

CHAPTER 14.

TRAFFIC

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

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE.

There is hereby incorporated for the purpose of regulating traffic within the corporate limits of the City of Westwood, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2022, 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 Westwood, 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 filled with the city clerk to be open to inspection and available to the public at all reasonable hours

(Code 2008, § 14-101; Ord. 878, Sec. 1; Ord. 877, Sec. 1; Ord. 899, Sec1; Ord. 911, Sec1; Ord. 916, Sec.1; Ord. 928, Sec. 1; Ord. 937, Sec1; Ord 953, Sec1; Ord No. 961, § 1, 8-13-2015; Ord. No. 972, § 1, 8-11-2016; Ord. No. 982, § 1, 7-13-2017; Ord. 992, Sec 1; Ord. 1002, Sec 1; Ord. No. 1031, § 1, 10-13-2022)

14-102. SPEED LIMITATIONS RESTRICTIONS.

The Governing Body has determined prior to the enactment of L. 1974, ch. 33, and/or where required, based upon the determination of the Kansas Secretary of Transportation, and/or has undertaken and caused to be conducted an engineering and traffic investigation and based upon said investigation has determined, that the speed limits permitted under state law and Section 33 of the Standard Traffic Ordinance for Kansas Cities other than reasonable and safe under the conditions found to exist upon said street, and does re-state, and/or determine and declare that the reasonable and safe speed limits within the City of Westwood (except when a special hazard exists that requires lower speed for compliance with Section 32 of the Standard Traffic Ordinance for Kansas Cities) are the limits specified in this section, or established as hereinafter authorized, and shall be maximum lawful speeds, and no person shall drive a vehicle at a speed greater than or in excess of such maximum limits:

- (a) Thirty (30) miles per hour upon the following streets: 47th Street and State Line Road.
- (b) Thirty-Five (35) miles per hour upon the following streets: Rainbow Boulevard and Shawnee Mission Parkway. The Secretary of Transportation having determined that the speed limits as provided by law upon Rainbow Boulevard within the city limits of the City of Westwood, and upon Shawnee Mission Parkway within the city limits of the City of Westwood, which are connecting links in the state highway system, are greater than is reasonable or safe under the conditions found to exist and has determined and declared a reasonable and safe speed limit thereon to be 35 miles per hour, and has caused to be erected appropriate signs giving notice thereof, the speed limit on said streets for the distance designated is hereby set at 35 miles per hour. Said streets being connecting limits in the state highway system, the Secretary of Transportation has approved said speed limit in writing for said streets.
- (c) Twenty (20) miles per hour between the hours of 7:30 a.m. and 4:30 p.m. of any day school is in session upon 50th Street from Rainbow Boulevard to Norwood St. and from the north property line of the address at 4914 Belinder Avenue to the southernmost intersection of W. 50th Ter.
- (d) Thirty (30) miles per hour upon Mission Road except that said speed limit shall be twenty (20) miles per hour between the hours of 7:30 a.m. to 8:30 a.m., 10:30 a.m. to 11:30 a.m., and 3:00 p.m. to 4:00 p.m. of any day the St. Agnes School is in session on Mission Road from 53rd Street to the northerly line of 51st Street, and twenty (20) miles per hour between the hours of 7:30 a.m. to 8:30 a.m. and 3:00 p.m. to 4:00 p.m. of any day Shawnee Mission Christian School is in session on Mission Road from the northerly line of 49th Terrace to the northerly line of 48th Terrace.
- (e) Twenty-Five (25) miles per hour in any other business district or residential district.

The maximum speed limit established by or pursuant to this paragraph 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.

- (f) The Chief of Police is hereby directed to erect appropriate signs giving notice of such speed along said streets.
(Code 2008, § 14-102; Ord. 878, Sec. 2)

14-103. EXHIBITION OF SPEED OR ACCELERATION DEFINED.

