

CHAPTER XV. TRAFFIC

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ARTICLE 1. STANDARD TRAFFIC ORDINANCE

15-101. Standard Traffic Ordinance. There is hereby incorporated by reference for the purpose of regulating traffic within the City of Spring Hill, Kansas, that certain standard traffic ordinance known as '2021 STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES' 48th Edition hereinafter referred to as the Standard Traffic Ordinance, prepared and published in a booklet form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereinafter omitted, deleted, modified or changed. At least one (1) copy of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 2021-08 with all sections or portions thereof intended to be omitted or changed clearly marked to show any such deletion or change, and to it 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 Ordinance shall be supplied at the cost of the City, such number of official copies of said standard marked Ordinance similarly marked as may be deemed expedient."

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

Penalty for Scheduled Fines. Penalty for Scheduled Fines. The fine for violation of an ordinance traffic infractions or any other traffic offense in which the municipal judge establishes a fine in a fine schedule shall not be less than \$25.00 nor more than \$2,500.00, except for speeding, which shall not be less than \$45.00 nor more than the amount of the fine set forth in the Kansas Uniform Fine Schedule (K.S.A. 8- 2118 and amendments thereto). A person tried and convicted for violation of an ordinance traffic violation or other traffic offense in which a fine has not been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$500.00.

15-102. Section 2.1 Added - Traffic Regulations on Private Property. Whenever the person in possession or control of any private property used by the public for purposes of vehicular traffic by permission of the owner, shall cause to be posted at each entrance thereto a permanently lettered clearly legible sign with the following legend:

**"TRAFFIC REGULATIONS OF THE CITY OF SPRING HILL ENFORCED ON THIS PROPERTY.
SPEED LIMIT 15 M.P.H." (OR AS POSTED.)**

Then such private property shall thereafter be deemed to be under the traffic regulations of the city as provided by law.

15-103. Section 33 amended - Maximum Speed Limits.

The Governing Body of the City of Spring Hill, Kansas, on the basis of an engineering and traffic investigation and adopted by the Governing Body of the City of Spring Hill, Kansas pursuant to its authority under K.S.A. 8-1559, K.S.A. 8-1560 and K.S.A. 8-2002 and all acts supplemental and amendatory thereto hereby deems it advisable to amend Section 33 Maximum Speed Limits of said Standard Traffic Ordinance adopted by Section One hereof, to read as follows:

Section 33. Maximum Speed Limit

(a) Except as otherwise provided for herein and except when a special hazard exists that requires lower speed for compliance with, K.S.A. 8-1557, and amendments thereto, the limits specified in this subsection or established as hereinafter authorized shall be maximum lawful speed, and no person shall drive a vehicle at a speed in excess of such maximum limits:

1. On any separated multi-lane highway, as designated and posted by the secretary of transportation, 70 miles per hour;
2. On any county or township highway, 55 miles per hour; and
3. On all other highways, 65 miles per hour.
4. The Governing Body having determined upon the basis of an engineering and traffic investigation that the speed limit permitted under State law and Section 33 of the Standard Traffic Ordinance is greater than is reasonable or safe under the conditions found to exist at the following location hereby determines and declares that the reasonable and safe speed limit is as follows:

- (a) Twenty (20) miles per hour in any business district;
- (b) Twenty-five (25) miles per hour in any residence district;
- (c) Twenty (20) miles per hour in any park;
- (d) Speed limit on Lone Elm Road - Forty-five (45) miles per hour;
- (e) Speed limit on Webster. Except as provided for at the times and locations for the school zones described herein:

(1) Speed limit on Webster Street - 207th Street North to corporate limits. The Board of County Commissioners of Johnson County, Kansas, having determined upon the basis of an engineering and traffic investigation that the speed limit upon Webster Street from 207th Street North to the corporate limits of the City, is a connecting link in the Johnson County highway system, is greater than is reasonable or safe under the conditions found to exist and has determined and declares a reasonable and safe speed limit thereon to be Forty-five (45) miles per hour and has caused to be erected appropriate signs giving notice thereof, the speed limit on said street within the corporate limits of the City is hereby set at Forty-five (45) miles per hour;

(2) 207th Street South to 215th Street - thirty-five (35) miles per hour.

(3) 215th Street, South to corporate limits. The Board of County Commissioners of Miami County, Kansas, having determined upon the basis of an engineering and traffic investigation that the speed limit upon Webster Street from 215th Street South to the corporate limits of the City, is a connecting link in the Miami County highway system, is 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 Thirty-five (35) miles per hour, excepting school zones, and has caused to be erected appropriate signs giving notice thereof, the speed limit on said street within the corporate limits of the City is hereby set at thirty-five (35) miles per hour.

(4) School Zone - Webster Street.

Twenty (20) miles per hour, Webster Street from Hale Street South to South Street, during the designated posted hours; said street being within an urban district.

(f) School Zone - South Street

Twenty (20) miles per hour on South Street beginning at a point 73 feet east of the intersection of Race Street and South Street east to a point 585 feet West of the intersection of Main Street and South Street, during the designated posted hours. Said street is within an urban district.

(g) School Zone – Ridgeview Road.

(1) Thirty-five (35) miles per hour on Ridgeview Road, beginning at the intersection of 199th Street and Ridgeview Road north on Ridgeview Road a distance of one-half (1/2) mile during the designated posted hours; said street being designated by the Governing Body as an arterial street and part of the City's major arterial street system.

(2) Thirty-five (35) miles per hour on Ridgeview Road, beginning 330 feet South of 191st Street extending a distance of 1,250 feet during the designated posted hours; said street being designated by the Governing Body as an arterial street and part of the City's major arterial street system.

5. Speed Limit on 207th Street. The Board of County Commissioners of Johnson County, Kansas, having determined upon the basis of an engineering and traffic investigation that the speed limit upon 207th Street between Webster Street and Woodland, a connecting link in the Johnson County highway system, is 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 thirty-five (35) miles per hour and has caused to be erected appropriate signs giving notice thereof, the speed limit on said street within the corporate limits of the City is hereby set at thirty-five (35) miles per hour.
6. Speed Limit on 223rd Street. The Board of County Commissioners of Miami County, Kansas, having determined upon the basis of an engineering and traffic investigation that the speed limit upon 223rd Street, a connecting link in the Miami County highway system, is 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 as follows:
 - (a) Between Columbia Road and a point 100 feet west of the centerline of Lone Elm Road – 45 miles per hour.
 - (b) Between a point 100 feet west of the centerline of Lone Elm Road and a point 100 feet east of the centerline of Victory Road – 35 miles per hour.
 - (c) Between a point 100 feet east of the centerline of Victory Road to Woodland Road – 40 miles per hour.

The speed limit on 223rd Street within the corporate limits of the City of Spring Hill is hereby set and established as set forth above. The appropriate signs giving notice of the designated speed limits shall be erected upon 223rd Street.

(Ord 2022-05)

- (b) No person shall drive a school bus to or from school, or interschool or intraschool functions or activities, at a speed in excess of the maximum speed limits provided in subsection (a), except that the board of education of any school district may establish by board policy lower maximum speed limits for the operation of such district's school buses. The provisions of this subsection relating to school buses shall apply to buses used for the transportation of students enrolled in community colleges or area vocational schools, when such buses are transporting students to or from school, or functions or activities.
- (c) The maximum speed limits in this section may be altered as authorized in K.S.A. 8-1559 and 8-1560, and amendments thereto.

15-104. Section 98.1 added - Prohibitions Against Parking in Residential Districts.

Section 98.1 is hereby added to the Standard Traffic Ordinance to read as follows:

Section 98.1 - Prohibitions Against Parking in Residential District. No person shall stop, stand or park a motor vehicle which dimensions exceed seven (7) feet in height or twenty (20) feet in length or eight (8) feet in width on any street or alley within any residential district for more than twelve (12) hours within any 30-day period except when necessarily loading or unloading property or when in the performance of a service to or upon property in the block where the vehicle is parked. The provisions of this section may not be defeated by a mere location change of a vehicle within the residential district. Residential district refers to any place or areas where the property is zoned for residential occupancy including single-family, two-family and multi-family dwellings.

15-105. Section 114.1 Amended - Unlawful Operation of All-Terrain Vehicle.

Section 114.1 of the Standard Traffic Ordinance is hereby amended to read as follows:

- (a) Except as provided in subsection (b), (c) or (d) it shall be unlawful for any person to operate an all-terrain vehicle:
 - (1) On any interstate highway, federal highway or state highway; or
 - (2) Within the corporate limits of any city unless authorized by such city.
- (b) Notwithstanding the provisions of subsection (a), all-terrain vehicles owned and operated by a county noxious weed department, or all-terrain vehicles owned and operated by persons contracting with a county noxious weed department, Kansas department of transportation, or the City of Spring Hill may be allowed to operate such all-terrain vehicles upon the right-of-way of any federal highway, state highway or city street for the purpose of eradicating noxious weeds and such all-terrain vehicles may be operated incidentally upon such federal highway, state highway or city street.
- (c) Notwithstanding the provision of subsection (a), all-terrain vehicles may be operated to cross a federal highway or state highway.
- (d) Notwithstanding the provisions of subsection (a)(1), persons engaged in agricultural purposes may operate an all-terrain vehicle on a federal highway, state highway, or city street under the following conditions:
 - (1) The operator of the all-terrain vehicle must be a licensed driver and be operating within the restrictions of the operator's license;
 - (2) The federal highway, state highway or city street must have a posted speed limit of 65 miles per hour or less;
 - (3) The operator of the all-terrain vehicle must operate the all-terrain vehicle as near to the right side of the road as practicable, except when making or preparing to make a left turn; and
 - (4) The purpose of the trip using the all-terrain vehicle must be for agricultural purposes.

