

CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
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- Article 3. Abandoned Motor Vehicles on Public Property
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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 Hiawatha, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2006, 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 Hiawatha, 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. 967, Sec. 1; Code 2007)
- 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. (Ord. 967, Sec. 2; Code 2007)
- 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 \$10.00 nor more than \$500.00, except for speeding which shall not be less than \$25.00 nor more than \$500.00. 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. (Ord. 909; Code 2007)

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 Hiawatha 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 2007)
- 14-202. **TRASH; DEBRIS; REFUSE.** It is unlawful for any person to haul trash, debris, or refuse in or on any vehicle in this city unless the compartment where the trash, debris, or refuse is carried is covered so as to prevent it from blowing or falling from the vehicle. (Code 1977, 5.06.010)
- 14-203. **DIRT; ROCKS.** It is unlawful for any person to haul in or on any vehicle in this city, any dirt, rock, sand or gravel, or like material, in any manner so as to permit same to spill or fall from the vehicle. (Code 1977, 5.06.020)
- 14-204. **THROUGH STREETS; DESIGNATION.** (a) First Street from the south city limits to the north city limits;
 (b) Oregon Street from First Street to the west city limits.
 (c) It is authorized, ordered, and directed that First Street (U.S. Highway 73), Oregon Street, Sixth Street and Fourth Street are located in the city and are designated and established as main trafficways within the city.
(Code 1977, 10.04.030, 12.18.010)
- 14.205. **SNOW ROUTES; DESIGNATION.** The following streets are established as snow street areas between the hours of 5:00 p.m. and 7:00 a.m. the next day every night of the week within the city limits:
 (a) Oregon Street from First Street to Thirteenth Street;
 (b) Sixth Street from Delaware Street to Utah Street;
 (c) Seventh Street from Delaware Street to Utah Street;
 (d) Delaware Street between Sixth Street and Seventh Street;
 (e) Utah Street between Sixth Street and Seventh Street;
 (f) First Street between the north city limits and the south city limits.
(Code 1977, 10.20.030; Code 2007)
- 14-206. **SAME; PARKING PROHIBITED; VIOLATION; VEHICLE REMOVAL.** All vehicles parked on the streets designated in section 14-205 on any night of the week between the hours of 5:00 p.m. and 7:00 a.m. the following day, when there is an accumulation of snow that requires snow removal from the streets, may be

removed or caused to be removed by the police officers of the city to the nearest garage or other place of safety. The vehicles may not be recovered until towing or storage charges are paid by the owner or lessee. (Code 1977, 10.20.020)

14-207. SAME; PARKING; SNOW ACCUMULATION; PROHIBITION. Parking and operating vehicles on certain streets covered by heavy accumulation of snow is a matter affecting the health, safety, and welfare of the citizens of the city for the reasons that parked and stalled vehicles impede snow removal operations and cause serious traffic congestion; and it is impossible to properly clean and sweep the streets. (Code 1977, 10.20.050)

14-208. SNOW ACCUMULATION; POLICE CHIEF POWERS. During snow removal, the chief of police shall have the power to designate parallel parking upon the streets described in section 14-205 when he or she deems it in the public safety and interest to have parallel parking. All cars shall then park parallel after the posting of the appropriate signs along the streets described in section 14-205. (Code 1977, 10.20.060)

14-209. STANDING; STOPPING; PARKING PROHIBITED; U.S. HIGHWAY 73. No person shall stop, park, or leave standing any vehicle, whether attended or unattended, upon U.S. Highway 73, also known as First Street, from the north city limits to the south city limits at any time on any part of U.S. Highway 73. (Code 1977, 10.20.040)

14-210. SOLID WASTE COLLECTION VEHICLES; PROHIBITED ON PRIVATE PROPERTY. It is unlawful for any person, firm, corporation or partnership to park a solid waste collecting vehicle, which as been licensed under the provision of Chapter 5, upon any private property within the residential zoned areas of the city for any period of time. (Code 1977, 10.20.070)

14-211. SAME; EXCEPTION. It shall be unlawful for any person, firm, or corporation to park any solid waste collection vehicle, as licensed under Chapter 5 on any public street or alley in the city for any time period longer than it reasonably takes to collect the solid waste or trash from the property which adjoins the alley or street in the city. (Code 1977, 10.20.080)

14-212. SAME; PENALTY. Any person, firm, or corporation violating any of the provisions of sections 14-210:211 is subject to fine or penalty under the general penalty provisions of this code, which is section 1-117 and sections thereafter located in this code. (Code 1977, 10.20.090)

14-213. TRAILERS; PROHIBITION. It is unlawful for any person, firm, corporation or partnership to park or leave standing any trailer upon the public streets and alleys of the city. (Code 1977, 10.20.110)

14-214. SAME; EXCEPTION. A person, firm, or corporation may park a trailer, when physically connected to a motor vehicle for the purpose of towing it, for a period of not to exceed two hours in 24 hours for the purpose of unloading or loading property

or people into the trailer. This section shall not apply to trucks loading or unloading under Chapter 10 of the city code. (Code 1977, 10.20.120)

14-215. SAME; PERMIT FOR EXTENDED TIME. In the event a person, firm or corporation or partnership cannot load or unload the trailer in two hours' time, he or she may apply to the chief of police or his or her appointed representative for additional hours to complete the loading or unloading. (Code 1977, 10.20.130)

14-216. SAME; POLICE OFFICERS AUTHORIZED TO REMOVE. (a) Whenever any police officer finds a trailer in violation of any provisions of this chapter, he or she shall, at the time of the delivering of the citation to the owner thereof, request the owner to remove the trailer from the city street or alley within two hours from the delivery of the citation. In the event that the trailer is not removed by the owner within two hours from the delivery of the citation, then the police officer is authorized to have or cause to have the trailer removed to a place of safety. In the event that the officer is unable to ascertain the name of the owner of any trailer found upon the streets or alleys of the city, then the officer is authorized to remove or cause to be removed the trailer to a place of safety.

