

## CHAPTER XIV. TRAFFIC

- Article 1. Standard Traffic Ordinance
- Article 2. Local Traffic Regulations
- Article 3. Impoundment of Motor Vehicles
- Article 4. Hazardous Materials

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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 Marysville, Kansas, that certain standard traffic ordinance known as the “Standard Traffic Ordinance for Kansas Cities”, edition of 2010, 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. No fewer than three copies of the Standard Traffic Ordinance shall be marked or stamped “Official Copy as Adopted by Ordinance No. 1765” 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 ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge and all administrative departments of the city charged with enforcement of the article shall be supplied, at the cost of the city, such number of official copies of the Standard Traffic Ordinance similarly marked, as may be deemed expedient.
- 14-102. **SAME; MAXIMUM SPEED LIMITS.** Subsection (a) of Section 33 of the Standard Traffic Ordinance is hereby changed to read as follows:  
(a) Section 33. Maximum Speed Limits. (a) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits:  
(1) 20 miles per hour in any business district;  
(2) 30 miles per hour in any residential district;  
(3) 30 miles per hour in that portion of U.S. Highway 36 between the west city limits and Twentieth Street; and U.S. Highway 77 from Center to the south city limits. The remaining portion of U.S. Highway 36 within the city limits shall be as posted by the Kansas Department of Transportation;  
(4) 20 miles per hour in any park;  
(5) The maximum speed limit established by or pursuant to this section shall be in force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limits in excess thereof, and any sign giving notice of a maximum speed limit in excess of

the limits established by or pursuant to this paragraph shall not be of any force or effect.

14-103. PUBLIC PARADES AND PROCESSIONS. (a) All requests for public parades to be held and conducted over public streets within the city shall be submitted to the governing body for its action and no public parade shall be permitted until authorized by the governing body. (b) All authorized parades and processions shall assemble and proceed along such streets as may be designated and approved by the governing body. (c) Golf carts, 4-wheelers, go-carts and other similar vehicles shall be permitted to operate upon public streets as part of the parade demonstration. (Code 2007)

14-104. 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 traffic infractions as defined in subsection (a) of this article, shall be considered traffic offenses. (Ord. 1298, Sec. 2)

14-105. PENALTY FOR SCHEDULED FINES. The fine for violation of a traffic infraction or any other traffic offense for which the municipal judge established a fine schedule shall not be less than \$10.00 nor more than \$499.00. A person tried and convicted for violation of a 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 \$499.00. (Ord. 1298, Sec. 5)

## ARTICLE 2. LOCAL TRAFFIC REGULATIONS

- 14-201.           **STOP OR YIELD INTERSECTIONS.** The governing body may designate by a resolution as through streets or stop and yield intersections on other streets and may determine at which entrance or entrances stop or yield signs shall be erected and maintained. When signs are erected giving notice thereof, drivers of all vehicles shall stop or yield as the sign directs before entering any through street or any such intersection. (Code 1987; Code 2007)
- 14-202.           **LOADING, UNLOADING AND SPECIAL ZONES.** (a) Whenever any appropriate sign shall be authorized by ordinance to be placed along any street or highway of the city giving notice of any special use of the roadway adjacent thereto for the loading or unloading of merchandise or passengers or the standing of taxicabs, buses or for other authorized purposes, it shall be unlawful for any person to refuse or fail to comply with such sign.  
(b) No person shall park any vehicle within a loading or bus zone except for the purpose of loading or unloading the vehicle and then only for such length of time as is reasonably necessary to load or unload the vehicle, in no case for longer than 30 minutes. The 30-minute restriction shall not apply to buses parked in areas designated as school bus zones or taxicabs in areas designated as cab stands. (Code 1987)
- 14-203.           **NO PARKING ZONES.** The governing body may by resolution prohibit or limit the stopping, standing or parking of vehicles on any street or alley where deemed necessary and in so doing may designate zones or places where drivers of vehicles shall not park, stand or stop any vehicle at any time or during specified times, and when signs are erected prohibiting the parking, standing or stopping on any street or alley, no person shall stop, stand or park a vehicle in such designated place in violation of any such sign. (Code 1987; Code 2007)
- 14-204.           **ONE-WAY STREETS AND ALLEYS.** Whenever any street or alley shall be designated by resolution as a one-way street or alley and when signs indicating the direction of lawful traffic movement shall be placed at intersections where movement of traffic in the opposite direction is prohibited, it shall be unlawful for any person to drive a vehicle in violation of any sign placed in accordance with this section. (Code 1987; Code 2007)
- 14-205.           **PARKING RESTRICTIONS.** (a) No person shall park or leave or permit to be parked or left any semitrailer, tractor, or semitrailer combination thereof on any street or public grounds in the city zoned as residential (R-1, R-2 and R-3).  
(b) Except for areas zoned “residential,” no person shall park any vehicle, as defined by the Standard Traffic Ordinance for Kansas Cities for more than 24 hours at any one time in any one place on the streets in the city. (Ord. 1369, Sec. 1)