- (e) No all-terrain vehicle shall be operated on any public highway, street, road or city street between sunset and sunrise unless equipped with lights as required by law for motorcycles. (K.S.A. 8-15,100).

15-105A. Section 114.4 amended - Unlawful Operation of Golf Cart

Section 114.4 of the 2019 Standard Traffic Ordinance incorporated by reference in Article 1, Chapter XI of the Spring Hill Municipal Code (SHMC), is hereby amended to read as follows, designated as Section 15-105.A. Chapter XV of the SHMC:

- (a) No golf cart, including modified carts, shall be operated on any public highway, street, alley, or road unless:
 - (1) The speed limit on such road is 25 miles per hour or less;
 - (2) The golf cart shall only be operated on any city street, alley or road during the hours between sunrise and sunset, unless equipped with lights as required by state and local law for motorcycles, except that electric turn signals and multiple-beam road lighting equipment shall not be required; and a properly mounted slow-moving vehicle emblem as required by K.S.A. 89-1717 and amendments thereto. (K.S.A. 8-15,108)
 - (3) The operator of the golf cart has a valid unrestricted driver's license; and
 - (4) The owner must maintain insurance for the golf cart, in the same amounts set forth for motor vehicles in section (e) of K.S.A. 40-3107.
- (b) All drivers operating a golf cart on streets, alleys, or roads of the City shall be subject to all duties applicable to a driver of a vehicle imposed by law.
- (c) Golf carts shall not be operated in a careless, reckless, or negligent manner.
- (d) "Golf cart" means a motor vehicle that has not less than four wheels in contact with the grounds, an unladen weight of not more than 1800 pounds, is designed to be operated at not more than 25 mph and is designed to carry not more than six persons, including the driver.
- (e) It shall be unlawful for any person to operate a golf cart:
 - (1) On any interstate highway, federal highway, or state highway unless engaged in agricultural purposes and pursuant to the conditions listed in K.S.A. 8-15,100 and K.S.A. 8-15,109; or
 - (2) On any sidewalk, jogging path, trail, or any location normally used for pedestrian traffic.
- (f) The number of occupants allowed on a golf cart shall be limited to the number of seats factory installed.
- (g) The provisions of this section shall not prohibit a golf cart from crossing a street, alley, or road with a posted speed limit greater than 25 miles per hour.
- (h) It is unlawful to cross a federal or state highway or any public highway within the City limits.
- (i) The provisions of this section shall not prohibit the operation of any authorized golf cart in the course of authorized duties within the City by a fire department, law enforcement agency, parks department, public works, or municipal services department. The operation of a golf cart is authorized within the City on private property with the consent of the property owner.
- (j) Any modifications made to a golf cart to increase speed must comply within 49 C.F.R. 571.500 and be equipped with seat belts and horn.
 - (1) Mufflers must comply with Article 17, Section 175 of the Standard Traffic Ordinance.

(Ord 2020-16)

15-106. Section 30.5(a) Amended - Commercial Driver's Licenses; Diversion Agreements; Driver's Record.

Section 30.5(a) of the Standard Traffic Ordinance is hereby amended to read as follows:

A person who drives, operates or is in physical control of a commercial motor vehicle, in any place open to the general public for purposes of vehicular traffic, or who is required to hold a commercial driver's license, may not enter into a diversion agreement in lieu of further criminal proceedings that would prevent such driver's conviction for any violation, in any type of motor vehicle, of a state or local traffic control law, except a parking violation, from appearing on the driver's record, whether the driver was convicted for an offense committed in the state where the driver is licensed or another state.

15-107. Section 136 Amended - Use of Roller Skates, Coasters, Roller Blades, Skateboards, Toy Vehicles, or Similar Devices Restricted.

(A) No person upon roller skates, or riding in or by means of any coaster, roller blades, skateboard, toy vehicle, or similar device shall operate such a device on:

- (1) any roadway, except:
 - (a) where no sidewalk or useable path for their operation has been provided adjacent to such roadway; or
 - (b) when the roadway is temporarily designated as a play street; or
 - (c) while crossing a street at a crosswalk; or
- (2) any public tennis court; or
- (3) public parking area or lot; or
- (4) any private parking area, lot, or sidewalk where signs are posted giving notice that operation of such devices is prohibited. The provisions of this subsection (4) shall not be applicable to any private parking lot or area unless the following signage is clearly and properly posted at all entrances to said parking lot, sidewalk or area, to-wit:

"NOTICE

Pursuant to Spring Hill Municipal Code Section 15-108, no roller skates, coaster, roller blades, skateboard, toy vehicle or similar device may be operated in this parking lot, sidewalk, or area. Conviction of a violation of this section shall result in a fine of \$25.00."

- (5) any private parking area, lot or sidewalk where the building used for conducting business on the premises is not occupied by an ongoing business enterprise, unless with the written permission of the property owner. The provisions of this subsection (5) shall not be applicable unless the following signage is posted on the property in a location clearly observable to the public to wit:

"NOTICE

Pursuant to Spring Hill Municipal Code Section 15-108, no roller skates, coaster, roller blades, skateboard, toy vehicle or similar device may be operated in this parking lot, sidewalk, or area without the written permission of the property owner. Conviction of a violation of this section shall result in a fine of \$25.00."

- (B) Whenever any person is operating such a device upon a useable path for their operation or sidewalk, such person shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.
- (C) Any person found guilty of a violation of this section shall be fined Twenty-Five Dollars (\$25.00).

15.108. Section 175.2 added - Unnecessary Sound From Radios, Etc. Prohibited From A Vehicle.

Section 175.2 is hereby added to the Standard Traffic Ordinance to read as follows:

175.2. Unnecessary Sound From Radio, Etc. Prohibited. No person owning or having the care, custody or possession of any radio receiving set, musical instrument, phonograph, or other machine or device for the producing or the reproducing of sound shall play, use, operate, or permit to be played, used or operated such set, instrument, phonograph, machine or device in such manner in a vehicle as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons or person who are in the vehicle in which such machine or device is operated and who are voluntary listeners thereto. The operation of any such set, instrument, phonograph, machine or device between the hours of ten o'clock P.M. and seven o'clock A.M., in such a manner as to be plainly audible at a distance of fifty (50) feet from the vehicle in which it is located shall be prima facie evidence of a violation of this ordinance.

15-109. Section 175.3 added - Loud Speakers, Amplifiers for Advertising, Etc. Prohibited.

Section 175.3 is hereby added to the Standard Traffic Ordinance to read as follows:

175.3. Loud speakers, Amplifiers for Advertising, Etc. Prohibited, Exception Stated. No person owning or operating any vehicle shall play, use, operate or permit to be played, used, or operated any radio receiving set, musical instrument, phonograph, loud-speaker, sound amplifier, or other machine or device for the producing or reproducing of sound for the purpose of advertising or attracting the attention of the public to such vehicle. This section and Section 175.2 hereof shall not be construed as prohibiting the use of sound amplifiers, loud speakers or other devices emitting loud noises during unusual and non- commercial, national, state or municipal events of general public interest."

(Ord 2015-14) (Ord. 2016-18) (Ord 2017-12) (Ord 2017-14) (Ord 2018-14) (Ord 2019-16) (Ord 2020-16)
(Ord 2021-08)

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ARTICLE 2. LOCAL TRAFFIC REGULATIONS

15-201. PENALTIES.

- (a) It is unlawful for any person to violate any of the provisions of this ordinance.
- (b) The judge of the Municipal Court shall in the manner prescribed by K.S.A. 12-4305 and amendments thereto establish a schedule of fines for violation of any section of this ordinance classified as an ordinance traffic infraction by K.S.A. 8-2118 and amendments thereto. Such fines shall be imposed upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation and payment of the fine and any court costs.
- (c) A person who has been convicted of a traffic infraction may be sentenced to pay a fine which shall be fixed by the court, not exceeding \$500.
- (d) Every person convicted of a violation of any of the provisions of this ordinance for which another penalty is not provided by this ordinance or by the schedule of fines established by the judge of the municipal court shall be punished for first conviction thereof by a fine of not more than \$500 or by imprisonment for not more than one month or by both such fine and imprisonment; for a second such conviction within one year thereafter such person shall be punished by a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment; upon a third or subsequent conviction within one year after the first conviction such person shall be punished by a fine of not more than \$2,500 or by imprisonment for not more than one year or by both such fine and imprisonment.” (K.S.A. 8-2116; K.S.A. 21-6611).

