

CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
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- Article 3. Impoundment of Motor Vehicles
- Article 4. Hazardous Materials

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 Ogden, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2016, 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 Ogden, 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. 713; Code 2017)
- 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.
(Code 1999)
- 14-103. SAME; DUI. That Article 6, Section 30 of the Standard Traffic Ordinance, 2016 Edition, is hereby deleted in its entirety. (Ord. 713; Code 2017)
- 14-104. SAME; STOPPING, STANDING, AND PARKING. That Article 13, Section 85 of the Standard Traffic Ordinance, 2016 Edition, is hereby amended to read as follows:
Sec. 85 Stopping, Standing or Parking Prohibited in Specified Places. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or traffic-control device, no person shall:
(a) Stop, stand or park a vehicle:
(1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
(2) On a sidewalk;
(3) Within an intersection;
(4) On a crosswalk;

(5) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

(6) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;

(7) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;

(8) On any railroad tracks;

(9) On any controlled-access highway;

(10) In the area between roadways of a divided highway, including crossovers; or

(11) At any place where official signs prohibit stopping;

(12) At any place where official signs or yellow painted curb markings prohibit stopping;

(13) In front of or three feet either side of an existing private driveway entrance.

(b) Stand or park a vehicle, whether occupied or not except momentarily to pick up or discharge a passenger or passengers:

(1) In front of or three feet either side of a public or private driveway;

(2) Within 15 feet of a fire hydrant;

(3) Within 20 feet of a crosswalk at an intersection;

(4) Within 30 feet upon the approach to any flashing signal, stop sign or traffic control signal located at the side of the roadway;

(5) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance, when properly sign-posted;

(6) At any place when official signs or yellow painted curb markings prohibit standing.

(c) Park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading or unloading property or passengers:

(1) Within 50 feet of the nearest rail of a railroad crossing;

(2) At any place where official signs or yellow painted curb markings prohibit parking.

(d) No person shall move a vehicle not lawfully under his control into any such prohibited area or away from a curb such a distance as is unlawful.

(e) No person shall stand or park a vehicle in areas designated as fire lanes upon public or private property. (K.S.A. 8-1571; Ord. 713; Code 2017)

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 Ogden 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 1987)
- 14-201A. CROSSING GUARDS. (a) Either the governing body of the City of Ogden, the Board of Education of Unified School District #383, or the Riley County Law Enforcement Agency, or the designee of any such governmental agency, shall have authority to designate and appoint persons to act as crossing guards at any school zone within the City of Ogden, Kansas. When so designated, and appointed, such crossing guards shall have authority to assist school children and others in crossing the street within such school zone during any time that the zones are in effect. In exercising such authority, the crossing guards may, when it is safe to do so, direct traffic to stop while children or others are crossing. There shall be a rebuttable presumption that person assisting children in crossing a designated school zone, within the hours that the zone is effective, has been validly appointed and designated by either the City of Ogden, Unified School District #383, or Riley County Law Enforcement Agency or their designee.
(b) No person shall willfully fail or refuse to comply with any lawful order or direction of any crossing guards designated and appointed as set forth in subsection (a). (Ord. 534; Code 2017)
- 14-202. MINIMUM AND MAXIMUM ALLOWABLE FINES. The minimum and maximum allowable fines for the following traffic violations occurring within the city shall be as determined by the municipal judge. The schedule of fines shall be on file in the city clerk's office and available for inspection at all reasonable hours.
(Code 1987)
- 14-203. TRUCK TRAFFIC CONFINED TO CERTAIN ROUTES. (a) Except as provided in section 14-204, it shall be unlawful for any person, firm, corporation or organization of any kind to operate or drive any truck, semi-tractor or semi-trailer upon any street, roadway or highway within the city unless such street, roadway or highway is designated as a truck route as provided in section 14-205 of this code.
(b) For purposes of this section and sections 14-204:206, the word "truck" shall mean any vehicle designed for the transportation of property, and:
(1) Whose body weight or combined body weight and load weight exceeds a gross weight of six tons; or
(2) Has more than six wheels.
(c) For purposes of this section and sections 14-204:206, the words or phrase "truck route" shall mean the streets, roadways or highways designated in

section 14-205 upon or along which trucks coming into, traveling within or going out of the city shall be allowed to operate or drive upon. (Code 1987)