Section 37 of the Standard Traffic Ordinance is supplemented by adding to said Section 37 the following subsection (a):

- (a) "Exhibition of speed or acceleration" - is defined to include, but is not limited to, those acts which cause or create unnecessary rapid acceleration, unnecessary tire squeal, skid, smoke, or slide upon acceleration or stopping including the casting of tread, gravel, dirt, or other road surface materials from the tires; acts that simulate a temporary race; or acts that cause the vehicle to unnecessarily turn abruptly, sway or lose traction with

the road surface.
(Code 2008, § 14-103; Ord. 878, Sec. 3)

14-104. TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

(a) An ordinance traffic infraction is a violation of any section of this ordinance 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 and amendments thereto.

(b) All traffic violations which are included within this ordinance, and which are not ordinance traffic infractions, as defined in subsection (a) of this section, shall be considered traffic offenses.

(Code 2008, § 14-104; Ord. 878, Sec. 4; Ord. No. 1030, § 2, 8-11-2022)

14-105. PENALTY FOR SCHEDULED FINES AND PENALTIES GENERALLY.

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 \$1.00 nor more than \$500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offenses 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.

(Code 2008, § 14-105; Ord. 878, 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.

(Code 2008, § 14-201)

14-202. PARKING OR STOPPING PROHIBITED.

No person shall stop, stand, or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in any of the following places:

- (a) Shawnee Mission Parkway;
- (b) Rainbow Boulevard within the city;
- (c) The west side of State Line Road from the north city limits to the south city limits at

all times;

(d) The east side of Belinder Avenue at any time and also on the west side of Belinder Avenue between the hours of 2:00 a.m. and 9:00 a.m. and the west side of Belinder Avenue from 47th Avenue to 49th Terrace between the hours of 4:00 p.m. and 6:00 p.m. and the west side of Belinder Avenue from 49th Terrace to the southernmost 50th Terrace intersection between the hours of 2:00 p.m. and 6:00 p.m.;

(e) The east side of Mission Road from the north city limits being 47th Street to the south city limits being 53rd Street, at all times;

(f) The south side of 48th Terrace between Rainbow Boulevard west to Adams Street;

(g) Both sides of 47th Place from Rainbow Boulevard to State Line Road, at all times;

(h) North side of 49th Street from Rainbow Boulevard west to Adams Street, at all times;

(i) Within 100 feet west of the intersection of 50th Street and Belinder Avenue, within 100 feet east of the intersection of 50th Street and Belinder Avenue, within 100 feet north of the intersection of 50th Street and Belinder Avenue, and within 100 feet south of the intersection of 50th Street and Belinder Avenue;

(j) The west side of Adams Street between 49th Terrace and 50th Street, at all times;

(k) The west side of Booth Street between 49th Terrace and 50th Street, at

all times;

(l) The south side of 47th Terrace from Rainbow Boulevard to State Line Road, at all times;

(m) The north side of 48th Street from Rainbow Boulevard to State Line Road, at all times;

(n) The north side of W. 48th Street, from the west pavement edge of Rainbow Boulevard west 250 feet to the west side of the rear service drive behind Westwood Village, at all times;

(o) The south side of W. 48th Street, from 85 feet west of the Rainbow Boulevard pavement edge west to Booth Street, between the hours of 6:00 a.m. to 5:00 p.m., Monday thru Friday;

(p) The south side of W. 48th Street, from 85 feet west of the west pavement edge of Rainbow Boulevard east to Rainbow Boulevard, at all times;

(q) The south side of 47th Terrace from Rainbow Boulevard to State Line Road, at all times;

(r) The north side of 48th Street from Rainbow Boulevard to State Line Road, at all

times;

(s) The north side of 50th Street from Rainbow Boulevard to Belinder Avenue, at all times;

(t) The south side of 50th Street from the west boundary of 2511 West 50th Street to Rainbow Boulevard, at all times and the south side of 50th Street from a point 100 feet east of Belinder Ave. to the west boundary of 2511 W. 50th St. between the hours of 7:00 a.m. to 9:00 a.m. and 2:00 p.m. to 6:00 p.m.;

(u) On the southeast side of West 51st Street from 2331 West 51st Street to Rainbow Boulevard from 7:00 a.m. to 6:00 p.m., and on the northeast side of West 51st Street from the westernmost point of the Westwood View School property line east to the driveway of the Westwood Christian Church from 8:00 a.m. to 4:00 p.m.;