(Ord 2015-14) (Ord. 2016-18) (Ord 2017-12) (Ord 2017-14)

15-202. Repealed by Ord 2020-04

15-203. Repealed by Ord 2020-04

15-204. DRIVER’S LICENSE TO MINORS. The governing body of the city, under the provisions of K.S.A. 8-237, does hereby request the Division of Motor Vehicles of the Department of Revenue not to issue operator’s licenses to minors under the age of sixteen (16) years except upon the showing of a necessity therefor. (Ord 794)

15-205.010 PARKING ON STREET AFTER SNOWFALL. This Ordinance shall be known and may be cited as the “snow emergency ordinance” of the city of Spring Hill, Kansas. (Ord. 2004-40)

15-205.020 DEFINITIONS.

The following definitions shall apply in the interpretation and enforcement of this chapter:

- (a) “Administrator” means the city administrator of the city of Spring Hill, or, in his absence, his duly designated and acting representative;
- (b) “Roadway” means that portion of a street or highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder;
- (c) “Snow emergency routes” means those streets designated as such in accordance with the provisions of this section.
- (d) “Snow tires” means tires mounted on drive wheels of motor vehicles which are especially designed to give effective traction on snow, mud, or ice covered streets by means of extra heavy duty tread with special high-traction patterns, except that no tire so defined shall be constructed to be a snow tire if it

is damaged or worn to the extent that its performance would be substantially impaired;

- (e) "Street, highway boulevard or avenue" means the entire width between property lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular traffic;
- (f) "Tire chains" means metal chains mounted on drive wheel tires of motor vehicles which cross the tread of such tire laterally in at least three different places;
- (g) "Vehicle" means every device in, upon or by which any person or property may be transported or drawn upon a highway, except devices moved by human power or used exclusively upon stationary rails or tracks.

(Ord. 2004-40)

15-205.030. Prohibition of Parking.

It shall be unlawful to park any vehicle on any street designated as an Emergency Snow Route in the City of Spring Hill, Kansas at any time within forty-eight (48) hours after a snowfall of two (2") inches or more has occurred in said City. In addition, whenever the administrator finds, on the basis of falling snow, sleet, or freezing rain, or on the basis of a forecast (by the U.S. Weather Bureau or other weather service) of snow, sleet or freezing rain, that weather conditions will make it necessary that motor vehicle traffic be expedited and that parking on emergency snow routes be prohibited or restricted for snow plowing and other purposes, the administrator shall put into effect a parking prohibition on parts of or all snow emergency routes as necessary by declaring it in a manner prescribed in this ordinance.

Once in effect, a prohibition under this section shall remain in effect until terminated by announcement of the administrator in accordance with this section, except that any street area which has become substantially clear of snow and ice from curb to curb for the length of the entire block shall be automatically excluded therefrom. While the prohibition is in effect, no person shall park or allow to remain parked any vehicle on any portion of a snow emergency route to which it applies; however, nothing in this ordinance shall be construed to permit parking at any time or place where it is forbidden by any other provision of law. (Ord. 2004-40) (Ord 2017-16)

15-205.040. Stalled Vehicles –Prohibited.

No person operating a motor vehicle on a snow emergency route on which there is a covering of snow, sleet, or ice shall allow such vehicle to become stalled wholly or partly because the drive wheels thereof are not equipped with effective tire chains or snow tires. No person operating a motor vehicle on a part of a snow emergency route on which there is a covering of snow, sleet, or ice or on which there is a parking prohibition in effect shall allow such vehicle to become stalled because the motor fuel supply is exhausted or the battery has become inoperative. (Ord. 2004-40)

15-205.050. Stalled Vehicles–Removal From Route.

Whenever a vehicle becomes stalled for any reason, whether or not in violation of this ordinance, on any part of a snow emergency route on which there is a covering of snow, sleet, or ice on which there is a parking prohibition in effect, the person operating such vehicle shall take immediate action to have the vehicle towed or pushed off the roadway of such snow emergency route onto the first cross street which is not a snow emergency route. No person shall abandon or leave his vehicle in the roadway of a snow emergency route (regardless of whether he indicates, by raising the hood or otherwise, that the vehicle is stalled), except for the purpose of securing assistance during the actual time necessary to go to a nearby telephone or to a nearby garage, gasoline station, or other place of assistance and return without delay. (Ord. 2004-40)

15-205.060. Announcement.

When required by Section 15-205.030 the administrator shall cause each declaration made by he or she pursuant to this ordinance to be publicly announced by means of broadcasts or telecasts from stations with a normal operating range covering the city, and he or she may cause such declaration to be further announced in newspapers of general circulation when feasible, and may post such declaration on the official City of Spring Hill website, and/or official City of Spring Hill social media accounts. Each announcement shall include a declaration of the traffic emergency due to the hazardous conditions of the streets, the prohibition against parking or stalling of vehicles on snow emergency routes, the duty of the vehicle operator to remove stalled vehicles, and the right of the city to remove or impound vehicles parked or stalled in violation of this ordinance. Each announcement shall describe the action taken by the administrator including the time it became or will become effective. A parking prohibition regulation declared by the administrator shall not go into effect until at least two hours after it has been declared. (Ord. 2004-40) (Ord 2017-16)

15-205.070. Termination of Parking Prohibition.

Whenever the administrator finds that some or all of the conditions which give rise to a parking prohibition in effect pursuant to this ordinance no longer exist, he or she may declare the prohibition terminated, in whole or in part, in a manner prescribed by this ordinance, effective immediately upon announcement. (Ord. 2004-40)

15-205.080. Precedence of Ordinance.

Any provision of this ordinance which becomes effective by declaration of the administrator shall, while temporarily in effect, take precedence over other conflicting provisions of law normally in effect, except that it shall not take precedence over provisions of law relating to traffic accidents, emergency travel of authorized emergency vehicles, or emergency traffic directions by a police officer. (Ord. 2004-40)

15-205.100. Impoundment and Disposition of Vehicles.

Members of the police department are authorized to remove or have removed a vehicle when:

- (a) The vehicle is parked on a part of a snow emergency route on which a parking prohibition is in effect;
- (b) The vehicle is stalled on a part of a snow emergency route on which there is a covering of snow, sleet, or ice on which there is a parking prohibition in effect and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of this ordinance;
- (c) The vehicle is parked in violation of any parking ordinance or provision of law and is interfering or about to interfere with snow removal operations.

Impoundment and disposition of the vehicle in violation of this code shall be in accordance with K.S.A. 8-1102, and any amendments thereto.

In any proceeding for the violation of the provisions of this section, the registration plate displayed upon the vehicle in violation shall constitute in evidence a prima facie presumption that the owner of such vehicle was the person who parked or placed such vehicle at the place where the violation occurred. All costs associated with the removal of a vehicle shall be the responsibility of the vehicle owner.

(Ord. 2004-40) (Ord 2017-16)

15-205.110. Violation-Summons.

Whenever any motor vehicle without a driver is found parked or left in violation of any provision of this section, and is not removed and impounded as provided for in this section, a summons issued in accordance with this section shall be attached to such motor vehicle instructing the owner or operator to answer the charges of said violations before the municipal court of the city. (Ord. 2004-40)

15.205.120. Violation—Penalties.

- a. It is unlawful for any person to violate any of the provisions of this section of the Spring Hill Municipal Code.
- b. Every person convicted of a violation of any of the provisions of this section of the Spring Hill Municipal Code shall be punished for first conviction thereof by a fine of not more than \$100 or by imprisonment for not more than 10 days or by both such fine and imprisonment; for a second such conviction within one year thereafter such person shall be punished by a fine of not more than \$200 or by imprisonment for not more than 20 days or by both such fine and imprisonment; upon a third or subsequent conviction within one year after the first conviction such person shall be punished by a fine of not more than \$500 or by imprisonment for not more than six months or by both such fine and imprisonment.

(Ord. 2004-40)

15.205.130. Snow Emergency Routes Designated.

Streets or portions of streets within the city that are snow emergency routes shall be designated by resolution adopted by the Governing Body. (Ord.2004-40; Ord 2012-03)

15-206. PROHIBITING THE PARKING OF COMMERCIAL, RECREATIONAL AND PASSENGER VEHICLES ON RESIDENTIAL STREETS.

- a) The parking of commercial, recreational and passenger vehicles with a gross weight in excess of 8,000 pounds and the parking of all types of earth moving and loading equipment within the residential “use” districts of the City of Spring Hill, Kansas, and on the public streets in the residential “use” district is hereby prohibited.
- b) Any person, firm or corporation violating the provisions of this ordinance shall be fined not in excess of \$100.00 or by confinement in the County Jail not to exceed 90 days or both. Each day shall constitute a separate violation of this ordinance.