(b) After the removal of the trailer to a safe place by the police officer from the streets or alleys of the city, he or she shall try to ascertain the name of the owner of the trailer and so notify the owner of the location of the trailer to the place to which it has been removed. The owner shall, after paying the towing and any storage charges, be allowed to remove the trailer. In any event that the owner does not claim the trailer within 48 hours of notification or the police officer is unable to ascertain the ownership of the trailer, then the trailer shall be sold as unclaimed or abandoned property in accordance with Chapter 8.
(Code 1977, 10.20.140)

14-217. SAME; VIOLATION; PENALTY. (a) Any person, firm, corporation or partnership in violation of any provision of sections 14-213:216 is subject to a fine not less than \$25.00 nor more than \$150.00 or by imprisonment for not to exceed 30 days or by both such fine and imprisonment.

(b) Each such person, firm, corporation or partnership shall be guilty of a separate offense for each and every day during any portion of which any violation of any provision of sections 14-213:216 is committed, continued or permitted by any such person, firm, corporation or partnership and he shall be punished accordingly.
(Code 1977, 10.20.150)

14-218. TRUCKS AND COMMERCIAL VEHICLES; TRUCK ROUTES; DESIGNATION; PENALTY. (a) Trucks and commercial vehicles are prohibited on all streets except those stated in this section. When signs are erected giving notice of the truck routes in the city, no person shall at any time thereafter, drive or park a truck or other commercial vehicle or trailer or combination thereof, (except as are engaged in the repair of, snow removal from and construction of streets within the city and school buses) having a gross weight in excess of 17,000 pounds on any street or alley or public way in the city, except on the following named streets where such truck traffic shall be allowed and will be designated as "truck routes," those streets being as follows:

First Street, Sixth Street, Seventh Street South of Iowa, South 8th, 9th between Oregon and Miami, South 10th, 12th, Industrial, Hatfield Road, Miami, West Oregon, Utah 8th to 10th, Kickapoo 8th to 10th, Pottawatomie 10th to Industrial, Iowa, Lodge Road First to Seventh, 100 Block North 10th and 11th, and 1000 Block Delaware provided, trucks, commercial vehicles, carrying goods, merchandise or material or other articles to or from any house, or premises abutting upon any street upon which trucks are prohibited, shall be permitted to enter thereon, cross street nearest to the house or premises in the direction in which the vehicles are moving and deliver or receive such goods, merchandise, materials or other articles, but such trucks shall not proceed on the street further than the nearest cross street thereafter.

(b) Violation; Penalty. Any person violating any of the provisions of this chapter shall be subject to a fine or penalty under the general penalty provision of this code, which is section 1-117 and sections thereafter located in this code. (Code 1977, 10.24.020:10.24.030)

14-219. SOUND AMPLIFICATION SYSTEMS; PROHIBITION. No person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway shall operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 50 or more feet from the vehicle. (Code 1977, 10.28.010)

14-220. SAME; DEFINITIONS. As used in this chapter:
(a) Plainly Audible means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 50 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words and phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parking or moving on a street, highway, alley, parking lot or driveway.

(b) Sound Amplification System means any radio, tape player, compact disc player, loudspeaker or other electronic device used for the amplification of sound. (Code 1977, 10.28.020)

14-221. SAME; EXCEPTIONS. It is an affirmative defense to charge under this section that the operator was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

(a) The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;

(b) The vehicle was an emergency or public safety vehicle;

(c) The vehicle was owned and operated by the city gas, electric, communications or refuse company;

(d) The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with ordinances of the city;

(e) The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities which have the approval of the department authorized to grant such approval.

(Code 1977, 10.28.030)

14-222. SAME; VIOLATION; PENALTY. Any person, individual, partnership, corporation or association who violates any of the provisions of this chapter is guilty of an ordinance violation, and upon conviction, shall be punished by a fine not to exceed \$500.00 or by imprisonment of not more than six months, or by both such fine and imprisonment. Each day any violation hereof is found to exist or continues to exist shall be a separate offense and punishable as such hereunder.
(Code 1977, 10.28.040)

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 2007)

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 vehicle which interferes with public highway operations.

(d) 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.

(e) 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.

(f) 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 2007)

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 2007)

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 2007)

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 2007)

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 within 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 2007)

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 2007)

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 2007)

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 2007)

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 2007)

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 2007)

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 2007)

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 2007)

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 2007)

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 2007)
- 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 2007)
- 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 2007)
- 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 2007)
- 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 2007)

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 2007)