

CHAPTER XIV. TRAFFIC

ARTICLE 5. IMPOUNDMENT OF MOTOR VEHICLES

SECTIONS

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| 14-501 | IMPOUNDMENT OF VEHICLES |
| 14-502 | NOTICE PRIOR TO REMOVAL |
| 14-503 | NOTICE AFTER REMOVAL |
| 14-504 | HEARING TO CONTEST REMOVAL |
| 14-505 | POLICE DEPARTMENT TOW/WRECKER ROTATION LIST |
| 14-506 | SUSPENSION OR REVOCATION OF APPROVAL AND AUTHORIZATION; GROUNDS |
| 14-507 | WRECKER OR TOWING SERVICES; PROCEDURE |
| 14-508 | SURRENDER OF TOWED VEHICLE TO OWNER |
| 14-509 | WRECKER AND TOW SERVICE FEES AND CHARGES |

14-501. IMPOUNDMENT OF VEHICLES.

Police officers are authorized to remove vehicles under the following circumstances:

- A. As allowed by the provisions of the Standard Traffic Ordinance incorporated in this Code;
- B. When an unoccupied motor vehicle is left parked continuously upon any street of the City for twenty-four (24) hours or more;
- C. When an unoccupied motor vehicle is found parked in or upon any regularly designated parking meter space, or in or upon any street, sidewalk or alley in violation of any of the provisions of this title or any other traffic ordinance of the City;

In any proceeding for a violation of this Section, the registration plate displayed upon the motor vehicle in violation shall constitute in evidence a prima facie presumption that the registered owner of such motor vehicle was the person who parked or placed such motor vehicle at the place where the violation occurred.

(Ord. No. 2228C; 07-01-07)

14-502. NOTICE PRIOR TO REMOVAL

- A. Vehicles which are authorized to be impounded in any of the provisions of this Code may be impounded without notice to the owner or lawful custodian of such vehicle only in the following instances:
 1. Whenever any unattended vehicle is illegally left standing upon any highway, bridge, causeway or in any tunnel and in such position or under such circumstances as to obstruct the normal movement of traffic or otherwise creates a traffic hazard;
 2. When report has been made that such vehicle has been stolen or

- taken without the consent of its owner and the owner/agent cannot be contacted at that time;
3. When the driver of a vehicle is arrested, except, the vehicle may be released to the custody of another person present upon the authority of the arrestee/driver and the consent of the other person;
 4. Accident cases where the driver is injured and is unable to designate to an officer disposition of the vehicle.
- B. Vehicles which are subject to being impounded under any other provision of this Code may not be towed until the owner or person entitled to lawful custody has been notified and given an opportunity to remove said vehicle within a reasonable time; provided, however, that where the owner or person entitled to custody cannot be located after a bona fide effort has been made to do so, then such vehicle may be towed; provided, further, that when such vehicle is located on the Interstate, then notice to the owner may be by sticker or placard on the vehicle's windshield or other prominent location indicating that the vehicle is in violation of city ordinance and shall be towed and impounded after 24 hours. For purposes of this subsection, "a bona fide effort" includes, but is not limited to, a check of the license tag of the vehicle with the Department of Motor Vehicle Registration; and a vehicle identification number search through the Department of Motor Vehicle Registration and an attempt to contact that person in person, by mail or by telephone at the address of record .

(Ord. No. 2228C; 07-01-07)

14-503. NOTICE AFTER REMOVAL

Wreckers and towing services shall report the location of any towed vehicle to the Leawood Police Department within two hours of towing the vehicle.

(Ord. No. 2496C; 06-20-11)

(Ord. No. 2228C; 07-01-07)

14-504. HEARING TO CONTEST REMOVAL

- A. Owners or persons entitled to lawful custody of impounded vehicles who wish to contest the payment of any fees or charges incurred in the towing or storage of any vehicle may do so and a hearing for such purpose shall be provided within seven (7) working days after such hearing is requested. The request for hearing must be made within ten (10) days of the vehicle's impoundment.
- B. Such hearings shall be held by the municipal court at times to be determined by the municipal court.

- C. Pending such hearing, the owner or person lawfully entitled to custody of any impounded vehicle may retrieve the impounded vehicle upon posting a cash or surety bond in the amount of towing fees and storage charges due and if such bond is posted, the vehicle will be released immediately upon proof of entitlement thereof. If the owner or person lawfully entitled to custody of any vehicle does not post bond, then such vehicle will remain in storage until a hearing is held.
- D. If after hearing, the court determines that there was no factual basis for the impoundment of said vehicle, then the vehicle will be released to the owner or person lawfully entitled to custody thereof without costs, and any bond, if posted, will be returned. If after hearing it is determined that the vehicle was lawfully towed, then all charges shall be paid by the owner or person having lawful custody of vehicle; such charges may be paid for partly or in whole by the bond, if cash, and any surplus bond money will be returned.