(Ord 1248)

15-207. REGULATION OF SIZE, WEIGHT AND LOAD OF VEHICLES

- A. No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles the total outside width of which, or any load thereon, exceeds the limitations as prescribed by K.S.A. 8-1902 or any amendments thereto, which are incorporated by reference as if set out in full herein.
- B. No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles the load, height or length of which, including any load thereon, exceeds the limitations as prescribed by K.S.A. 8-1903 through 8-1905 or any amendments thereto, which are incorporated by reference as if set out in full herein.
- C. No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles unless the load is properly secured as prescribed by K.S.A. 8-1906 or any amendments thereto, which are incorporated by reference as if set out in full herein.
- D. No person, association, firm, partnership, or corporation shall use a motor vehicle or combination of vehicles to tow another vehicle unless proper connection and safety equipment are utilized as prescribed by K.S.A. 8-1907 or any amendments thereto, which are incorporated by reference as if set out in full herein.

- E. No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles the gross weight of which, as to wheel and axle load, exceeds the limitations as prescribed in K.S.A. 8-1908 or any amendments thereto, which are incorporated by reference as if set out in full herein.
- F. No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles the gross weight of which exceeds the limitation as prescribed by K.S.A. 8-1909 or any amendments thereto, which are incorporated by reference as if set out in full herein.
- G. Whenever a police officer, upon weighing a vehicle or combination of vehicles, determines that the weight is unlawful, such officer may require the driver to stop the vehicle in a suitable place and for the vehicle to remain there until such portion of the load is removed as may be necessary to reduce the gross weight of such vehicle or combination of vehicles or remove or redistribute the gross weight on any axle or tandem axles to such limits as permitted in this Section. All material so unloaded shall be cared for by the owner, lessee, or operator of such vehicle at the risk of such owner, lessee or operator.
- H. No person, association, firm, partnership, or corporation shall operate a motor vehicle or combination of vehicles unless such motor vehicle is registered and licensed according to gross weight as prescribed in K.S.A. 8-143 or any amendments thereto, which are incorporated by reference as if set out in full herein.
- I. It shall be unlawful to operate within this City a vehicle or combination of vehicles whose weight, with cargo, is in excess of the gross weight for which the vehicle, truck, or truck-tractor propelling the same is licensed and Registered except as provided by K.S.A. 8-1911, or any amendments thereto and K.S.A. 8-143 or any amendments hereto, which are incorporated by reference as if set out in full herein.
- J. It shall be unlawful for any driver of a vehicle or combination of vehicles to fail to stop or refuse to stop and submit such vehicle or combination of vehicles to weighing as provided in this Section or as directed by police.
- K. Any person who commits any offense involving gross weight, height, length or width limits as described in this Section shall, upon conviction, be punished as set forth in the fine schedule in subsection L. Any person who commits any other offenses described in this Section shall be deemed guilty of a public offense, and upon conviction, shall be punished as provided in Section 1-11-1 of this Code.
- L. (1) A person who is convicted of exceeding gross weight shall be fined according to the following schedule:

Weight up to first 1,000 lbs. over limit	\$50.00
Weight per lb. Over 1,000 lbs.	\$00.10
- (2) A person who is convicted of exceeding the height, length or width shall be fined according to the following schedule:

Height, length, width over limit	\$30.00 plus
	\$1.00 per inch
- (3) For a second violation of gross weight, height, length or width within two (2) years, such person shall, upon conviction, be fined one and one-half (1½) times the applicable amount based on the above fine schedule. For a third violation, within two (2) years, such person shall, upon conviction, be fined two (2) times the applicable amount from the above fine schedule. For the

fourth and each succeeding violation, within two (2) years, such person, upon conviction, shall be fined two and one-half (2½) times the applicable amount from the above fine schedule.
(Ord. 2006-37)

15-208. TRUCK ROUTES

A. Truck Traffic – Prohibited. It is unlawful for any truck, commercial vehicle or farm tractor as defined in Section 15-208(C), to enter upon or to be operated upon any street within the City, except those streets designated as and identified as truck routes.

B. Truck, Commercial Vehicle and Farm Tractor Traffic – Prohibited - Hale and Nichols Streets. In addition to prohibition contained in Section 15-208.A, it is unlawful for any person, firm or corporation to operate a truck, commercial motor vehicle or farm tractor in excess of a rate of capacity of seven thousand (7,000) pounds upon:

1. That portion of Nichols Street lying east of Webster Street and west of Main Street.
2. That portion of Hale Street lying east of Webster Street and west of Main Street.

C. Definition – For purposes of Section 15-208 the term truck, commercial motor vehicle and farm tractor are defined as follows:

Truck. Every motor vehicle designed, used, or maintained primarily for the transportation of property including, but not limited to, motor vehicles or any combination of vehicles that exceed 20 feet in length, or exceed seven feet in height, or exceed eight feet in width, or are registered for a gross vehicle weight of more than 12,000 pounds.

Commercial Motor Vehicle. A motor vehicle designed or used to transport passengers or property, if:

- a) The vehicle has a gross vehicle weight rating of 12,000 or more pounds
- b) The vehicle is designed to transport 16 or more passengers, including the driver, or
- c) The vehicle is transporting hazardous materials and is required to be placarded in accordance with 49 C.F.R. 172, subpart F.

Farm Tractor. Every motor vehicle designed and use primarily as a farm implement for drawing plows, mowing machine and other implements of husbandry and such term shall include every self- propelled implement of husbandry.

D. Street Repair and Local Delivery Excepted. The provisions of Section 15-208(A) shall not be applicable to those vehicles engaged in repairing or construction of streets under the authority of the City or vehicles carrying goods, wares, or merchandise or other articles to and from any house, residence or business establishment within the city, provided the vehicle takes the most direct truck route as designated in Section 15-208(G) to and from the home, residence, business or street construction.

E. Construction Areas Excepted. All vehicles to which Section 15-208(G) is applicable shall be permitted to enter upon streets in areas under construction or where construction and building are taking place for the purpose of delivering and receiving construction goods or materials, provided the vehicle takes the most direct truck route as designated in Section 15-208(G) to and from the areas under construction or where construction and building is taking place.

F. Size, Weight and Load Limits Requirements Applicable to Truck Routes. On streets designated as truck routes, the size, weight and load limit signs and regulations shall be complied with notwithstanding the truck route designations.

G. Truck routes designated. The following streets are hereby designated as truck routes within the limits and jurisdiction of the City:

1. Webster Street – north - south through the City
2. Woodland Road – north-south through the City
3. 191st Street – east-west through the City
4. 199th Street - east-west through the City
5. 207th Street – east of Webster Street-
6. 215th Street/South Street – west of A-Line Drive
7. 223rd Street – east-west through the City

H. Posting of Signs. The streets set forth in Section 15-208(G) should be properly identified and posted as truck routes within the limits and jurisdiction of the City.

I. Violation – Penalty. Any person convicted of a violation of any of the provisions of this ordinance shall be subject to the penalties set forth in the Section 5-201, and amendments thereto.
(Ord 2009-19)

ARTICLE 2A. TOW REGULATIONS – CITY-INITIATED TOWS

15-201A.101 Authority to Tow or Impound.

The police department, and all members thereof, are authorized to remove and/or to tow away, or have removed and towed away by commercial towing service, to an impound lot or other safe place designated by the City, as provided by K.S.A. 8-1101, *et seq.*, and amendments thereto, all motor vehicles found under the hereinafter enumerated circumstances:

- (a) When any motor vehicle upon a street is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle cannot safely operate the motor vehicle or are unable to provide for its custody or removal to a lawfully secure location; or
- (b) When any motor vehicle is parked illegally in such a manner as to constitute a hazard or obstruction to the safe movement of traffic; or
- (c) When the operator of any motor vehicle is arrested and taken into custody by the police department and such vehicle would thereby be left unattended and create a hazard or obstruction to the safe movement of traffic; or
- (d) When any motor vehicle is abandoned, or left unattended on a highway, public road, City-owned property, or property available for use by the public as described in K.S.A. 8-1102(c) for a period of time in excess of 48 consecutive hours, or when any unattended motor vehicle interferes with public streets or highway operations; or
- (e) Upon request of the owner or occupant of real property, other than public property or property open to use by the public, when any person abandons and leaves a vehicle upon the owner or occupant's property consistent with the provisions of K.S.A. 8-1102(b); or
- (f) When any vehicle is found being driven on the streets and is not in proper or safe condition to be driven and cannot be removed safely to a lawfully secured location by the owner or operator; or
- (g) When any motor vehicle determined to be stolen is found upon the public street; or
- (h) When any motor vehicle is subject to seizure as evidence in a criminal prosecution; or
- (i) When any motor vehicle is subject to seizure or forfeiture under the laws of this state or federal law; or
- (j) The vehicle is parked on a part of a snow emergency route on which a parking prohibition is in effect; or
- (k) The vehicle is stalled on a part of a snow emergency route on which there is a covering of snow, sleet, or ice on which there is a parking prohibition in effect and the person who was operating such vehicle does not appear to be removing it in accordance with the provisions of SHMC Sections 15.205.010 through 15.205.130; or

- (l) The vehicle is parked in violation of any parking ordinance or provision of law and is interfering or about to interfere with snow removal operations.