(v) The west side of Belinder Avenue south from its intersection with West 47th Street 100 feet, at all times;

(w) Within 100 feet of Belinder on W. 49th Terrace from a point 100 feet east and west of Belinder Avenue on both sides of the street at all times;

(x)-(z) Reserved;

(aa) On any street, public road or highway within the city ~~for more than two hours~~ between the hours of 12:01 am. and 6:00 a.m.;

(bb) On a sidewalk;

(cc) On a crosswalk;

(dd) Within 15 feet of a fire hydrant;

(ee) Blocking any driveway, emergency exit, fire lane, pedestrian walking lane or on the grass or other unpaved surface of any property or on any public curb;

(ff) On any loading zone while not actually engaged in loading or unloading property or passenger;

(gg) Within 30 feet of a stop sign or traffic signal;

(hh) At any other place where official signs prohibit parking;

(ii) Notwithstanding the above, the City, through its designated personnel, shall have the authority to grant a parking permit to park a vehicle in contravention of the above restrictions for a period not to exceed three hundred sixty-five (365) days, upon a showing of the applicant's necessity, and upon a determination that public safety will not be adversely affected by the granting of such permit. The permit shall state the person to whom it is issued, the location where parking is to be permitted, the vehicle to be parked, any conditions thereon in the public interest, and the duration of the permit.

(Code 1993, 14-105; Code 2008, § 14-202; Ords. 551, 582, 603, 611, 620, 629, 638,

642; 683, 689, 697, 828, 842, 845; 933; 934; Ord. No. 975, § 1, 10-13-2016; Ord. No. 1030, § 1, 8-11-2022)

14-204. UNLAWFUL LEFT TURNS. ¹

It shall be unlawful for any vehicle to make left turns as follows:

- (a) For the driver of any vehicle proceeding in a westerly direction on 47th Street Terrace or 48th Street to turn left onto Rainbow Avenue between the hours of 7:00 a.m. and 9:00 a.m. and between 4:00 p.m. and 6:00 p.m. within the limits of the city.
- (b) For the driver of any vehicle proceeding in an easterly direction on 47th Street Terrace, 48th Street, 48th Street Terrace, 49th Street, to turn left onto Rainbow Avenue between the hours of 7:00 a.m. and 9:00 a.m. and the hours of 4:00 p.m. and 6:00 p.m. within the limits of the city.
- (c) It shall be unlawful for any vehicle proceeding in a westerly direction out of the parking lot at 4715 Rainbow Boulevard, Westwood, Kansas, to turn south onto Rainbow Boulevard across the center line of Rainbow Boulevard.
(Code 1993, 14-106; Code 2008, § 14-204; Ord. 773)

14-205. TRUCK TRAVEL PROHIBITED.

Truck travel shall be restricted as follows:

- (a) Truck shall not be allowed to enter upon any streets of the city, except the following named streets: Rainbow Boulevard, Shawnee Mission Parkway, and 47th Street, where truck traffic is allowed. Provided, however, that at the time of any alleged violations of these regulations there must be posted upon the streets of the city upon which trucks are prohibited, signs designating such regulations to be in effect. Trucks carrying goods, merchandise, and other articles to or from any house or premises abutting upon any street upon which trucks are prohibited, and which house or premises do not abut a street upon which trucks are permitted, shall be allowed to enter thereon at the cross street nearest to the house or premises in the direction in which the vehicles are moving and deliver or receive such goods, merchandise, or other articles, but such vehicles shall not proceed on the street farther than to the nearest cross street thereafter.
- (b) No person shall operate any truck within any alley or alleyway in the city.
- (c) "Truck" - as used in this provision, means any vehicle designed or maintained primarily for the transportation of property and having a load limit in excess of one ton, or any vehicle other than those constructed for the purpose of carrying passengers which has a load limit in excess of one ton.
- (d) "Truck" - as used herein, shall not apply to: vehicles engaged by the city in the

¹ **Legal analysis: 14-204. UNLAWFUL LEFT TURNS.** The copy of the original code that we received did not include a Section 14-203. Please advise whether (a) we may be missing some code language, (b) the city would like to add a section 14-203 and title it as reserved, or (c) renumber subsequent sections to account for the missing section.

repair or construction of streets and / or public infrastructure located within the city or engaged by the city or an entity located within the city in trash and garbage pickup; emergency vehicles; official vehicles owned and operated by the city or any other government entity provided their presence in the city are for the benefit of the city or a resident or an entity located within the city; or such repair or construction vehicles as are necessary to repair or construct utilities or other infrastructure within the right-of-way in the city.

