to the owner.

(b) When Owner not Present. (1) When the police department impounds and removes a motor vehicle pursuant to section 14-302(a) and the owner of the motor vehicle is not present at the time of the impoundment, the police department shall, if such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with said division, mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall be in the form prescribed by the police department containing the same information as required by section 14-304(a). The police department shall use reasonable diligence in determining the title owner, or if from a non-title state, the registered owner, of the vehicle, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in this state, as to whether there are any lienholders of record. If the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

If the owner does not reside in the state, as appears from the motor vehicle registration and the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed a nonresident of the state and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

(c) Failure or Refusal to Sign Notice. If any person required by this section to sign a notice of impoundment willfully fails or refuses to do so, or if such person cannot be found, the police department shall note this fact on the face of the notice, which shall constitute prima facie evidence of delivery or service of notice as required by this section.

(Code 1996)

14-305. IMPOUNDMENT AFTER REQUEST TO LEAVE MOTOR VEHICLE. In all cases wherein the owner or operator of a motor vehicle which is on a public street has requested that the motor vehicle be left unattended at that location, in lieu of impoundment of the motor vehicle pursuant to section 14-302, the police department may honor said request for a period of time not exceeding 24 hours, after which time the motor vehicle shall either be removed from the location by the owner or operator or be impounded by the police department pursuant to section 14-304. The police department shall be immune from liability for any damage, loss or destruction of the motor vehicle occasioned by its being left unattended pursuant to the request of the owner or operator thereof, in lieu of impoundment. Nothing in this section shall be construed to limit the authority of the police department to order the removal of a motor vehicle by its owner or operator or to impound a motor vehicle pursuant to section 14-304 at any time whenever in his or her judgment the presence of the unattended motor vehicle constitutes a danger to the public safety. (Code 1996)

14-306. RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT.
(a) Generally. Unless the vehicle is impounded pursuant to section 14-302(b) herein, the owner of an impounded motor vehicle may secure the release of the motor vehicle from impoundment upon requesting such release and presenting proof of ownership satisfactory to the custodian of the place where the motor vehicle is stored. If the custodian is satisfied that the person making the request is the owner or his or her authorized agent, he or she shall release the motor vehicle to the owner or his or her agent. Nothing in the preceding sentence shall preclude the owner of the impounded motor vehicle or his or her agent from paying any towing and storage charges that may be assessed against the motor vehicle, but neither the police department nor the custodian of the storage space may require payment of any towing or storage charges as a condition precedent to such release. At the same time as the owner or his or her agent requests release of the impounded motor vehicle, and if such request is made with 40 days after the owner receives a copy of the notice of impoundment, the police department shall provide him or her an opportunity to make a request for a hearing on the propriety of the impoundment and on the amount and his or her liability for the towing and storage charges occasioned by the impoundment; provided, that if the owner or his or her agent requests release of the impounded motor vehicle more than 40 days after the owner receives a copy of the notice of impoundment, no hearing may be requested on the impoundment or on the towing and storage charges and the owner shall be conclusively presumed to have consented to the impoundment and to the amount of and his or her liability for the towing and storage charges.

(b) Security for Payment of Charges. If the ownership of the impounded motor vehicle is evidenced by a title certificate issued by the Kansas Department of Highway Safety and Motor Vehicles, the owner or his or her agent may secure the release of the motor vehicle from impoundment without the payment of any towing or storage charges or the deposit of any security for the payment thereof. If the ownership of the impounded motor vehicle is evidenced by a foreign title instrument, or if the jurisdiction in which title is recorded is not evidenced from the document establishing ownership, the owner or his or her agent, before the custodian of the place where the motor vehicle is stored authorizes release of the motor vehicle from impoundment, shall deposit with the custodian cash in the amount of the towing and storage charges to the date of the request. If the owner or

his or her agent refuses to provide the cash deposit, the custodian shall not authorize release of the impounded motor vehicle but if the request is timely made, a date shall be set for the hearing on the impoundment and charges.
(Code 1996)