15-201A.102 Notice to Owner of Vehicle to be Towed or Impounded in Non-emergency Situation.

Vehicles which are subject to being towed and impounded under conditions that do not constitute an immediate obstruction to the normal and safe movement of traffic and are determined to be abandoned shall not be towed or impounded until the motor vehicle has placed on its windshield or in another prominent location a sticker or placard indicating the vehicle is in violation of SHMC and shall be removed by the Spring Hill Police Department after 48 hours from the time the sticker or placard was attached to the vehicle. The sticker or placard shall include such other information as the Chief of Police determines is necessary.

15-201A.103 Notice to Owner of Towed and Impounded Vehicle.

Whenever any motor vehicle is towed and impounded pursuant to the provision of SHMC 15-201A.101 or 15-201A.102, notice, if possible, shall be given to the owner or person entitled to custody thereof that (1) such vehicle has been towed and impounded, (2) the reasons for the tow, (3) how the vehicle may be recovered to include the right of hearing set out in SHMC 15-201A.105, and that unless the owner takes action within 30 days from the date of receipt of the notice, proceedings may be instituted (4) to sell the motor vehicle at auction to cover any costs accrued as a result of the towing and impounding. Said notice shall be by written notice provided to the owner or person entitled to custody of the motor vehicle at the time the motor vehicle is towed, provided the officer providing such notice has obtained written acknowledgment of receipt of the notice. In addition, said notice may be made by certified mail with return receipt requested. Notice by certified mail shall be mailed to the owner of vehicle displaying Kansas registration plates no later than close of business of the second business day after the towing. The notice shall be mailed to the owner of vehicle not displaying Kansas registration plates no later than close of business of the second business day after ownership is determined. The police department shall use reasonable diligence in determining the title or registered owner of the vehicle.

15-201A.104 Recovery Procedures.

- (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; and
 - 3. Proof of current registration of the vehicle as required by the laws of the State of Kansas.
- (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 in SHMC 15-201A.105.

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.

15-201A.105 Hearing Procedure.

- (a) Owners or persons entitled to the lawful custody of impounded motor vehicle who wish to contest the validity of the motor vehicle tow may request a hearing for such purpose by notifying the Spring Hill police department of the request in writing.
- (b) A hearing for the purpose of determining the validity of the tow shall be held by the Municipal Court Judge within five (5) working days after such hearing is requested. The time of the hearing shall be set by the Clerk of 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 payment of an amount equal to the towing and storage charges incurred by the vehicle. If such payment is made, 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 make advance payment of the charges, then such vehicle will remain in storage until a hearing is had.
- (d) If the Municipal Court Judge determines the vehicle was lawfully towed pursuant to the provisions of 15-201A.101 herein, then all charges shall be paid by the owner or person lawfully entitled to custody of the

vehicle.

- (e) If the Municipal Court Judge determines the vehicle was not towed pursuant to the provisions of 15-201A.101 herein, the Court shall order the immediate release of the vehicle to its lawful owner without costs.

15-201A.106 Wrecker or Tow Service Foreclosure of Lien; Sale of Vehicle.

Any person or commercial towing service that tows and impounds a motor vehicle pursuant to this Article 2A, Chapter XV, or any other legal request for towing and impounding by a law enforcement officer of the Spring Hill police department, shall have a possessory lien as provided for in K.S.A. 8-1103, *et seq.*, and amendments thereto. Authorized tow service providers shall comply with the notice and disposition procedures for foreclosure of the lien as set forth in K.S.A. 8-1103 through 8-1108, and amendments thereto.

15-201A.107 Enforcement Authority

The Chief of Police shall establish, distribute and cause the enforcement of reasonable rules and regulations for the administration of this Article 2A, Chapter XV, as from time to time he or she deems appropriate for the safety, well-being and protection of citizens and their property within the City of Spring Hill, Kansas.

15-201A.108 Rotational Tow List.

- (a) Requirements and Performance Standards. Any tow company or wrecker service seeking placement on the City's rotational tow list as an authorized tow service provider shall meet the following requirements as determined within the reasonable discretion of the Spring Hill Police Chief.
 - (1) Exclusive of state recognized holidays, each tow authorized tow service provider shall be open and have a representative on the premises of the location or area where towed vehicles are stored or kept from eight o'clock (8:00) A.M. to five thirty o'clock (5:30) P.M., Monday through Friday, at a minimum.
 - (2) Each authorized tow service provider shall conspicuously post a sign at the front of its business stating the business name and a telephone number where information can be obtained about any vehicle towed or stored by the business.
 - (3) Authorized tow service providers and drivers must be available twenty-four (24) hours a day, seven (7) days a week.
 - (4) Each authorized tow service provider must have either secure indoor storage facilities or outside storage facilities and must be in either Johnson or Miami County. Outside storage areas shall be fenced and shall be adequately secured.
 - (5) Each authorized tow service provider must agree to tow abandoned vehicles in addition to tow requests received from the Police Department for damaged or disabled vehicles.
 - (6) Each authorized tow service provider must annually provide the Police Chief, or her or his designee, with Certificates of Insurance in the following type and/or rider and minimum coverage amounts.
 - a. Commercial General Liability or Garage Liability with protection limits in the amounts of not less than \$500,000 Combined Single Limits, bodily injury and property damage.
 - b. Business Automotive Liability with protection limits in the amounts of not less than \$500,000 Combined Single Limits, bodily injury and property damage.
 - c. Garagekeepers Legal Liability Coverage with protection limits in the amounts not less than \$75,000 per location.
 - d. On-Hook/Cargo Coverage in an amount not less than \$50,000.
 - e. Statutory Workers' Compensation coverage requirements.
 - (7) If the owner or other legally authorized person in control of the vehicle arrives at the scene prior to removal or towing of the vehicle, and is legally capable of removing 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 applicable 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 or winched.

- (8) Each authorized tow service provider is solely responsible 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 directed by the City. All debris shall be removed and deposited in a trash receptacle at the authorized tow service provider's place of business.
 - (9) Authorized tow service provider's employees and agents shall cooperate with Police Officers and respond to requests for service in a timely and professional manner.
 - (10) Authorized tow service provider's employees and agents shall treat members of the public whose vehicles have been towed or are subject to tow with respect and decency. Each authorized tow service provider who seeks to provide tow and wrecker services on behalf of the City shall engage in good faith and fair dealing with individuals whose vehicles are towed by order of the Spring Hill Police Department.
 - (11) The Police Chief, or designee, at her or his discretion, may create an application for use by towing companies and wrecker services to furnish the information required to become an authorized tow service provider.
- (b) Use of Rotational Tow List. The Spring Hill Police Department shall maintain a list of authorized tow or wrecker service providers to be used in providing tow services for the City on a rotating basis.
- (1) When a tow is needed, the members of the Spring Hill Police Department will communicate the need for a tow, or request such communication, to the next authorized towing company or wrecker service. On each succeeding tow, the next tow company on the list will be contacted and assigned the tow. In the event an authorized tow service provider cannot be reached or cannot provide the requested tow, that tow service provider shall forfeit its turn and the Police Department shall call or caused to be called the next succeeding tow company on the list. The Police Department shall keep a continuous rotation of each authorized provider on the master rotation tow list.
 - (2) Placement on the rotational tow list shall be by alphabetical order. In the event a new tow company becomes authorized, it shall be placed on the list in alphabetical order, regardless of its resulting place in the rotation.
 - (3) The Police Department shall not be obligated to use the rotational tow list for special events where more than one tow may be necessary. Rather, the City may enter into an agreement with one or more authorized tow service providers for the rights to tow vehicles, as needed at the request of the City, during those special events. For purposes of this section, special events shall include, but not be limited to, festivals, sobriety checkpoints, or any other similar event outside the regular functions of the Police Department.
 - (4) Notwithstanding any of the foregoing provisions, nothing contained herein may confer a vested interest or create any right, property or otherwise, upon any authorized tow company or wrecker service to any tow assignment, rotational use, or continuing participation on the Police Department's rotational tow list.
- (c) Fees and Charges.
- (1) The Spring Hill City Council shall adopt an annual Tow Service Fee Resolution establishing services and functions for which authorized tow service providers may charge for tows directed by the Spring Hill Police Department and setting forth the maximum charge for such services.
 - (2) All authorized tow service providers on the Police Department rotational tow list shall charge only those towing, storage, and related tow and wrecker service fees as set forth by the City's annual Tow Service Fee Resolution. Authorized tow service providers may only charge fees in an amount not to exceed those established by City's annual Tow Service Fee Resolution.
- (d) Maintenance and Enforcement Authority for Rotational Tow List. The Police Chief, or designee, shall have authority to enforce reasonable practices and regulations for tow companies and inclusion upon the Police Department's rotational tow list, subject to compliance with the provisions of this Article and K.S.A. 8-1101, *et seq.*, as amended, and as deemed appropriate for the safety, well-being, and protection of citizens and their property within the City.