(Code 1993, 14-109; Code 2008, § 14-205; Ord. 880, Sec. 1)

14-206. PARKING ON PRIVATE PROPERTY BY THE PUBLIC.

(a) No person shall park or leave a vehicle unattended or attended for a period of time longer than that designated or at a time when parking is prohibited on private property used by the public for the purpose of vehicular traffic by permission of the owner. The owner or operator of such private property shall have the authority, subject to the approval of the chief of police, to designate by appropriate signs and markings the parking time limit, the areas in which parking is permitted, parking spaces, and times when parking of vehicles is prohibited.

(b) The owner or operator of such property used by the public is authorized to erect suitable signs upon approval of the chief of police, which shall be placed on such property advising the public of the limits and conditions of the parking regulations. A sign shall be erected with the following words legibly painted thereon:

“Traffic Regulation of the City of Westwood, Kansas, enforced on this property. No Parking to (or as posted)”

(Code 1993, 14-111; Code 2008, § 14-206; Ord. 603, Secs. 1:2)

14-207. PARK OR PARKING DEFINED.

Park or parking as defined in this article shall mean the standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers.

(Code 1993, 14-112; Code 2008, § 14-207; Ord. 603, Sec. 3)

14-208. PARKING STALLS.

When parking stalls or spaces are marked or designated on the pavement or curb, vehicles shall be parked or stopped within such stalls or spaces in the direction of the flow of traffic or at the angle indicated by the markings and within the limit lines so marked.

(Code 1993, 14- 113; Code 2008, § 14-208; Ord. 603, Sec. 4)

14-209. PARKING OF DISABLED VEHICLE.

No person, firm, or corporation shall park or store any dead, damaged or disabled vehicle of any kind, or parts of the same, or any junk vehicles of any kind upon private property used by the public without the permission of both the owner or operator of such public property and the Westwood City Chief of Police.

(Code 1993, 14-114; Code 2008, § 14-209; Ord. 603, Sec. 6)

14-210. PARKING VIOLATION; TRAFFIC CITATION ISSUED.

Whenever any motor vehicle without driver is found parked, standing or stopped in violation of this article, the officer finding such vehicle shall take its registration number and may take any other information, including information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation. (Code 1993, 14-115; Code 2008, § 14-210; Ord. 603, Sec. 7)

14-211. FAILURE TO APPEAR IN RESPONSE TO TRAFFIC CITATION.

If a violator of restrictions on stopping, standing or parking does not appear in response to a traffic citation affixed to such motor vehicle within a period of 10 days, the clerk of the court shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing him or her of the violation and warning him or her that in the event such letter is disregarded for a period of 10 days, a warrant of arrest may be issued.

(Code 1993, 14-116; Code 2008, § 14-211; Ord. 603, Sec. 8)

14-212. EVIDENCE OF VIOLATION; PRIMA FACIE PRESUMPTION.

In any prosecution charging a violation of any law or regulation governing the stopping, standing or parking of a vehicle, proof that the particular vehicle described in the complaint was in violation of any such law or regulation, together with proof that the defendant named in the complaint was at the time of the violation the registered owner of such vehicle, shall constitute in evidence a prima facie presumption that the registered owner of such vehicle was the person who parked or placed such vehicle at the point where, and for the time during which, such violation occurred.

(Code 1993, 14-117; Code 2008, § 14-212; Ord. 603, Sec. 9)

14-213. SEPARATE OFFENSE FOR PERIOD OF ILLEGAL PARKING.

Each maximum period of time applying to the location in which a vehicle is illegally parked shall constitute a separate and distinct offense and it shall be the duty of the police officer to place a violation ticket on such vehicle for each such violation. In the event that there is no fixed period of time applying to the offense, then each 24-hour period shall constitute the time for a separate and distinct offense.