- 14-206. CARELESS DRIVING. No person shall operate or halt any vehicle in such a manner as to indicate a careless or heedless disregard for the rights or the safety of others or in such a manner as to endanger or be likely to endanger any person or property. (Ord. 1080, Sec. 1)
- 14-207. PARKING; YELLOW AND RED ZONES. It shall be unlawful for any person to park a motor vehicle in any zone marked with solid yellow or red paint on the curb unless otherwise posted. (Ord. 1263, Sec. 2)
- 14-208. SAME; PARKING ALWAYS RESTRICTED. It shall be unlawful for any person to park a motor vehicle at any time in the following areas:
- (1) On the south side of Carolina Street from Sixth Street to Seventh Street.
  - (2) On the north side of Center from Tenth Street east 60 feet.
  - (3) On the north side of Center from Eleventh Street east 40 feet.
  - (4) On the north side of North Street from Fifteenth Street to Eighteenth Street.
  - (5) On the south side of Walnut Street from Eighth Street to Ninth Street.
  - (6) On the south side of Walnut Street from Tenth Street to Twelfth Street.
  - (7) On the west side of Sixth Street from Broadway to Carolina Street.
  - (8) On the west side of Seventh Street from Broadway to Elm Street.
  - (9) On the east side of Tenth Street from Center to Broadway.
  - (10) On the west side of Eleventh Street from Center to Carolina Street.
  - (11) On the east side of Eleventh Street from Walnut Street to Elm Street.
  - (12) On the east side of Carolina Street from Center to Carolina Street.
  - (13) On the west side of Twelfth Street from Broadway to the alley north of Center.
  - (14) On the east side of Thirteenth Street from Broadway to Center to the alley north of Center.
  - (15) On the east and west sides of Fourteenth Street from Broadway to Center.
  - (16) On the east and west sides of Fifteenth Street from Center to Carolina Street.
  - (17) On the east side of Fifteenth Street from Carolina Street to the alley north of Carolina Street.
  - (18) On the west side of Fifteenth Street from Calhoun Street to Laramie Street.
  - (19) On the west side of Fifteenth Street from Elm Street to Broadway.
  - (20) On the east and west sides of Twelfth Street from Center to North Street.
- (Ord. 1345, Sec. 1)
- 14-209. SAME; PARKING RESTRICTED. It shall be unlawful for any person to park a motor vehicle in the following areas at the stated dates and times.
- (a) On the north side of Carolina Street from Tenth Street to Eleventh Street from 8 a.m. to 9 a.m. and from 3 p.m. to 4 p.m. on days school is in session.
  - (b) On the south side of Walnut Street from Tenth Street to Eleventh Street from 8 a.m. to 9 a.m. and from 3 p.m. to 4 p.m. on days school is in session.
- (Ord. 1345, Sec. 2)