- (e) Suspension or Revocation of Authorization; Grounds; Appeal.
- (1) The Police Chief may suspend or revoke an authorized tow service provider from the rotational tow list upon violation of any of the provisions of this Section or other rational basis upon his or her exercise of reasonable discretion pursuant to subsection (d) of this Section and Section 15-201A.107 of this Article.
 - a. The Police Chief may suspend an authorized tow service provider from the rotational tow list for a specified period or until the cause or reason for the suspension has been remedied to the satisfaction of the Police Chief.
 - b. The Police Chief may revoke the authorization for a tow service provider from the rotational tow list. Any provider whose authorization is revoked shall not be eligible to apply for reinstatement for one (1) year from the date of suspension.
 - (2) Notice. Any suspension or revocation described in subsection (1) above shall be made by written notice to the tow service provider by the Police Chief or designee.
 - (3) Appeal of Suspension and Revocation.
 - a. A tow service provider may appeal a suspension or revocation described herein by filing written notice and statement of appeal from such suspension or revocation to the Police Chief, or designee, for an administrative hearing before the Spring Hill Municipal Court.
 - b. Upon receipt of a notice and statement of appeal, the Police Chief, or designee, shall promptly notify the Municipal Court or Clerk of the Municipal Court.
 - c. The filing of an appeal under this subsection shall not stay any action taken pursuant to this Section or this Article.
 - d. The hearing on the appeal shall be conducted by the Spring Hill Municipal Court judge who will sit as an administrative judge for purposes of this Section. The sole issue for determination shall be whether actions or findings of Police Chief were within the scope of his or her authority, consistent with the provisions of this Section, and not arbitrary or capricious.
 - (4) No Vested Rights or Property Interest. Nothing in this Section, including the utilization of any tow company or the designation as an authorized tow service provider for inclusion on the rotational tow list shall confer any vested property rights upon the tow company to remain an authorized tow service provider on the City's rotational tow list.
 - (5) Voluntary Removal. A tow company or wrecker service may terminate its designation as an authorized tow service provider, and therefore be removed from the rotational tow list, by providing five (5) days written notice to the Police Chief.
- (f) Access to Personal Property; Location Notice Required.
- (1) Any owner of a vehicle towed pursuant to this Section and Article shall have access to personal property in such vehicle for up to 48 hours after such vehicle has been towed, and such personal property shall be released to said owner ***unless it is being held or seized as evidence***. The authorized tow provider will be notified of vehicles that are being held or seized as evidence by the Spring Hill Police Department within two (2) hours after such vehicle has been towed. All vehicles being held or seized as evidence will be identified as such with a placard or other sign.
 - (2) The authorized tow service provider shall report the final location of any towed vehicle to the Spring Hill Police Department no later than within two (2) hours after towing the vehicle.

15-201A.109 Solicitation Prohibited.

No tow company or tow company employee, driver or contractor on duty with a tow company, shall stop, stand or park a tow truck at or near the scene of an accident or at or near a disabled vehicle within the City for the purpose of soliciting an agreement for towing services, unless such tow company, employee, driver, or contractor has been called to the scene by the Spring Hill Police Department, by another law enforcement agency, or by the owner of an involved vehicle or his or her authorized representative.

15-201A.110 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof

15-201A.111 Penalty.

Any person who violates any provisions of this Chapter shall be subject to the general penalty provisions of Section 1-1101 of the Spring Hill Municipal Code.

(Ord 2020-04) (Sub-sections 101, 106, 108, 109, 110 & 111 – 2022-24)

ARTICLE 2B. NON-CITY INITIATED PRIVATE PROPERTY TOW REGULATIONS

15-201B.101 Unlawful Acts.

(a) **Intent.** This Section is intended to advance and promote public safety by ensuring that a private property owner or lessee has provided adequate authorization for the removal of a vehicle from his or her property, and to minimize towing mistakes and false vehicle theft reports, thereby promoting the safety of those persons involved in ordering the removal of the vehicle, the owner or operator of the vehicle, and those persons removing, towing, and storing the vehicle.

(b) It shall be unlawful and a violation of this Article for any person to fail to comply with the following regulations when involved in the towing or request for the towing of motor vehicles from private property at the request of third parties and without the consent of the owner or operator of the vehicle:

- (1) **Notification.** Prior to the person or tow company towing or removing a vehicle from private property, they shall notify the Spring Hill Police Department of their intent and of the following information concerning the tow or removal:
 - A. Vehicle make, model, style, color and year;
 - B. Vehicle Identification Number (VIN);
 - C. License plate number and State of issuance;
 - D. Ultimate destination where the vehicle is to be towed and stored, and a contact number for the owner to call for information regarding release of the vehicle;
 - E. Reason for the tow; and
 - F. Person ordering the tow.

- (2) **Mandatory Disconnect.** If the 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.

- (3) **Notice and Sign Requirements.** Except for property appurtenant to and obviously a part of a single-family residence, which shall include duplexes, townhomes, and residential planned unit developments, any private property owner, lessee, or other person in legal possession of the real property, prior to towing or removing any vehicle from private property without the consent of the owner or operator, must post a notice meeting each of the following requirements:
 - A. The notice must be prominently placed at each primary driveway access or curb cut allowing vehicular access to the property.

- B. The notice must clearly indicate, in not less than two inch (2") high, light-reflective letters on a contrasting background, that "Unauthorized Vehicles Will Be Towed".
 - C. The sign structure containing the required notices shall not exceed three (3) square feet in area and must be permanently installed, with the bottom of the sign not less than four feet (4') and not more than five feet (5') above ground level and must be continuously maintained on the property for not less than twenty four (24) hours prior to the towing or removal of vehicles.
- (4) **Right to Enter Vehicle.** The right of entry is conditioned on the tow company possessing the keys, master keyset, or other legal non-damaging means of entering the vehicle. A tow company may enter a vehicle for the sole purpose of removing the vehicle, provided the tow company uses reasonable care in entering the vehicle, and the tow company or person entering the vehicle is responsible for the security of the vehicle and its contents.
- (5) **Owner Access.** An owner of a vehicle towed pursuant to this Article must be granted access to personal property in such vehicle for up to forty-eight (48) hours after such vehicle has been towed, and such personal property shall be released to the owner.
- (6) **Report of Location.** Within two hours of the tow or removal of a vehicle, the tow company shall report the final location of the towed vehicle to the Spring Hill Police Department.
- (7) **Restrictions upon Location.** The towed vehicle shall not be transported outside of the State of Kansas at any time and must be stored at a secure location in either Johnson County, Kansas or Miami County, Kansas.

15-201B.102 Maximum Tow and Storage Fees.

The maximum fee a person or tow company may charge for towing vehicles, which may not be required to be paid in cash only, from private property at the request of a third party or for storage of a vehicle towed from private property at the request of a third party shall not exceed the following rates.

(a) Hookup Fee – <i>including rollback, dollies, flatbed, or other lift tow system</i>	\$150.00
(b) Mileage – <i>loaded miles only</i>	\$5.00/mile
(c) Winching – <i>billed and pro-rated per ¼ hour (does not include merely winching vehicle onto rollback bed from roadway, lot, or parking surface)</i>	\$150.00/hour
(d) Storage	\$25.00/day Outside \$35.00/day Inside

15-201B.103 Penalty.

- (a) Any person or tow company that violates the provisions of this Article shall be fined not less than five hundred dollars (\$500.00) nor more than two thousand five hundred dollars (\$2,500.00). In addition to such fine, the Court may sentence any person convicted hereunder to a period of confinement of up to six (6) months in jail.
- (b) Any penalty imposed by this provision shall be in addition to any other remedy at law or equity available to the City and/or an aggrieved person or party for any failure to comply with the provisions of this Article.

15.201B.104 Severability.

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Article or any part thereof, is for any reason held to be unconstitutional, invalid, or ineffective by any court of

competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Article or any part thereof.
(Ord 2022-23)

ARTICLE 3. APPEARANCE BONDS; PROCEDURE

15-301. PERSONS UNDER ARREST; PROCEDURES. Any person arrested by a law enforcement officer shall be taken immediately by the law enforcement officer to the police station of the city, the office in the city designated by the municipal judge, or as otherwise provided in K.S.A. Supp. 12-4213.

15-302. METHODS OF SECURING. A person having the right to post bond for his appearance shall, in order to do so, execute in writing a promise to appear at the municipal court at a stated time and place. Such appearance bond shall be in an amount as determined by the municipal judge, and may be secured by any one of the following methods, and when so secured, the person shall be released from custody. The methods of securing the appearance of an accused person are as follows:

Payment of cash, except that the municipal judge may permit negotiable securities or a personal check in lieu of cash.

The execution of an appearance bond by a responsible individual residing within the State of Kansas, as surety with the approval of the municipal judge.