(Code 1993, 14-118; Code 2008, § 14-213; Ord. 603, Sec. 10)

14-214. PARKING ON PRIVATE PROPERTY WITHOUT CONSENT.

It shall be unlawful for anyone to park or station any vehicle on private property without the consent, expressed or implied, of the owner of the property, or anyone holding under him or her.

(Code 1993, 14-119; Code 2008, § 14-214; Ord. 603, Sec. 11)

14-215. AUTHORITY TO REMOVE VEHICLES. ²

² **Legal analysis: 14-215. AUTHORITY TO REMOVE VEHICLES.** Revise to avoid constitutional issues, in instances where proper notice procedures would need to be followed. Other than

(a) Whenever any police officer finds a vehicle in violation of this article, such officer is hereby authorized to move such vehicle upon notice, or require the driver or person in charge of the vehicle to move the same from the property.

(b) Any police officer is hereby authorized to remove or cause to be removed any unattended vehicle left standing upon any private property which under such circumstances would obstruct the normal movement of the property or the normal use of the property.

(c) Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon public property when:

(1) Report has been made that such vehicle has been stolen or taken without the consent of the owner;

(2) Person or persons in charge of such vehicle are unable to provide for its custody or removal;

(3) The motor vehicle is in violation of the stopping, standing or parking sections of this article and the owner of record has been provided with appropriate notice as required;

(4) Removal of such vehicle is necessary in the interest of the public safety because of fire, flood, storm, or other emergency reason.

(Code 1993, 14-120; Code 2008, § 14-215; Ord. 603, Secs. 12:14)

14-216. SAME; ASSESSMENT OF COSTS. ³

All costs, charges, of removing the vehicle from the private property to the nearest garage or other place of safety shall be assessed against the owner of the motor vehicle.

(Code 1993, 14-121; Code 2008, § 14-216; Ord. 603, Sec. 15)

14-217. PARKING RECREATIONAL VEHICLE.

(a) For purposes of this section, the certain words "travel trailer" and "recreational vehicle" shall be interpreted or defined as any portable structure mounted on wheels or on a motorized chassis, including converted buses, and which is normally used as sleeping quarters and shelter while traveling, but not as a dwelling.

emergencies, obstructing traffic, or parking in certain areas, towing of illegally parked vehicles without due process guarantees prior to towing is of doubtful constitutionality. See McQuillin, *Municipal Corporations*. Also, add language to allow for emergency reasons.

³ **Legal analysis: 14-216. SAME; ASSESSMENT OF COSTS.** Per K.S.A. 8-1103(c), "A city ordinance or county resolution authorizing the towing of vehicles from private property shall specify in such ordinance or resolution: (1) The maximum rate such wrecker or towing service may charge for such wrecker or towing service and storage fees;(2) that an owner of a vehicle towed shall have access to personal property in such vehicle for 48 hours after such vehicle has been towed and such personal property shall be released to the owner; and (3) that the wrecker or towing service shall report the location of such vehicle to local law enforcement within two hours of such tow." Either revise to conform, or remove provisions re: towing from private property.

(b) No travel trailer or recreational vehicle shall be used for permanent or semi-permanent residential purposes, within the City of Westwood, Kansas, other than when the vehicle is permitted to park as provided for in section (c), herein.

(c) No person shall park a travel trailer or recreational vehicle in any residential area of the city on any lot, improved or unimproved, except in an enclosed structure, for more than 24 hours; provided however, upon proper application and approval by the chief of police, a vehicle may be parked for a period not to exceed a total of 14 days within the calendar year that the permit was granted.