- 14-210. SAME; EIGHT-TO-FIVE PARKING RESTRICTED. It shall be unlawful for any person to park a motor vehicle in the following areas from 8:00 a.m. to 5:00 p.m., Monday through Friday:
- (a) On the west side of Fourth Street from Alston Street to Calhoun Street.
  - (b) On the west side of Twelfth Street from Walnut Street to Broadway Street.
  - (c) On the west side of Fourteenth Street from Center to the alley north of Center. (Ord. 1345, Sec. 3)
- 14-211. SAME; 15 MINUTE PARKING. It shall be unlawful for any person to park a motor vehicle for any period of time exceeding 15 minutes in the following areas during the hours of 8:00 a.m. to 5:00 p.m.:
- (a) In the second parking space on the west side of Eighth Street south of Carolina Street.
  - (b) In the last two parking spaces on the west side of Ninth Street north of Elm Street.
  - (c) On the west side of Eighth Street from Carolina Street to the alley north of Carolina Street.
  - (d) Five parking spaces on the west side of Hedrix Avenue in front of the Union Pacific Depot. (Ord. 1327, Sec. 2)
- 14-212. SAME; ONE-HOUR PARKING. The parking of vehicles on the west side of South Tenth Street from Walnut Street north one-half block to the alley is restricted to one-hour parking from 7 a.m. to 5 p.m. Monday through Friday. (Ord. 1628, Sec. 1)
- 14-213. SAME; LOADING/UNLOADING ZONES. The following area shall be designated by appropriate signs as loading and unloading zones:
- (a) The west side of Eleventh Street between Carolina Street and Alston Street for a total of 55 feet centered on the east door of the Marysville Elementary School between 8 a.m. and 5 p.m., Monday through Friday, for the pick-up and discharge of students. (Ord. 1345, Sec. 4)
- 14-214. SAME; BARRICADED STREETS. North Tenth Street from Carolina Street to Alston Street shall be barricaded from 9 a.m. to 3 p.m. on days when school is in session. Through traffic shall be prohibited during stated times. USD #364 will be responsible for the placement and removal of the barricades. (Ord. 1346, Sec. 1)
- 14-215. SAME; COMMERCIAL VEHICLES. It shall be unlawful for any person to park a motor vehicle except for expeditions loading or unloading to or from vehicles registered as commercial along the north side of Broadway, 100 feet east of Fourteenth Street. The driver of any vehicle transport or carrier shall not park or stand any vehicle unloaded from any transport or carrier on Center, Broadway, Fourteenth and Fifteenth Streets but shall remove or cause to be removed the vehicle to the appropriate dealer's parking lot. No vehicle transport or carrier

shall load or unload on Center, Broadway, Fourteenth or Fifteenth Streets unless parked within the authorized unloading zone and within one foot from the curb. The driver of any vehicle transport or carrier shall not park or stand the transport or carrier in the authorized unloading zone in excess of one hour without the prior approval of the chief of police. Any vehicle parked in violation of this section may be towed by the police at owner's expense. (Ord. 1263, Sec. 8)

14-216. SAME; ANGLE PARKING STALLS. Except as otherwise permitted, motor vehicles shall be parked on the roadway within angle parking stalls at the following locations:

- (a) To the south side of Elm Street from Eighth to Ninth Street.
- (b) On the south and north sides of Elm Street from Ninth to Tenth Street.
- (c) On the south and north sides of Broadway from Fifth to Thirteenth Street.
- (d) On the south side of Carolina Street from Seventh Street to Hedrix Avenue.
- (e) On the north and south sides of Carolina Street from Hedrix Avenue to Eighth Street.
- (f) On the south side of Carolina Street from Tenth to Eleventh Street.
- (g) On the north and south sides of Carolina Street from Thirteenth to Fourteenth Street.
- (h) On the north side of May Street from one-half block east of Sixteenth to Eighteenth Street.
- (i) On the south side of North Street from Seventeenth Street to Eighteenth Street.
- (j) On the west side of Tenth Street from Broadway to the alley south of Elm Street.
- (k) On the east side of Tenth Street from Broadway to the alley south of Broadway.
- (l) On the east and west sides of Ninth Street from the alley north of Center to Elm Street.
- (m) On the east and west sides of Eighth Street from Carolina Street to Elm Street.
- (n) On the west side of Hedrix Avenue from Calhoun Street to Carolina Street.
- (o) On the east side of Hedrix Avenue from Alston Street north to the alley. (Ord. 1263, Sec. 9; Ord. 1286, Sec. 1; Code 2007)

14-217. SAME; TRAILERS. A trailer means every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property, and for being drawn by a motor vehicle, and so constructed that no part of its weight rests upon the towing vehicle.

- (a) No unlicensed trailers are to be parked on any city street adjacent to a residential or commercially zoned lot unless properly attached to a licensed and operable motor vehicle.
- (b) All trailers parked on any city street shall be equipped with at least two tail lamps and two reflectors mounted on the rear of the trailer;

- (c) All trailers parked on any city street shall be parked right wheel to curb.
- (d) No trailer shall be permitted to be parked on any street in excess of 24 hours in any one block. (Ord. 1492, Sec. 1)

14-218. SAME; EQUIPMENT/MACHINERY. No equipment, machinery, device or other object may be placed, parked or left on any street within the city limits unless such equipment, machinery, device or other object is in use or operation. This provision may be waived for a period of 48 hours by the chief of police or city administrator upon a showing that such equipment, machinery, device or other object does not pose a threat to the public safety. For periods greater than 48 hours, application must be made to the city council. (Ord. 1643, Sec. 1)