A guaranteed arrest bond certificate issued by either a surety company authorized to transact such business within the State of Kansas, or an automobile club authorized to transact business in this state by the commissioner of insurance, except that such "guaranteed arrest bond certificate" must be signed by the person to whom it is issued and must contain a printed statement that the surety guarantees the appearance of such person and, in the event of failure of such person to appear in court at the time of trial, will pay any fine or forfeiture imposed upon such person not to exceed an amount to be stated in such certificate.

In lieu of giving security in the manner provided by subsections "a", "b" and "c" of this section, the accused person may deposit with the arresting law enforcement officer or the clerk of the municipal court a valid license to operate a motor vehicle in the State of Kansas in exchange for a receipt therefor issued by the law enforcement officer or the clerk of the municipal court, the form of which shall be approved by the division of vehicles of the state department of revenue. The receipt shall be recognized as a valid temporary Kansas operator's license authorizing the operation of a motor vehicle by the accused person to the date of the hearing stated on the receipt. The license and written copy of the notice to appear shall be delivered by the law enforcement officer of the municipal court as soon as reasonably possible. If the hearing on any such charge is continued for any reason, the municipal judge may note on the receipt the date to which such hearing has been recognized as a valid temporary Kansas operator's license, as herein provided, until such date, but in no event shall such receipt be recognized as a valid Kansas operator's license for a period longer than thirty (30) days from the date for the original hearing. Any person who deposited his operator's license to secure his appearance, in lieu of giving a bond as provided in subsections "a", "b" and "c" above, shall have such license returned to him upon the giving of the required bond pursuant to "a", "b" and "c" above or upon final determination of the charge against him.

15-303. ACCUSED PERSON DEPOSITS VALID LICENSE. In the event the accused person deposits a valid license to operate a motor vehicle in this state with the municipal court and thereafter fails to appear in court on the date set for appearance, or any continuance thereof, and in any event within thirty (30) days from the date set for the original hearing, the municipal judge shall forward the operator's license of such person to the division of vehicles with an appropriate explanation attached thereto. Upon receipt of the operator's license of such person the division of vehicles may suspend such person's privilege to operate a motor vehicle in this state until such person appears before the municipal court, or the municipal court makes a final disposition thereof, and notice of such disposition is given by the municipal court to the division, or for a period not exceeding six (6) months from the date such person's operator's license is received by the division, whichever is earlier.

Any person who applies for a duplicate or new operator's license to operate a motor vehicle in this state prior to the return of his original license, where such license has been deposited in lieu of the giving of a bond as provided in this section, shall be guilty of a misdemeanor punishable as set forth in K.S.A. 8-5,125.

15-304. PERSONAL RECOGNIZANCE. Notwithstanding the provisions of Section 15-302:303 of this article, a law enforcement officer may release an accused person from custody without requiring security for his appearance, and shall release such accused person without requiring security for the appearance, pursuant to any rule or order of the municipal judge.

15-305. FAILURE TO APPEAR. In the event the accused person fails to appear at the time designated in the appearance bond or at any subsequent time to which the appearance has been continued, the municipal judge shall declare the bond forfeited, except that, if it appears to the court that justice does not require the enforcement of the forfeiture, the court may set the same aside upon such conditions as the court may impose. Where the forfeiture of a bond has become final, the court shall direct the application of the funds or that suitable action be instituted for the collection from the sureties thereon or from the accused person.

15-306. APPEARANCE BOND; POSTING; FORM. An appearance bond shall be deemed sufficient if it states substantially as follows:

Appearance Bond. In the Municipal Court of _____, Kansas. The City of _____ vs. _____, the accused person, as principal, and _____, as surety, (where surety is used) acknowledge ourselves to be indebted to the City of _____, Kansas, in the sum of _____ Dollars, secured as required by law, upon these conditions:

That said accused person shall personally appear before the Municipal Court of _____, Kansas, on the _____ day of _____, 19_____, at _____ o'clock a.m. and, if an appeal is taken, shall appear in the District Court of the county in which the city is located, and from time to time as required by the court to answer the complaint against him, according to his promise to do so, which he hereby makes then this bond shall be void; otherwise it shall remain in force.

Dated this _____ day of _____, 19_____.

(Accused Person)

(Address)

(Surety) (Where Applicable)

(Address)

Receipt for cash surety

Received from _____, accused person, _____ Dollars cash security on above bond this _____ day of _____, 19_____.

(Clerk of Municipal Court or Law Enforcement Officer)

OR

Receipt for guaranteed arrest bond certificates security

Received from _____ a guaranteed certificate issued by _____, as security on above bond this _____ day of _____, 19_____.

(Clerk of Municipal Court or Law Enforcement Officer)

OR

Receipt for operator's license security

Received from _____, accused person, operator's license issued by the State of _____, bearing number _____, issued to said accused person, as security on above bond this _____ day of _____, 19_____.

(Clerk of Municipal Court or Law Enforcement Officer)

OR

Approval of surety

Surety approved this _____ day of _____, 19_____.

(Municipal Judge)

OR

Bond without surety

This bond approved without surety.

(Municipal Judge or Law Enforcement Officer)

15-307. SCHEDULE OF FINES. The municipal judge may establish a schedule of fines which shall be imposed for the violation of certain ordinances upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation. The following traffic violations are specifically excluded from such schedule:

- a. Reckless driving;
- b. Driving while under the influence of intoxicating liquor or drugs;
- c. driving without a valid license issued or on a suspended or revoked license;
- d. Offenses arising from a motor vehicle collision or accident;
- e. Speed violations fifteen miles per hour (15 mph) over the limit; and
- f. A second moving violation within the previous twelve-month period.

The municipal judge may authorize the clerk of the municipal court or some other person to accept such voluntary appearance and plea of guilty or no contest and to accept the payment of the fine imposed by the schedule.

The schedule of fines and persons authorized to accept such pleas shall be conspicuously displayed in the office where such voluntary appearance, plea of guilty and payment of fine occurs.

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 \$1500.00, except for speeding which shall not be less than \$1.00 nor more than \$1500.00. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$500.00.

ARTICLE 4. COMMERCIAL SAFETY ACT

15.401. COMMERCIAL VEHICLE SAFETY ACT INCORPORATING FEDERAL MOTOR CARRIER

SAFETY REGULATIONS. The Federal Motor Carrier Safety Regulations parts 382, 383, 390-397, July 1, 2006 Edition, Management Edition, prepared and published in book form by LabelMaster, 5724 N. Pulaski Rd., Chicago, Illinois, 60646, and amendments thereto, is hereby incorporated by reference and made part of this chapter save and except such articles, section, parts or portions as are hereafter omitted, deleted, modified or changed, and is hereby designated as "Commercial Vehicle Safety Act." (Ord. 2008-03)

15-402. MARKED COPIES OF REGULATIONS ON FILE. There shall not be less than three copies of the standard code adopted by reference in Article 4, Chapter XV kept on file in the office of the city clerk, to which shall be attached a copy of the incorporating ordinance, shall be marked or stamped, "Official Copies as Incorporated by Ordinance No. 2006-38" with all sections or portions thereof intended to be omitted clearly marked to show any such deletion or change, and filed with the city clerk and open to inspection and available to the public at all reasonable hours. The police department, municipal judges and all administrative departments of the city charged with the enforcement of the incorporating ordinance shall be supplied, at the cost of the city, such number of official copies of such standard. (Ord. 2006-38)

15-403. SECTIONS REPEALED. Sections 382.507, 383.53, and 390.37 of the Federal Motor Carrier Safety Regulations as incorporated in 15.410 of this Chapter are hereby repealed. (Ord. 2006-38)

15-404. SECTION 390.5 AMENDED – DEFINITIONS. Section 390.5 of the Federal Motor Carrier Safety Regulations Handbook entitled "Definitions" is hereby amended and shall read as follows:

Unless specifically defined elsewhere in this subchapter:

Accident means –

- (1) Except as provided in paragraph (2) of this definition, an occurrence involving a commercial motor vehicle operating on a highway in interstate or intrastate commerce which results in:
 - (i) A fatality;
 - (ii) Bodily injury to a person who, as a result of the injury, immediately receives medical treatment away from the scene of the accident; or
 - (iii) One or more motor vehicles incurring disabling damage as a result of the accident, requiring the motor vehicles to be transported away from the scene by a tow truck or other motor vehicle.

- (2) The term *accident* does not include:
 - (i) An occurrence involving only boarding and alighting from a stationary motor vehicle; or
 - (ii) An occurrence involving only the loading or unloading of cargo.

Alcohol concentration (AC) means the concentration of alcohol in a person's blood or breath. When expressed as a percentage it means grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath.

Bus means any motor vehicle designed, constructed, and or used for the transportation of passengers, including taxicabs.

Business district means the territory contiguous to and including a highway when within any 600 feet along such highway there are buildings in use for business or industrial purposes, including but not limited to hotels, banks, or office buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway.

Charter transportation of passengers means transportation, using a bus, of a group of persons who pursuant to a common purpose, under a single contract, at a fixed charge for the motor vehicle, have acquired the exclusive use of the motor vehicle to travel together under an itinerary either specified in advance or modified after having left the place of origin.