(d) No travel trailer or recreational vehicle may be stored on any street, alley, lot, improved or unimproved, within the city, provided however, any such vehicle owned by a member or members of a family may store the vehicle in an enclosed structure. (Code 1993, 14-122; Code 2008, § 14-217; Ord. 618, Sec. 1-4)

Section 14-218. Main Trafficway and Trafficway Connector Designation. ⁴

It is hereby authorized, ordered and directed, under the authority of the Act, that the streets hereinafter set forth located within the limits of the City are hereby designated and established as main trafficways or trafficway connectors, as provided below:

<u>Main Trafficways</u>	<u>Trafficway Connectors</u>
West 47th Street	West 51st Terrace
West 47th Place	West 51st Street
48th Street	West 50th Place
48th Terrace	West 49th Place
49th Street	West 47th Terrace
49th Terrace	Norwood Road
50th Street	Fairway Road
50th Terrace	Belinder Court
Mission Road	Booth Avenue
Belinder Avenue	
Adams Street Rainbow	
Boulevard Booth Street	
State Line Road	
Shawnee Mission Parkway	

(Ord. No. 996, § 1, 11-8-2018)

ARTICLE 3. PARADE REGULATIONS

14-301. DEFINITIONS.

The definitions of certain terms relating to parade regulations shall be as follows:

⁴ **Legal analysis: Section 14-218. Main Trafficway and Trafficway Connector Designation.** Please advise whether the city intended for this list to become part of the code, or to be retained outside of the code as a separate, easily-amendable schedule.

(a) Parade - is any parade, march, ceremony, show, exhibition, pageant, walk-a-thon, organized run, or procession of any kind, or any similar display, in or upon any street, park or other public place in the city.

(b) Parade Permit - is a permit as required by this article.

~~(c) Person is any person, firm, partnership, association, corporation, company or organization of any kind.~~⁵

(Code 1970; Code 2008, § 14-301)

14-302. PERMIT REQUIRED.

No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the city chief of police.

(a) This article shall not apply to:

(1) Funeral processions;

(2) Students going to and from school classes or participating in educational activities; provided that such conduct in under the immediate direction and supervision of the proper school authorities;

(3) A governmental agency acting within the scope of its functions.

(Code 1970; Code 2008, § 14-302)

14-303. PROCEDURE.

A person seeking issuance of a parade permit shall file an application with the chief of police on forms provided by such officer.

(a) An application for a parade permit shall be filed with the chief of police not less than 240 hours before the date on which it is proposed to conduct the parade.⁶

(b) The application for a parade permit shall set forth the following information:

(1) The name, address and telephone number of the person seeking to conduct such parade;

(2) If the parade is proposed to be conducted for, on behalf of, or by an organization, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible head of such organization;

⁵ **Legal analysis: 14-301. DEFINITIONS (c).** Delete definition of "person" as covered by general provisions in Chapter 1.

⁶ **Legal analysis: 14-303. PROCEDURE.** Please verify that the city intended for this time period to be 10 days and not 24 hours.

- (3) The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;
 - (4) The date the parade is to be conducted;
 - (5) The route to be traveled, the starting point and the termination point;
 - (6) The approximate number of persons, animals and vehicles that will constitute such parade; the type of animals and description of the vehicles;
 - (7) The hours when such parade will start and terminate;
 - (8) A statement as to whether the parade will occupy all or only a portion of the width of the streets to be traversed;
 - (9) The location by streets of any assembly areas for such parade;
 - (10) The time at which units of the parade will begin to assemble at any such assembly area or areas;
 - (11) The interval of space to be maintained between units of such parade;
 - (12) The applicant's plan for the collection, removal and disposal of all trash, debris and litter caused by parade participants or observers so that the parade route is returned to its condition prior to the parade.
 - (13) The number and locations of sanitary facilities provided for parade participants and observers;
 - (14) if the parade is designed to be held by, and on behalf of or for any person other than the applicant, the applicant for such permit shall file with the chief of police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his or her behalf.
 - (15) Any additional information which the chief of police shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (c) The chief of police, where good cause is shown therefor, shall have the authority to consider any application hereunder which is filed less than 240 hours before the date such parade is proposed to be conducted.
 - (d) There shall be paid at the time of filing the application for a parade, a permit fee of \$10.00. ⁷
 - (e) At the time of filing, the applicant shall submit a cost or damage deposit of \$100.00 per each 500 persons expected to attend the parade. The deposit shall be applied toward

⁷ **Legal analysis: 14-303. PROCEDURE, (d).** Please review the fee (\$10.00) and advise as to any changes.

any City cost or expenses arising from clean up costs, other costs, or damage caused by parade participants or observers. Any amount submitted as a damage deposit that exceeds the City's actual costs and expenses arising from damage caused by parade participants or observers clean up costs or other costs shall be returned to the applicant within thirty days of the parade date. A minimum deposit of \$100.00 shall be required in all cases.