14-307. HEARING. If the owner of an impounded motor vehicle or his or her agent timely requests the release of the motor vehicle from impoundment and a hearing on the impoundment and charges, as provided in section 14-306, a date shall be set, not more than five days after the date of request, for the hearing. The city attorney shall provide a hearing examiner to conduct the hearings required by this section. At the hearing, the owner, his or her agent, or his or her attorney shall be afforded an opportunity to present, by oral testimony or documentary evidence, his or her objections to (a) the impoundment of the motor vehicle and (b)(1) the amount of the towing and storage charges and (2) his or her liability for the payment thereof. If the owner or his or her agent requested the hearing more than five days but not more than 40 days after the owner received a copy of the notice of impoundment, the owner, his or her agent or his or her attorney shall be required at the hearing, as a condition precedent to the presentation of any objections by the owner, to show good cause for the delay in making the request more than five days after the owner received a copy of the notice of impoundment: if good cause cannot be shown, the hearing officer shall dismiss the hearing and make the finding stated in subsection (b) below; otherwise, the hearing examiner shall proceed to hear the owner's objections. At the conclusion of the hearing on the owner's objections, the hearing examiner shall render his or her decision if the hearing examiner:

- (a) Finds that the impoundment was improper, he or she shall:
 - (1) Find that the owner is not liable for any towing or storage charges occasioned by the impoundment and
 - (2) Determine whether and to what extent the city shall be the expense of the towing and storage charges; or
- (b) Finds that the impoundment was proper, he or she shall establish:
 - (1) The amount of the towing and storage charges to be assessed against the impounded motor vehicle and
 - (2) The extent of the liability of the owner for payment of the towing and storage charges so established. The decision of the hearing examiner shall be final, and a copy of the decision shall be furnished to the owner of the impounded motor vehicle, to the custodian of the place where the motor vehicle is stored and to the city attorney.

In the event that the impoundment was pursuant to K.S.A. 8-1102(b), the owner or occupant of the real property upon which the abandoned vehicle was located shall not be assessed the costs of towing and storage of the vehicle. Further, nothing within this article shall be construed to modify or effect the validity of the possessory lien of the person removing such vehicle from the real property established by K.S.A. 8-1102(b).
(Code 1996)

14-308. CHARGES CONSTITUTE A LIEN. The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-302 shall be and constitute a lien upon the impounded motor vehicle, except as provided in this section. If the hearing examiner finds pursuant to section 14-307 that the impoundment was improper and if he or she determines that the city shall bear part

or all of the towing and storage charges, the lien created by this section shall be discharged. If the hearing examiner finds pursuant to section 14-306 that the impoundment was proper but that the towing and storage charges should be in an amount less than the amount of the lien, the lien created by this section shall be discharged to the extent that it exceeds the amount established by the hearing examiner. The holder of a lien created by this section may perfect such lien in any manner provided by law, but he or she may not retain possession of the motor vehicle when it has been released pursuant to section 14-306(a). In the event that the impounded motor vehicle is released from impoundment and the owner or his or her agent has provided security for payment of charges as required by section 14-306(b), the lien created by this section shall also be a lien against the security so provided, subject to being wholly or partially discharged as provided in this section. (Code 1996)

14-309. SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE. The holder of a lien against a motor vehicle created by section 14-308, to the extent that such lien has not been discharged as provided in section 14-308 or otherwise satisfied, may enforce such lien in any manner provided by law after 60 days from the date the motor vehicle is impounded by the police department. If the owner of the motor vehicle or his or her agent has provided security for the payment of the lien as provided in section 14-306(b), the lien shall first be satisfied out of the security so provided and, if any portion of the lien remains unsatisfied and undischarged, may then be enforced in any manner provided by law. If the motor vehicle against which the lien is created pursuant to section 14-308 is still under impoundment 60 days from the date it is impounded by the police department and the owner has not requested release of the motor vehicle from impoundment nor paid the towing and storage charges that are the basis for the lien, the motor vehicle shall be sold at public sale to the highest and best bidder for cash to satisfy the lien. Notice of the sale shall be given in accordance with K.S.A. 8-1102. Publication, required by K.S.A. 8-1102, may be made before the termination of the 60 day period for a sale thereafter. (Code 1996)

14-310. REDEMPTION. If the city is to conduct the sale:

(a) Any holder of a recorded lien or retained title on a motor vehicle to be sold by the city under the provisions of section 14-309 may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the police department and the deposit with the police department of sufficient assurance by surety bond or otherwise, approved by the city attorney, that the motor vehicle will be forthcoming for public sale thereof or upon claim of the rightful owner prior to the sale. The police department shall, within three days, make a report to the city treasurer and deliver the charges and costs so paid to the city treasurer, taking a receipt therefor and filing it, together with a duplicate copy of the report to the city treasurer, with the records in his or her office. The funds shall be held in a trust account until final disposition of the motor vehicle. Not less than five days before the date for sale of the motor vehicle, the police department shall notify the lienholder or retained titleholder of the time and place for the sale, and the lienholder or retained titleholder shall deliver such motor vehicle to the police department at or before 12:00 noon of the day before the sale. At the sale the amount paid shall be credited on the bid of the lienholder or retained titleholder. If the lienholder or retained titleholder is the successful bidder for the motor vehicle, the police department shall report this fact to the city treasurer and

then the funds previously paid by the lienholder or retained titleholder shall be relieved of the trust previously impressed and become the same as other funds received by the city for storage and costs of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other than the lienholder or retained titleholder, the police department shall report this fact to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him out of the trust account.