(Ord. No. 2228C; 07-01-07)

14-505. POLICE DEPARTMENT TOW/WRECKER ROTATION LIST

- A. The Chief of Police shall keep a list of approved wrecker or towing service providers.
- B. The following requirements and criteria shall be met by any wrecker or towing service seeking approval to be authorized and listed as eligible to respond to requests for towing service by the Leawood Police Department:
 - 1. Exclusive of legal holidays, each wrecker or towing service shall be open and have a representative actually on the premises of the location or area where towed vehicles are stored or kept ten (10) hours per day, from 8:00 a.m. to 6:00 p.m. Monday through Friday, and a representative shall be available when called between 8:00 a.m. and 12:00 noon on Saturdays.
 - 2. Towing and wrecker services and drivers must be available on a twenty-four (24) hour, seven (7) days a week basis and must respond within 30 minutes of any request made by the Leawood Police Department.
 - 3. Each towing and wrecker service must have properly zoned adequate storage facilities located in Kansas. The outside storage areas should be fenced, with at least a six (6) foot high fence.
 - 4. Each wrecker and towing service must have available storage area which is totally enclosed within a building for the protection and security of recovered stolen property to be processed and valuable property left in vehicles.
 - 5. Each wrecker and towing service must handle and tow abandoned vehicles in proportion to the number of tow requests received from the police department for damaged or disabled vehicles.
 - 6. Each towing and wrecker service must provide the City with proof of adequate insurance coverage as follows:

- a. Commercial General Liability: Protection limits of at least \$1,000,000 Combined Single Limits, bodily injury and property damage. Policy must include the following:
 - i. Premises & Operations Liability;
 - ii. Products & Completed Operations

and

- b. Business Automobile Liability: Protection limits of at least \$1,000,000 Combined Single Limits, bodily injury and property damage. Policy must include the following:
 - i. All Owned, Hired and Non-Owned Autos;
 - ii. Garage keeper's Legal Liability including:
 - (1) Comprehensive
 - (2) Collision
 - (3) Towing (On-Hook)
 - (4) \$75,000 Limit per Garage Location
- c. Workers Compensation: Protection against all claims under applicable state workers' compensation laws. The Tow Company shall also be protected against claims for injury, disease or death of employees for which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:
 - i. Workers' Compensation: Statutory
 - ii. Employers Liability
 - (1) Bodily Injury by Accident: \$500,000 Each Accident
 - (2) Bodily Injury by Disease: \$500,000 Policy Limit
 - (3) Bodily Injury by Disease: \$500,000 Each Employee
- d. Proof of insurance must be furnished on standard Acord© certificate of insurance forms. The City is to be named as an additional insured on General Liability, including Completed Operations, and on Automobile Liability.
- e. Industry Ratings: The City will only accept coverage from an insurance carrier who offers proof that it:
 - i. Is licensed to do business in the State of Kansas;
 - ii. Carries a Best's policy holder rating of "A" or better; and
 - iii. Carries at least a Class X financial rating; or
 - iv. Is a company approved by the City.

- C. Each tow company must enter into and sign a Tow Service Provider Authorization and Indemnification Agreement.

(Ord. No. 2228C; 07-01-07)

(Ord. No. 2249C; 07-16-07)

14-506. SUSPENSION OR REVOCATION OF APPROVAL AND AUTHORIZATION; GROUNDS.

- A. The Police Chief may, for just cause, suspend a company from the rotation tow list. Any such suspension shall be at the discretion of the Police Chief for a specified period of time or until the cause or reason for the suspension has been remedied to the satisfaction of the Police Chief.
- B. The Police Chief may order the revocation of a tow company from the rotational tow list for just cause. Such tow company shall not be eligible for reinstatement for at least one (1) year from the date of revocation.
- C. Such suspension or revocation shall be by written notice to the tow company. The tow company may appeal such decision to the City of Leawood Governing Body by filing notice with the City Clerk's office within ten (10) days of the notice of suspension or revocation. The Governing Body shall have the power to reverse, alter, modify, uphold or increase any suspension or revocation ordered by the Police Chief.
- D. Nothing in this Article or, specifically, the issuance of any license to any tow company or the utilization of any tow company, shall confer any vested property rights upon the tow company to continue on the City's rotational tow list.
- E. The tow company may terminate their designation as an authorized tow service provider by providing five (5) days written notice to the Police Chief.