(f) Although parades may cross Shawnee Mission Parkway or Rainbow Boulevard, no parade shall proceed on either of these streets, unless the event is sufficiently short in duration or small in size that it will not impede the access of emergency vehicles or otherwise impair the public health, safety, and welfare, as reasonably determined by the Chief of Police.

(g) For each arterial intersection a parade passes through, the applicant shall pay an additional fee equal to the hourly overtime pay of two uniformed police officers for each hour of the parade's duration. The applicant shall pay an estimate of this fee in advance of the permit's issuance, and the applicant shall estimate the duration of the parade. If the parade is shorter than estimated, any excess fee shall be returned, and if the parade is longer than estimated, the applicant shall pay any additional fee within three (3) days of the parade. For purposes of this section, the following are to be considered arterial intersections: 50th Street and Rainbow Avenue, 47th Place and State Line Road, 47th Street and Rainbow, 47th Street and Mission Road, Shawnee Mission Parkway and Rainbow Avenue, and 50th Street and Belinder Avenue.

(h) An additional fee shall also be imposed for any parade at a rate equal to the hourly overtime charge of one uniformed police officer for every two non-arterial street intersections through which the parade passes for each hour of the parade's duration. The applicant shall pay an estimate of this fee in advance of the permits' issuance, and the applicant shall estimate the duration of the parade. If the parade is shorter than estimated, any excess fee shall be returned, and if the parade is longer than estimated, the applicant shall pay any additional fee owed within three (3) days of the parade. (Code 2008, § 14-303; Ord. 765, Sec. 2)

14-304. STANDARDS FOR ISSUANCE.

The chief of police shall issue a permit as provided for hereunder when, from a consideration of the application and from such other information as may otherwise be obtained, he or she finds that:

(a) The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route;

(b) The conduct of such parade will not require the diversion of so great a number of ambulances as to prevent normal ambulance service to portions of the city other than to be occupied by the proposed line of march and areas contiguous thereto;

(c) The concentration of persons, animals and vehicles at assembly points of the parade will not unduly interfere with proper fire and police protection of, or ambulance service to, areas contiguous to such assembly areas; and

(d) The conduct of such parade will not interfere with the movement of firefighting equipment en route to a fire.

(Code 1983; Code 2008, § 14-304)

14-305. APPLICATION FOR PARADE: DECISION BY THE CHIEF OF POLICE.

The chief of police shall act upon the application for a parade within reasonable time after the filing thereof.

(Code 1970; Code 2008, § 14-305)

14-306. APPEAL PROCEDURE.

Any person aggrieved shall have the right to appeal the denial of a parade permit to the governing body. The appeal shall be taken within 10 days after notice.

(Code 1970; Code 2008, § 14-306)

14-307. ALTERNATIVE PERMIT.

The chief of police, in denying an application for a parade permit, shall be empowered to authorize the conduct of the parade on a date, at a time or over a route different from that named by the applicant. An applicant desiring to accept an alternate permit shall within 10 days after notice of the action of the chief of police, file a written notice of acceptance with the chief of police. An alternate parade permit shall conform to the requirements, and shall have the effect of a parade permit under this article.

(Code 1970; Code 2008, § 14-307)

14-308. NOTICE TO CITY AND OTHER OFFICIALS.

Immediately upon the issuance of a parade permit the chief of police shall send a copy thereof to the following:

(a) All members of the governing body;

(b) City clerk;

(c) City attorney;

(d) City engineer;

(e) Fire chief.

(Code 1970)

14-309. CONTENTS OF PERMIT.

Each parade permit shall state the following information:

(a) Starting time;

(b) Minimum speed;

- (c) Maximum speed;
- (d) Maximum interval of space to be maintained between the units of the parade;
- (e) The portions of the streets to be traversed that may be occupied by the parade;
- (f) The maximum length of the parade in miles or fractions thereof;
- (g) Such other information as the chief of police shall find necessary to the enforcement of this article.
(Code 1970; Code 2008, § 14-309)

14-310. DUTIES OF PERMITTEE.