14-219. SAME; STREET CLEANING. There shall be no parking on Friday of each week between the hours of 12:00 midnight and 7:00 a.m. on Center from Second to Fifteenth Street; Broadway from Fifth to Thirteenth Street; Eighth Street from Carolina to Elm Street; and Ninth and Tenth Streets from Center to Elm Street. (Ord. 1280, Sec. 1:2; Code 1987)

14-220. SNOW REMOVAL. The chief of police, city administrator or street supervisor shall publicly announce, through all news media available at the time when an emergency snow condition exists, that the “Snow Removal Regulations” are in effect. (Ord. 1241, Sec. 1)

14-221. SAME; PHASES. Snow removal will be accomplished in phases with priority as shown:

(a) Emergency Snow Route. Routes necessary to provide emergency vehicles access to major portions of the city, the business district and emergency facilities such as the hospital. The number of routes shall be the minimum necessary. The chief of police or his/her designated appointee shall be authorized to have violation notices posted on the parked vehicles.

(b) Primary Snow Route. Routes which, when cleared, will aid in the orderly movement of vehicles to the emergency snow routes. Posting of violation notices or removal of parked vehicles shall not be authorized.

(c) Secondary Snow Routes. Streets which provide access to primary snow routes. These routes shall be opened only when the emergency snow routes and primary snow routes remain open. (Ord. 1241, Sec.2)

14-222. SAME; NOTICE PRESUMED. Any person who parks a car or other vehicles on any street of the city is bound by any emergency traffic or parking measures which may be ordered by the chief of police or his or her designated appointee and is expected to learn when such emergency traffic and/or parking laws are in effect. The city shall do everything within reason to alert the public to these emergency measures; however, it is the responsibility of anyone leaving a car on the streets for any length of time to apprise himself or herself of these measures, especially during the snow season. (Ord. 1241, Sec. 3)

- 14-223. SAME; PENALTY. Any vehicle owner who permits his or her vehicle to remain in a “No Parking” area or who in any other manner interferes with snow removal from the streets shall be held in violation of this section, the penalty upon conviction thereof to be not less than \$25.00 nor more than \$100.00. The penalty provided for interference with snow removal by a vehicle rests with the registered owner thereof. The fact that the vehicle was not last parked or driven by the owner thereof, or that the driver or owner was not aware of the emergency traffic provisions in effect, shall not be a defense to a charge of violating this article. (Ord. 1241, Sec. 4)
- 14-224. SAME; DUMPING SNOW. Following the snow clearance, it shall be deemed a violation of this article for any person, corporation or firm to pile or dump snow on such cleared street from a private driveway or building entrance sidewalk so as to constitute an impediment or hazard to normal traffic on the street. The penalty for violation of this section shall be the same as provided in 14-223 of this article. (Ord. 1241, Sec. 5)
- 14-225. SAME; PRIVATE PROPERTY. Following the snow clearance, the city realizes that alleys, driveways, sidewalks and vehicles may be blocked. Realizing the desire of the general public to have streets open to passable traffic, it shall become the responsibility of individual citizens to remove the blockages of those alleys, driveways, sidewalks and vehicles they wish to use. (Ord. 1241, Sec. 6)
- 14-226. SAME; ANNOUNCEMENT. Upon announcement by the chief of police, city administrator or street supervisor that the “Snow Removal Regulations” are in effect, the streets listed in this section shall be designed as “Emergency Snow Routes”. No parking shall be allowed and violating vehicles shall have violation notices placed thereon. Emergency snow route signs shall be posted on the right hand side of the driving lane at intervals not to exceed four blocks.
- (a) Broadway – Third Street to Fifteenth Street
  - (b) Center – Fourth Street to Twentieth Street
  - (c) Airport Road – Twentieth Street to Airport Administration Building
  - (d) Jenkins Street – Nineteenth Street to Twentieth Street
  - (e) May Street – Nineteenth Street to Twentieth Street
  - (f) Park Place – Twelfth Street to Sixteenth Street
  - (g) Tenth Street – Center to Koester Street
  - (h) Twelfth Street – Broadway to Park Place
  - (i) Nineteenth Street – Jenkins Street to May Street
  - (j) Twentieth Street – Center to Airport Road (Ord. 1532, Sec. 1)
- 14-227. SAME; VEHICLES TO BE REMOVED. Upon accumulation of snow depth of three inches (3”), the “Snow Removal Regulations” are in effect and the following streets shall be designed as “Primary Snow Routes” and vehicles are requested to be removed.
- (a) Airport Road – Sixteenth Street to Twentieth Street
  - (b) Alston Street – Tenth Street to Fourteenth Street