14-204. SAME; EXCEPTIONS. Subsection (a) of section 14-203 shall not apply to any of the following circumstances:

(a) The operation of a truck upon any street where necessary to make a delivery or pick up materials or merchandise, provided that the truck be operated in the shortest and the most direct route to the destination of the truck from the truck route to make the local delivery or pick up and return to the truck route in the shortest and the most direct route; or

(b) The operation of emergency truck upon any street in the city; or

(c) The operation of trucks owned or operated by the city, public utilities and contractors of the city while engaged in the repair, maintenance or construction of streets, street improvements, utility services or conducting refuse collection; or

(d) The operation of a truck upon any street while engaged in the delivery and or receiving of construction goods or materials to any location in the city under construction, where construction and building are taking place, provided that the truck be operated in the shortest and most direct route to the destination of the truck from the truck route to make delivery or pick up and return to the truck route in the shortest and the most direct route. (Code 1987)

14-205. TRUCK ROUTES. Truck routes in the city shall be as follows:

(a) Riley Avenue.
(Code 1987)

14-206. SAME; NOTICE; ENFORCEMENT. The mayor shall cause all truck routes to be clearly sign-posted to give notice of designated truck routes. Any law enforcement officer shall have the authority to require any person driving or in control of any vehicle not proceeding over a truck route to proceed to any public or private scale available for the purpose of weighing and determining whether this article has been complied with. (Code 1987)

14-207. PARKING ON PRIVATE PROPERTY. (a) Except as provided in subsection (b), it shall be unlawful for any person to park, store, leave or abandon a vehicle on real property without authority from the owner or occupant thereof.

(b) It shall not be a violation of this section to park a vehicle on public property, as long as such parking is in compliance with all applicable laws, ordinances, rules and regulations. It shall not be a violation of this section to park a vehicle on private property, which is both open to use by the public for such purpose and is designed and intended for the parking of motor vehicles. For the purposes of this section, private property is not "open to use by the public", if it is:

(1) Being used as either single-family residential or two-family residential; or

(2) Restricted to parking for a particular purpose, or to certain vehicles or users, and the public is notified of such restrictions by signs erected on the property in compliance with subsection (c) hereinafter.

Nothing contained within this section shall be deemed to permit the parking of motor vehicles at any location where such is otherwise prohibited by law.

(c) Signs restricting parking pursuant to subsection (b) (2) shall comply with the following:

(1) All such signs shall be at least 18 inches wide, and 24 inches tall, and shall be posted on a pole or other structure between four feet and eight feet above the ground.

(2) The signs shall reasonably inform the users of the parking area of the restrictions as to its use. In addition to wording informing the users of such restrictions, such signs shall contain wording at the top stating "RESTRICTED PARKING" and shall contain wording at the bottom stating "VIOLATORS WILL BE TOWED AT VEHICLE OWNERS EXPENSE".

(3) At least one sign shall be placed at all entrances to the parking area and positioned so that the operator of a vehicle entering the parking area can observe the sign. A minimum number of signs, equal to one for each ten parking spaces within the parking area, shall be located uniformly throughout the parking area. The requirements set forth in this subparagraph (3) shall not apply to parking areas that contain more than 50 parking spaces. In parking areas that contain more than 50 parking spaces, the number, and location, of such signs shall be established by the director of the Riley County Police Department, or his designee. The number and location of such signs shall be determined in a manner to reasonably notify the users of such parking area of the restrictions.

(d) Upon request of the owner, occupant, or their authorized agent, of real property, the Riley County Police Department may remove and impound any vehicle parked in violation of this section. Upon the removal and impoundment of a vehicle parked in violation of this section, the provisions of section 14-208 of the Code of Ordinances shall be applicable. If an officer of the Riley County Police Department has placed an official citation upon a motor vehicle, alleging that the vehicle has been parked in violation of this section, such citation, unless it clearly states otherwise, shall be deemed authorization from the Riley County Police Department to the owner, occupant, or their authorized agent, of the parking area, to cause the removal and impoundment of such vehicle, under the authority of this section. Unless the owner of the vehicle, or the owner's authorized agent, has recovered such vehicle, and has paid all charges associated with the removal and impoundment of such vehicle within the time frame set forth hereinafter, any person who removes, and/or impounds a vehicle pursuant to this section shall notify the director of the Riley County Police Department, or his designee, within one hour after such removal and impoundment. Such notice may be either orally, or in writing. Such notice shall include, at a minimum, a description of the vehicle, the tag number, the location from which the vehicle was removed, the name of the owner, occupant or agent who requested the removal, the location at which it is impounded, and any other information required by the Riley County Police Department. The Riley County Police Department shall be responsible to insure that the provisions of section 14-208 have been complied with, in connection with any vehicle removed and/or impounded pursuant to this section.