(Ord. No. 2228C; 07-01-07)

14-507. WRECKER OR TOWING SERVICES; PROCEDURE

- A. Whenever a tow truck is required for any reason, the police officer will contact the vehicle owner or his or her representative when one is available to determine preference as to which tow service will be called to tow the vehicle. If the owner or his or her representative has a preference, the dispatcher will be advised to order the preferred tow service. In all circumstances of an owner preference tow where the subject vehicle may cause a traffic hazard, the contacted tow company will be required to be able to respond within 30 minutes. If the company is unable to so respond, the next company on the rotation list shall be contacted. Where no preference is indicated, then the next tow service on the rotation list shall be contacted.

- B. If the registered owner or other legally authorized person in control of the vehicle arrives at the scene prior to removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle without interference upon the payment of a reasonable service fee of not more than one-half ($1/2$) of the posted rate for such towing or removal, for which a receipt shall be given unless that person refuses to remove the vehicle from the property where it is otherwise unlawfully parked. There shall be no charge if the vehicle has not been connected to the tow truck.
- C. The tow truck driver or operator will assume full responsibility for cleaning all accident debris including but not limited to dirt, broken glass, metal or broken pieces, and the use of oil dry or a similar product to clean up any fluid spills, etc., from the roadway unless otherwise waived by the City. All debris shall be removed and deposited in a trash receptacle at the tow company's place of business.

(Ord. No. 2228C; 07-01-07)

14-508.

SURRENDER OF TOWED VEHICLE TO OWNER

- A. All motor vehicles towed and impounded pursuant to the provisions of this chapter shall be surrendered to the owner or person entitled to custody of the vehicle subject to the provisions of subparagraph B herein, upon presentation of the following to the commercial tow service where the vehicle is impounded:
 - 1. Proof of ownership of the vehicle by lawful title or other proof of lawful entitlement to the vehicle;
 - 2. Proof of liability insurance on the vehicle as required by the laws of the state of Kansas;
 - 3. Proof of current registration of the vehicle as required by the laws of the state of Kansas; and
- B. Payment of all storage charges and towing fees incurred in the towing and impounding of the vehicle must be made prior to release of the vehicle unless otherwise relieved of that requirement by application of the hearing provisions set forth herein.
- C. Should a person seeking release of a motor vehicle impounded under the provisions of this chapter not present proof of current registration and proof of insurance, the vehicle will not be released to be driven away from the impound lot, but the vehicle may be released to be towed from the tow lot if proof of ownership is shown and all storage and towing charges are paid.
- D. Any owner of a towed vehicle shall have access to personal property in such vehicle for forty-eight (48) hours after such vehicle has been towed and such personal property shall be released to the owner. No wrecker or towing service, or owner, employee or agent thereof, shall prohibit or refuse to allow the owner, operator, person in charge or possession of the towed and stored vehicle, who has proof of title or registration, to retrieve any medicine or medical supplies or personal items including purses and wallets, from such towed and stored vehicle. This section shall apply whether or not the person has paid the required fees or charges.

- E. Any person or commercial towing service that tows and impounds a motor vehicle pursuant to this chapter or any other legal request for towing and impounding by a law enforcement officer of the City shall have a possessory lien as provided for in K.S.A. § 8-1103 *et seq.* Notice and disposition provisions for foreclosure of the lien and procedures as set forth in K.S.A. § 8-1103 through 8-1108 shall be complied with. Prior to any sale by a person or commercial tow service of a vehicle towed or impounded at the request of the Leawood Police Department, the person or tow service must notify the Leawood Police Department in writing that they intend to foreclose a lien they have perfected on said vehicle and they intend to sell the vehicle at public auction pursuant to the provisions of K.S.A. 8-1103 through K.S.A. 8-1108. No person will sell such vehicle until they have complied with all notices required by law.

(Ord. No. 2496C; 06-20-11)
(Ord. No. 2228C; 07-01-07)

14-509.

WRECKER AND TOW SERVICE FEES AND CHARGES.

All wrecker or towing services may charge for towing services and storage fees, provided, however, that such amounts shall not exceed the maximum amounts set by the Governing Body of the City of Leawood by resolution. Such fees and charges shall apply only as to vehicles towed and stored in response to a request by the Police Department and shall not apply to when the request is to tow a vehicle licensed at over 16,000 pounds, however the tow company shall not charge an unreasonable fee in such situation.

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| Hookup | \$80.00 |
| Fee per mile | \$3.00 |
| Outside Storage | \$20.00 per day |
| Inside Storage | \$25.00 per day |
| Dolly Fee | \$43.00 |
| Winching fee | \$100.00 per hour |

The City shall have the right to audit the records and invoices of the approved wrecker and tow services pertaining to such services rendered pursuant to request of the Leawood Police Department. Such audits may be made on an as requested basis, provided that such review shall not occur more than once every 6 months.

(Ord. No. 2228C; 07-01-07)
(Reso. No. 2788; 07-01-07)
(Ord. No. 2249C; 07-11-07)