- (a) A permittee hereunder shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- (b) The parade chairperson or other person heading or leading such activity shall carry the parade permit upon his or her person during the conduct of the parade.
(Code 1970; Code 2008, § 14-310)

14-311. PUBLIC CONDUCT DURING PARADES.

The following rules of public conduct shall be observed during parades:

- (a) No person shall unreasonably hamper, obstruct or impede, or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
- (b) No driver of a vehicle, streetcar or trackless trolley shall drive between the vehicles or persons comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.
- (c) The chief of police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The chief of police shall post signs to such effect, and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on an un-posted street in violation of this article.
(Code 1970; Code 2008, § 14-311)

14-312. REVOCATION OF PERMIT.

The chief of police shall have the authority to revoke a parade permit issued hereunder upon application of the standards for issuance as herein set forth.
(Code 1970; Code 2008, § 14-312)

ARTICLE 4. IMPOUNDMENT OF MOTOR VEHICLES

14-401. 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.~~ Every vehicle or tractor trailer combination that is self-propelled by which any person or property is or may be transported or drawn upon a highway except vehicles used exclusively upon stationary rails or tracks.⁸

(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 1983; Code 2008, § 14-401)

14-402. 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

⁸ **Legal analysis: 14-401. DEFINITIONS, (b) Motor vehicle.** Conform to K.S.A. 8-1101(b).

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 leasee of such vehicle. The City of Westwood, 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 1983; Code 2008, § 14-402)

14-403. 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 1983; Code 2008, § 14-403)

14-404. NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE.

(a) When owner present. - When the police department intends to impound a motor vehicle pursuant to section 14-402 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. When the police department impounds and remove a motor vehicle pursuant to section 14-402(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 14-404(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 1983; Code 2008, § 14-404)

14-405. 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 14-402, the police department may honor the 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 14-404. 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 14-404 at any time whenever in his judgment the presence of the unattended motor vehicle constitutes a danger to the public safety.

(Code 1983; Code 2008, § 14-405)

14-406. RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT.

(a) Generally. Unless the vehicle is impounded pursuant to section 14-402(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 evidence 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 1983; Code 2008, § 14-406)

14-407. HEARING.

If the owner of an impounded motor vehicle or his agent timely requests the release of the motor vehicle from impoundment and a hearing on the impoundment and charges, as provided in section 14-406, a date shall be set, not more than five days after the date of request, for the hearing. The city shall provide a hearing examiner, who is an attorney licensed to practice law in the State of Kansas, 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 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 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).⁹ (Code 1983; Code 2008, § 14-407)

14-408. CHARGES CONSTITUTE A LIEN.

The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-402 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 14-407 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 14-406 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 may not retain possession of the motor vehicle when it has been released pursuant to section 14-406(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 14-406(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 1983; Code 2008, § 14-408)

14-409. SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE.

The holder of a lien against a motor vehicle created by section 14-408, to the extent that

⁹ **Legal analysis: 14-407. HEARING.** In the last paragraph, revise *K.S.A. 8-1102(6)* to *K.S.A. 8-1102 (b)*, assuming the previous citation was a typo (said section does not exist). Please advise if this assumption is incorrect.

such lien has not been discharged as provided in section 14-408 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 14-406(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 bylaw. If the motor vehicle against which the lien is created pursuant to section 14-408 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 1983; Code 2008, § 14-409)

14-410. 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 14-409 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 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 or her 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 1983; Code 2008, § 14-410)

14-411. SALE PROCEEDS.

The proceeds of a public sale held pursuant to section 14-408 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 1983; Code 2008, § 14-411)

14-412. 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 1983; Code 2008, § 14-412)

14-413. IMPLEMENTATION OF ARTICLE.

The police department and city treasurer are authorized to make rules for the implementation and administration of this article.
(Code 1983; Code 2008, § 14-413)

14-414. REIMBURSEMENT FOR DISCHARGED LIENS.

If a lien created by section 14-408 and held by a private wrecker or towing firm is discharged by section 14-408 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 1983; Code 2008, § 14-414)