(b) And if the rightful owner of the motor vehicle claims the same before the sale by payment of the accrued charges, the police department shall immediately notify the lienholder or retained titleholder in possession of the motor vehicle and he or she shall return the same to the police department within 12 hours. The police department shall report this redemption by the rightful owner to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him or her out of the trust account.

(Code 1996)

14-311. SALE PROCEEDS. The proceeds of a public sale held pursuant to section 14-308 whether such sale was conducted by the city or by any other person, after payment of the towing and storage charges and costs and expenses incident to the sale, shall be deposited with the city treasurer, if the owner of the motor vehicle is absent from the sale, for credit to the trust account. The funds deposited in the trust account pursuant to this section shall remain in the account subject to the order of the person legally entitled thereto, but if no claim is made for these funds within a period of one year after the sale, the funds shall become the property of the city, be released from the trust account and be paid into the general fund as miscellaneous revenues. (Code 1996)

14-312. STATUTORY PROCEDURES. Nothing in this article shall be construed to augment, diminish, supersede or otherwise interfere with any statutory procedure established by the legislature for the collection of unpaid towing and storage charges. The procedures in this article are supplementary and cumulative to any statutory procedures. (Code 1996)

14-313. IMPLEMENTATION OF ARTICLE. The police department and city treasurer are authorized to make rules for the implementation and administration of this article. (Code 1996)

14-314. REIMBURSEMENT FOR DISCHARGED LIENS. If a lien created by section 14-308 and held by a private wrecker or towing firm is discharged by section 14-308 pursuant to a determination by a hearing examiner that an impoundment was improper and that the city shall bear part or all of the towing and storage charges, the city shall pay to the firm the amount determined by the hearing examiner. No payment shall be made until it is authorized by the city attorney. (Code 1996)

ARTICLE 4. HAZARDOUS MATERIALS

- 14-401. HAZARDOUS MATERIAL DEFINED. As used in this article, the term hazardous material shall mean any material or combination of materials which, because of its quantity, concentration, or physical, chemical, biological, or infectious characteristics, poses a substantial present or potential hazard to human health or safety or the environment if released into the workplace or environment or when improperly treated, stored, transported, or disposed of or otherwise managed. (Code 2005)
- 14-402. SAME; EXCEPTIONS. The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. These provisions shall also not apply to vehicles, trailers, containers or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes when such vehicles, trailers, containers or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container or tank by any farmers cooperative, elevator company or farm supply store located within the city limits. (Code 1996)
- 14-403. TRANSPORTATION OF HAZARDOUS MATERIALS. Except as provided in section 14-404 it shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any other public right-of-way in the city. (Code 1996)
- 14-404. HAZARDOUS MATERIALS ROUTES. The provisions of section 14-403 shall apply to all streets, avenues, highways, roadways, alleys or other public right-of-ways within the city except those specified within this section where transportation of hazardous materials shall be allowed. Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways:
- (a) (Reserved)
 - (b) (Reserved)
 - (c) (Reserved)
- (Code 1996)
- 14-405. PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS. (a) Except as provided in subsections (b) and (c), it shall be unlawful for any person, firm, corporation or other entity to park any vehicle, trailer or semi-trailer carrying any hazardous material within any of the following city zoning districts as defined in Chapter 16 of this code:
- (1) (Reserved)
 - (b) Subsection (a) shall not apply to vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 14-404 of this code.
 - (c) Subsection (a) shall not apply to any vehicle, trailer or semi-trailer carrying any hazardous material where such vehicle, trailer or semi-trailer is not parked within 500 feet of any structure used for human habitation.
- (Code 1996)

14-406. **REMOVAL OF ILLEGALLY PARKED TRAILERS.** If any vehicle, trailer or a semi-trailer is found parked in violation of the provisions of this article, the fire chief or assistant chief or any law enforcement officer may require the owner, operator or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury or damage to persons or property. (Code 1996)