(e) In any prosecution charging a violation of this section, proof that the particular vehicle described in the complaint was in violation of this section, together with proof that the defendant named in the complaint was at the time of the violation a registered owner of such vehicle, shall constitute a prima facie presumption that said registered owner of such vehicle was the person who parked such vehicle. In addition to all other penalties, which are applicable to a conviction of this section, the judge of the municipal court may require a person convicted of this offense to reimburse any person who has incurred costs related to the removal and impoundment of such vehicle. (Ord. 595; Code 2017)

14-208.

AUTHORITY TO TOW IN VEHICLES; PROCEDURE. (a) Members of the Riley County Police Department are hereby authorized to remove and impound any vehicle parked in violation of the ordinances of the city. This authority shall apply to vehicles parked upon the public streets, public alleys, municipal parking lots or public parks.

(b) Whenever a vehicle which is registered in Kansas is impounded by the Riley County Police Department pursuant to this section, the police department shall 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, stating the reasons for the impoundment, the rights of the owner/lienholder as set forth in this section as to recovery of the vehicle, and a statement that, unless the owner or lienholder exercises his rights within 15 days from the date of the mailing of the notice, the vehicle will be sold at public auction to cover the costs of towing and storage, as well as any fines accrued as of the date of towing. Such notice is to be mailed before the close of the tenth full working day following the date of towing.

(c) If the impounded vehicle is registered in another state, or bears no registration plates, the Riley County Police Department shall take prompt action, reasonably calculated to apprise the owner, or lienholder, if any, of the vehicle's location and potential disposition. Such action may include, but is not limited to, contacting the department of motor vehicles of other states to learn to whom a vehicle is registered. If the police department is unsuccessful in determining the name and address of the owner or any lienholder of the vehicle, they shall publish a notice once each week for two consecutive weeks in the official city newspaper describing the motor vehicle by name of maker, model, color and serial number, and shall further state the reasons for the impoundment, information regarding the rights of the owner/lienholder in the recovery of the vehicle and a statement that unless the owner/lienholder takes action within 15 days of the date of the second publication, the vehicle will be sold at public auction to cover any towing and storage costs, as well as any fines accrued as to the date of towing. If the police department is successful in locating the name and address of the owner or any lienholder, they shall be afforded the same notice as set forth in the preceding subsection.

(d) Whenever the Riley County Police Department has complied with the foregoing provisions of this section with respect to any such vehicle, and the owner or lien holder does not exercise any of his rights as set forth in this section within the time stated in the notice, the Riley County Police Department, or its designated agent, may sell the motor vehicle at public auction to the highest bidder for cash.

(e) Once a vehicle has been impounded, the owner or lienholder may:

(1) Immediately pay the accrued towing fee and storage charges, and thereby regain possession of the vehicle;

(2) Sign a signature bond in the amount of the accrued towing fee and storage charges, and thereby regain possession of the vehicle; or

(3) Refuse the options in the preceding subsections and demand a hearing on the validity of the towing, to be held before the municipal court on the next regularly scheduled court day following the demand. If the judge of the municipal court finds that there was no probable cause for the towing, the owner/lienholder shall be given possession of the vehicle. If there was probable cause, the judge shall thereby order the owner/lienholder to comply with the preceding subsections before possession may be regained. No vehicle shall be returned until the owner/lienholder provides sufficient documentation to establish right to possession.

