

CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
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- Article 3. Abandoned Motor Vehicles on Public Property
- 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 Horton, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2000, 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. No fewer than three copies of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Horton, 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. (Code 2001)
- 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. 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. (Ord. 933, Sec. 2)
- 14-103. 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, except for speeding which 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. (Ord. 933, Sec. 3; Code 1992)
- 14-104. THROUGH STREETS. In accordance with the provisions of section 59 of the Standard Traffic Ordinance and when signs are erected giving notice thereof, drivers of such vehicles shall stop or yield as the sign directs at every intersection before entering any of the following streets or parts of streets, which are hereby designated "through streets":
(a) First Avenue east from Fourth Street to Fourteenth Street and including both Fourth Street and Fourteenth Street;

(b) Central Avenue from Fifth Street to Eighteenth Street including both Fifth Street and Eighteenth Street; except the traffic entering from the east on Fifteenth Street;

(c) Fifteenth Street from Seventh Avenue west to Sixth Avenue east including both Seventh Avenue west to Sixth Avenue east, excepting traffic entering from the north on Central Avenue.

(Ord. 743, Sec. 3)

14-105. STOP AND YIELD INTERSECTIONS OTHER THAN ON THROUGH HIGHWAYS. The governing body may by resolution designate certain intersections not on through streets as stop intersections or yield intersections when signs are erected at one or more entrances as stated, and drivers of vehicles shall stop or yield as provided by section 73 of the Standard Traffic Ordinance before entering the intersection. The chief of police shall be caused to erect all such signs in accordance with the determination of the governing body. (Ord. 743, Sec. 4)

14-106. PENALTIES. Every person convicted of a violation of any of the provisions of this article shall for the first conviction thereof be punished by a fine of not more than \$100 or by imprisonment for not more than 10 days; for the second such conviction within one year thereafter such person shall be punished by a fine of not more than \$200 or by imprisonment for not more than 20 days or by both such fine and imprisonment; upon a third or subsequent conviction within one year after the first conviction, such person shall be punished by a fine of not more than \$500 or by imprisonment for not more than six months, or by both such fine and imprisonment; provided, that the penalties prescribed in the Standard Traffic Ordinance incorporated by reference by section 14-101 of this article shall prevail as to the violations of its provision. (Ord. 743, Sec. 5)

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 Horton 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 1992)

14-202. CARELESS DRIVING; PENALTY. It shall be unlawful for any person to drive or operate a vehicle upon any street or alley or driveway in a careless or heedless manner, or without due caution and circumspection or in a manner so as needlessly to endanger or to be likely to endanger any person or property. Any person violating any provision of this section shall, upon conviction thereof, be

fined in any sum not to exceed \$100, or be imprisoned not to exceed three months or be both so fined and imprisoned. (Code 1965, 16-201)

14-203. ROUTES FOR HEAVY VEHICLES. When appropriate signs giving notice thereof have been erected by the chief of police, no vehicle of one or more units, the total weight of which is more than 12,000 pounds with or without load, shall be driven on any highway other than the following:

(a) North and South Streets:

(1) Central Avenue - 5th Street to 18th Street;

(2) 1st Avenue East - 4th Street to 18th Street;

(b) East and West Streets:

(1) 15th Street - 7th Avenue West to 4th Avenue East;

provided, that authorized emergency vehicles are excepted from the provisions of this section; and provided further, that all vehicles are excepted from the provisions of this section while making a local delivery of merchandise or materials. (Ord. 750)

14-204. IMPROPER PARKING; PENALTY. (a) On all streets and public areas where parking spaces for vehicles are designated by lines or markings on the curb or pavement, vehicles shall be parked within the lines or markings.

(b) It shall be unlawful to park any vehicle across or upon any such line or marking or to park any vehicle in such position that the same shall not be entirely within the area designated by such line or marking.

(c) Any person violating the provisions of this section shall, upon conviction thereof, be fined in any sum not to exceed \$25. (Code 1965, 16-202)

14-205. NO PARKING ZONES. It shall be unlawful to park any motor vehicle at any time in any of the following areas:

(a) Central Avenue from Fifteenth Street to Tenth Street, west side only, and except the widening portion of Central Avenue at Tenth Street;

(b) Second Avenue west from Fifteenth Street to Sixteenth Street, west side only;

(c) East Seventh Street from Central Avenue to First Avenue east, south side only;

(d) Highway No. 73 from Second Avenue east to Central Avenue;

(e) Central Avenue from Highway No. 73 north to the first alley;

(f) West Fifteenth Street from Central Avenue to Fifth Street west, south side only.

Any person parking any vehicle in violation of this section shall, upon conviction thereof, be fined in any amount not to exceed \$25. (Code 1965, 16-206)

14-206. ANGLE PARKING. Angle parking at the angle indicated on the curb, sidewalk or pavement or by signs is hereby permitted on the following streets:

(a) Eighth Street from Second Avenue east to First Avenue west;

(b) Central Avenue from Sixth Street to Tenth Street, except the last space at the corner of Tenth Street and Central Avenue;

(c) West Ninth Street from Central Avenue to the first alley west of Central Avenue;

(d) East Ninth from Central Avenue to the first alley east of Central Avenue, north side only;

(e) West Tenth Street from Central Avenue to the first alley west of Central Avenue;

(f) First avenue east from Eighth Street to the first alley north of Eighth Street, west side only.