- (c) Calhoun Street – Fourth Street to Sixth Street
- (d) Carolina Street – Seventh Street to Eighth Street; and Tenth Street to Eleventh Street
- (e) Elm Street – Ninth Street to Tenth Street
- (f) Jackson Street – Sixth Street to Tenth Street
- (g) Jenkins Street – Fifteenth Street to Nineteenth Street
- (h) North Street – Eighth Street to East city limits
- (i) Spring Street – Twelfth Street to Seventeenth Street
- (j) Walnut Street – Eighth Street to Twelfth Street
- (k) Fourth Street – Broadway to Calhoun Street
- (l) Sixth Street – Jackson Street to Calhoun Street
- (m) Eighth Street – Walnut Street to North Street
- (n) Ninth Street - Center to Elm Street
- (o) Tenth Street – Alston Street to Center Street
- (p) Eleventh Street – Broadway to Alston Street
- (q) Twelfth Street – Spring Street to Broadway
- (r) Thirteenth Street – Broadway to Spring Street
- (s) Fourteenth Street – Spring Street to Alston Street
- (t) Fifteenth Street – Spring Street to North Street
- (u) Sixteenth Street – North Street to Jayhawk Road
- (v) Seventeenth Street – Spring Street to Center
- (w) Nineteenth Street – Center to Feldhausen Field; and May Street to North Street (Ord. 1581, Sec. 1)

14-228.                   **COMPRESSION BRAKES; DESCRIPTION.** The term “jake brake” or “compression brake” as used herein means any device commonly known by either name or any similar device used to slow a motor vehicle by engine compression creating loud or excessive noises to be emitted through the vehicle’s exhaust system.

- (a) It shall be unlawful for any person operating a motor vehicle within the city limits to use or operate or cause to be used a jake brake system or compression brake system installed in said vehicle.
- (b) Any person convicted of a violation of this section may be punished by a fine of not more than \$250.00. (Ord. 1599, Sec. 1)

14-229.                   **LOUD SOUND AMPLIFICATION SYSTEMS PROHIBITED.** (a) 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 100 or more feet from the vehicle.

- (b) Sound amplification system means any radio, tape player, compact disc player, loud speaker, or other electronic device used for the amplification of sound.
- (c) Plainly audible means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 100 feet or more. Measurement standards shall be the auditory senses, based upon

direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.

(d) It is an affirmative defense to a charge under this section that the operation was not otherwise prohibited by law from operating the sound amplification system, and that any of the following apply:

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

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

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

(4) 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;

(5) 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 city authorized to grant such approval. (Ord. 1424, Sec. 1)

14-230. SAME; PENALTY. Any person, individual, partnership, corporation or association who violates any of the provisions of Section 14-229 above is guilty of a violation and upon conviction shall be punished by a fine not to exceed \$1,000.00 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. (Ord. 1424, Sec. 2)

14-231. MOTOR-DRIVEN CYCLE. (a) No person shall operate a motor-driven cycle, including without limitation any motorized-type scooter or other motor-driven cycle, on any street, road, or highway in this city unless such cycle has headlights, turn signals, taillights and at least one rear view mirror. Any operator or driver under the age of 18 years who is driving or operating such a cycle shall wear a protective helmet and eyewear. (b) No person shall operate any motor-driven cycle, including without limitation any motorized-type scooter or other motor-driven cycle, upon any public sidewalk in this city. (c) The provisions of the ordinance shall not apply to motorcycles that are registered under Chapter 8 of Kansas Statutes Annotated, any amendments thereto.

### 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:

(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 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 Marysville, 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 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 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 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 bear 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(w), 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 therefore 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 to 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 compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, radioactive material or any substance that due to its nature may cause death or disability injury upon contact therewith. (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 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 rights-of-way within the city except those specified within this section where transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways:
- (a)     U.S. Highway 36, also known as Center.
  - (b)     U.S. Highway 77, also known as South Tenth Street.
  - (c)     Most direct route from U.S. Highways 36 or 77 to the point of delivery. (Ord. 1319, Sec. 2)
- 14-405.           **PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS.**
- (a)     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 the city limits, except as provided in subparagraph (b) below.
  - (b)     Subparagraph (a) shall not apply to vehicles, trailers or semi-trailers parked for a continuous period of time, not to exceed one hour, when parked on U.S. Highways 36 or 77, and such parking shall not be within 50 feet of any structure used for human habitation. (Ord. 1319, Sec. 3)
- 14-406.           **REMOVAL OF ILLEGALLY PARKED TRAILERS.** If any vehicles, 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)