(f) Whenever a traffic violation is dismissed, or an owner/lienholder is acquitted, or it is otherwise determined that the towing of a vehicle was improper, and the owner/lienholder has already paid the towing fee and storage charges pursuant to this section the fees and charges shall be automatically refunded by the city. (Ord. 595; Code 2017)

14-209. EMERGENCY SNOW REGULATIONS; FINDING OF GOVERNING BODY. The governing body finds that parking and operation of vehicles on certain streets covered by a heavy accumulation of snow is a matter affecting the health, safety and welfare of the citizens of the city for the reason that parked and stalled vehicles impede snow removal operations and cause serious traffic congestion. (Ord. 340, Sec. 1; Code 1987)

14-210. SAME; DECLARATION OF TRAFFIC EMERGENCY. Whenever snow has accumulated or there is a possibility that snow will accumulate to such a depth that snow removal operations will be required, the mayor or in the absence of the mayor, the Riley County Police Department, may declare a traffic emergency and until such traffic emergency is terminated it shall be unlawful:

(a) To park a vehicle on any street designated an emergency snow route in section 14-213 of this article; or

(b) To operate a motor vehicle on any emergency snow route without first having equipped such vehicle with tire chains or snow tires, excepting that motor vehicles with dual wheels or four wheel-drive need not be equipped with tire chains or snow tires. (Ord. 340, Sec. 2; Code 1987)

14-211. SAME; NOTICE OF PARKING EMERGENCY; TERMINATION. Upon declaring a traffic emergency the mayor shall forthwith cause appropriate notice thereof to be given through the local press, radio, or other media. The parking emergency shall be terminated by notice given substantially in the same manner as the parking emergency was declared. (Ord. 340, Sec. 3; Code 1987)

14-212. SAME; REMOVAL OF PARKED VEHICLES. All vehicles parked on emergency snow routes must be removed within two hours after notice of a traffic emergency has been given. Any vehicle parked on an emergency snow route after such period of time may be removed or caused to be removed by a police officer to a place of safety and the vehicle may not be recovered until the towing and storage charges are paid. (Ord. 340, Sec. 4; Code 1987)

14-213. SAME; EMERGENCY SNOW ROUTES; ESTABLISHMENT; SIGNS. The following streets are hereby established as emergency snow routes within the city: Riley Avenue from 100 through 500 Blocks of Riley Avenue. The director of the Riley County Police Department shall cause appropriate signs to be installed along each of the streets designated emergency snow routes. (Ord. 340, Sec. 5; Code 1987)

14-214. SAME; PENALTY. Any operator of a vehicle who shall violate the provisions of sections 14 210:214 shall, upon conviction thereof, be fined in an amount not to exceed \$25. (Ord. 340, Sec. 6; Code 1987)

- 14-215. PARKING RESTRICTIONS. (a) No person shall stop, stand or park any vehicle, machinery or any other movable object on the street, or within the city right-of-way on the following streets:
- (1) South Walnut Street from Riley Avenue south to Fourth Street;
 - (2) South Elm Street from Riley Avenue south to Fourth Street.
- (b) The city is authorized to erect signs prohibiting parking as set forth in the section.
- (c) This section shall not apply to any paved parking stall or private driveway, which is perpendicular to the street.
(Ord. 703; Code 2017)
- 14-216. SAME; PARKING RESTRICTIONS. (a) No person shall stop, stand or park any vehicle, machinery or any other movable object on the street, or within the city right-of-way on North Elm Street, from Riley Avenue north to Sixteenth Street.
- (b) The city is authorized to erect signs prohibiting parking as set forth in this section.
- (c) This section shall not apply to any paved parking stall or private driveway, which is perpendicular to the street.
(Ord. 712; Code 2017)
- 14-217. MAXIMUM SPEED. The maximum speed on Cimarron Trail is hereby established at 35 mph, and no person shall operate a motor vehicle in excess of such maximum speed Signs with the maximum speed shall be erected on said street. (Ord. 713; Code 2017)

ARTICLE 3. IMPOUNDMENT OF MOTOR VEHICLES

14-301. DEFINITIONS. For the purpose of this article, the following terms, phrases, words and their derivations shall have the following meanings:

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.

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.

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 1987)

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 of Ogden, Kansas; 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 1987)

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 1987)

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 acknowledgement 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 remove 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.

(2) 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 1987)

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 1987)

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 1987)

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(6), 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 1987)

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 1987)

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 1987)

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 1987)

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 1987)

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 1987)

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 1987)

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 1987)

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 1987)
- 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 1987)
- 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 1987)
- 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) Riley Avenue
 - (b) (Reserved)
 - (c) (Reserved)
- (Code 1987)
- 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 2017)

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 1987)