(Code 1965, 16-205)

14-207. DECLARATION OF TRAFFIC EMERGENCY. Whenever snow has accumulated or there is a possibility that snow will accumulate to such a depth as snow removal operations will be required, the street engineer, where in the absence of the street engineer, the chief of police 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 as a snow route in section 14-210 of this article, between the hours of 12:01 a.m. to 6:00 a.m., of any day when snow removal by the street department is necessary. (Ord. 734, Sec. 2)

14-208. NOTICE OF PARKING EMERGENCY TERMINATED. Upon declaring a traffic emergency, the street engineer or city police department shall forthwith cause appropriate notice thereof to be given through phone, posting or other media, the parking emergency shall be terminated by notice in the local paper, or by posting in a public place along the snow route. (Ord. 734, Sec. 3)

14-209. REMOVAL OF PARKED VEHICLES. All vehicles parked on the routes mentioned in section 14-211 of this article must be removed within one half hour after notice of traffic emergency has been given. Any vehicle parked on the routes mentioned in section 14-211 after such period of time, may be removed or caused to be removed by the police officer to the nearest garage or place of safety and the vehicle may not be recovered until the towing charges and storage charges are paid by the owner or lessee of the car. Any vehicle parked on the route mentioned in section 14-211 of this article on Saturday of each week between the hours of 12:01 a.m. and 6:00 a.m. may be removed or caused to be removed by the police officer to the nearest garage or place of safety and that vehicle may not be recovered until towing charges and storage charges are paid by the owner or lessee. (Ord. 734, Sec. 5)

14-210. SNOW ROUTES AND STREET CLEANING ROUTES. The following streets are hereby established as emergency snow routes and street cleaning routes within the city:

(a) Eighth Street from the intersection of First Avenue West to the intersection of Fourth Avenue East;

(b) First Avenue East from its intersection with Fourth Street to its intersection with Sixteenth Street;

(c) Central Avenue from its intersection with Seventh Street to its intersection with Eighteenth Street;

(d) Third Avenue West from its intersection with Eighth Street to its intersection with Fifteenth Street;

(e) Fourth Avenue East from its intersection with Eighth Street to its intersection with Fifteenth Street;

(f) Eleventh Street from its intersection with First Avenue East to its intersection with Second Avenue East;

(g) Twelfth Street from its intersection with First Avenue East to its intersection with Second Avenue East;

- (h) Second Avenue East from its intersection with Eleventh Street to its intersection with Twelfth Street;
 - (i) Fifteenth Street from the east city limits to the west city limits;
 - (j) Second Avenue West from its intersection with Fifteenth Street to its intersection with Eighteenth Street;
 - (k) Eighteenth Street from its intersection with Second Avenue West to its intersection with Central Avenue;
 - (l) Sixteenth Street from its intersection with Central Avenue to its intersection with Second Avenue East;
 - (m) Seventh Street from its intersection with Central Avenue to its intersection with First Avenue East;
 - (n) Third Avenue East from its intersection with Fifteenth Street to its intersection with Sixteenth Street.
- (Ord. 1023, Sec. 1)

14-211. PENALTY. Any operator of a vehicle who shall violate any of the provisions in sections 14-207:210 herein shall, upon conviction thereof, be fined in the amount not to exceed \$25. (Ord. 734, Sec. 8)

14-212. LIMITED PARKING; REMOVAL OF VEHICLE; PENALTY. (a) It shall be unlawful for any vehicle to be parked for a greater length of time than 24 hours at a single parking within any one block or any alley.

(b) When any police officer finds a vehicle in violation of section 14-214(a) such officer is hereby authorized to provide for the removal of such vehicle to a garage or other place of safety. The owner of the vehicle removed will be responsible for any storage and towing charges.

(c) Any person found guilty of violation of this section shall, upon conviction thereof, be fined not less than \$5 nor more than \$10 for each such violation thereof.

(Ord. 699, Secs. 4:6, Code 1992)

14-213. GROSS WEIGHT LIMITATIONS. When appropriate signs giving notice thereof have been erected by the chief of police, no vehicle of one or more units, the total weight of which is more than 12,000 pounds, with or without load, shall be driven on any highway other than the following:

- (a) The North and South Streets:
 - (1) Central Avenue from Fifth Street to Eighteenth Street.
 - (2) First Avenue East from Fourth Street to Eighteenth Street.
 - (3) Fourth Avenue East from Fifteenth Street to Eighth Street.
- (b) East and West Streets:
 - (1) Fifteenth Street from Seventh Avenue West to Fourth Avenue East.
 - (2) Eighteenth Street from Central Avenue to Second Avenue West.

(Ord. 935, Sec. 1)

14-214. SAME; EXEMPTIONS. The following are exempted from the provisions of section 14-213:

- (a) Authorized emergency vehicles.
- (b) Any such vehicles making a local delivery of merchandise or materials.
- (c) Any such vehicles traveling on the most direct route to or from a place of maintenance of the vehicles or a place of storage of the vehicles.

(Ord. 935, Sec. 2)

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 1992)
- 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 1992)
- 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 1992)

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 1992)

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 1992)

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 1992)

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 1992)

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 1992)

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 1992)

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 1992)

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 1992)

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 1992)

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 1992)

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 1992)

ARTICLE 4. HAZARDOUS MATERIALS

14-401. **HAZARDOUS MATERIAL DEFINED.** As used in this article, the term hazardous material shall mean any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, radioactive material or any substance that due to its nature may cause death, disability or injury upon contact therewith. (Code 1992)

- 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 1992)
- 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 1992)
- 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 1992)
- 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 1992)
- 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 1992)