Commercial motor vehicle means any self-propelled or towed vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle –

- (1) Has a gross vehicle weight rating or gross combination weight rating of 4,537 kg (10,001 lb) or more; or
- (2) Is designed to transport 16 or more passengers, including the driver; or
- (3) Is of any size and is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act (49 U.S.C. 5101 *et seq.*) and which require the motor vehicle to be placarded under the Hazardous Materials Regulations (49 CFR chapter I, subchapter C).

Conviction means an unvacated adjudication of guilt, or a determination that a person has violated or failed to comply with the law in a court of original jurisdiction or by an authorized administrative tribunal, an unvacated forfeiture of bail or collateral deposited to secure the person's appearance in court, a plea of guilty or nolo contendere accepted by the court, the payment of a fine or court cost, or violation of a condition of release without bail, regardless of whether or not the penalty is rebated, suspended, or probated.

Direct Assistance means transportation and other relief services provided by a motor carrier or its driver(s) incident to the immediate restoration of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel). It does not include transportation related to long-term rehabilitation of damaged physical infrastructure or routine commercial deliveries after the initial threat to life and property has passed.

Disability damage means damage which precludes departure of a motor vehicle from the scene of the accident in its usual manner in daylight after simple repairs.

- (1) *Inclusions.* Damage to motor vehicles that could have been driven, but would have been further damaged if so driven.
- (2) *Exclusions.*
 - (i) Damage which can be remedied temporarily at the scene of the accident without special tools or parts.
 - (ii) Tire disablement without other damage even if no spare tire is available.
 - (iii) Headlamp or taillight damage.
 - (iv) Damage to turn signals, horn, or windshield wipers which make them inoperative.

Driveaway-towaway operation means any operation in which a motor vehicle constitutes the commodity being transported and one or more set of wheels of the motor vehicle being transported are on the surface of the roadway during transportation.

Driver means any person who operates any commercial motor vehicle.

Driving a commercial motor vehicle while under the influence of alcohol means committing any one or more of the following acts in a CMV: driving a CMV while the person's alcohol concentration is 0.04 percent or more; driving under the influence of alcohol, as prescribed by State law; or refusal to undergo such testing as is required by any State or jurisdiction in the enforcement of §383.51 (b) (2) (i) (A) or (B), or §392.5 (a) (2).

Emergency means any hurricane, tornado, storm (e.g. thunderstorm, snowstorm, ice storm, blizzard, sandstorm, etc.), high water, wind-driven water, tidal wave, tsunami, earthquake, volcanic eruption, mud slide, drought, forest fire, explosion, blackout or other occurrence, natural or man-made, which interrupts the delivery of essential services (such as, electricity, medical care, sewer, water, telecommunications, and telecommunication transmissions) or essential supplies (such as, food and fuel) or otherwise immediately threatens human life or public welfare, provided such hurricane, tornado or other event results in:

- (1) A declaration of an emergency by the President of the United States, the Governor of a State, or their authorized representatives having authority to declare emergencies; by the Regional Director of Motor Carriers for the region in which the occurrence happens; or by other Federal, State or local government officials having authority to declare emergencies; or
- (2) A request by a police officer for tow trucks to move wrecked or disabled motor vehicles.

Emergency relief means an operation in which a motor carrier or driver of a commercial motor vehicle is providing direct assistance to supplement State and local efforts and capabilities to save lives or property or to protect public health and safety as a result of an emergency as defined in this section.

Employee means any individual, other than an employer, who is employed by an employer and who in the course of his or her employment directly affects commercial motor vehicle safety. Such term includes a driver of a commercial motor vehicle (including an independent contractor while in the course of operating a commercial motor vehicle), a mechanic, and a freight handler. Such term does not include an employee of the United States, any State, any political subdivision of a State, or any agency established under a compact between States and approved by the Congress of the United States who is acting within the course of such employment.

Employer means any person engaged in a business affecting interstate commerce who owns or leases a commercial motor vehicle in connection with that business or assigns employees to operate it, but such term does not include the United States, any state, any political subdivision of a State, or an agency established under a compact between States approved by the Congress of the United States.

Exempt intracity zone means the geographic area of a municipality or the commercial zone of that municipality described by the FHWA in 49 CFR part 372, subpart B. The descriptions are printed in Appendix F to Subchapter B of this Chapter. The term “exempt intracity zone” does not include any municipality or commercial zone in the State of Hawaii.

For purposes of §391.2(d), a driver may be considered to operate a commercial motor vehicle wholly within an exempt intracity zone notwithstanding any common control, management, or arrangement for a continuous carriage or shipment to or from a point without such zone.

Exempt motor carrier means a person engaged in transportation exempt from economic regulation by the Interstate Commerce Commission (ICC) under 49 U.S.C. 10526, “Exempt motor carriers” are subject to the safety regulations set forth in this subchapter.

Farm vehicle driver means a person who drives only a commercial motor vehicle that is –

- (1) Controlled and operated by a farmer as a private motor carrier of property;
 - (a) Being used to transport either –
- (2) Agricultural products, or
- (3) Farm machinery, farm supplies, or both, to or from a farm;
 - (a) Not being used in the operation of a for-hire motor carrier;

- (b) Not carrying hazardous materials of a type or quantity that requires the commercial motor vehicle to be placarded in accordance with §177.823 of this subtitle; and
- (c) Being used within 150 air-miles of the farmer's farm.

Farmer means any person who operates a farm or is directly involved in the cultivation of land, crops, or livestock which –

- (a) Are owned by that person; or
- (b) Are under the direct control of that person.

Fatality means any injury which results in the death of a person at the time of the motor vehicle accident or within 30 days of the accident.

Federal Highway Administrator means the chief executive of the Federal Highway Administration, an agency within the Department of Transportation.

For-hire motor carrier means a person engaged in the transportation of goods or passengers for compensation.

Gross combination weight rating (GCWR) means the value specified by the manufacturer as the loaded weight of a combination (articulated) motor vehicle. In the absence of a value specified by the manufacturer, GCWR will be determined by adding the GVWR of the power unit and the total weight of the towed unit and any load thereon.

Gross vehicle weight rating (GVWR) means the value specified by the manufacturer as the loaded weight of a single motor vehicle.

Hazardous material means a substance or material which has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated.

Hazardous substance means a material, and its mixtures or solutions, that is identified in the appendix to §172.101, List of Hazardous Substances and Reportable Quantities, of this title when offered for transportation in one package, or in one transport motor vehicle if not packaged, and when the quantity of the material therein equals or exceeds the reportable quantity

This definition does not apply to petroleum products that are lubricants or fuels, or to mixtures or solutions of hazardous substances if in a concentration less than that shown in the table in §171.8 of this title, based on the reportable quantity (RQ) specified for the materials listed in the Appendix to §172.101.

Hazardous waste means any material that is subject to the hazardous waste manifest requirements of the EPA specified in 40 CFR Part 262 or would be subject to these requirements absent an interim authorization to a State under 40 CFR Part 123, Subpart F.

Highway means any road, street, or way, whether on public or private property, open to public travel. "Open to public travel" means that the road section is available, except during scheduled periods, extreme weather or emergency conditions, passable by four-wheel standard passenger cars, and open to the general public for use without restrictive gates, prohibitive signs, or regulation other than restrictions based on size, weight, or class of registration. Toll plazas of public toll roads are not considered restrictive gates.

Interstate commerce means trade, traffic, or transportation in the United States –

- (1) Between a place in a State and a place outside of such State (including a place outside of the United States);

- (2) Between two places in a State through another State or a place outside of the United States; or
- (3) Between two places in a State as part of trade, traffic, or transportation originating or terminating outside the State or the United States.

Intrastate commerce means any trade, traffic, or transportation any State which is not described in the term “interstate commerce.”

Medical examiner means a person who is licensed, certified, and/or registered, in accordance with applicable State laws and regulations, to perform physical examinations. The term includes, but is not limited to, doctors of medicine, doctors of osteopathy, physician assistants, advanced practice nurses, and doctors of chiropractic.

Motor carrier means a for-hire motor carrier or a private motor carrier. The term includes a motor carrier’s agents, officers and representatives as well as employees responsible for hiring, supervising, training, assigning, or dispatching of drivers and employees concerned with the installation, inspection, and maintenance of motor vehicle equipment and/or accessories. For purposes of subchapter B, this definition includes the terms **employer** and **exempt motor carrier**.

Motor vehicle means any vehicle, machine, tractor, trailer, or semi trailer propelled or drawn by mechanical power and used upon the highways in the transportation of passengers or property, or any combination thereof determined by the Federal Highway Administration, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails, or a trolley bus operated by electric power derived from a fixed overhead wire, furnishing local passenger transportation similar to street-railway service.

Multiple-employer driver means a driver, who in any period of 7 consecutive days, is employed or used as a driver by more than one motor carrier.

Operator – see driver.

Other terms – any other term used in this subchapter is used in its commonly accepted meaning, except where such other term has been defined elsewhere in this subchapter. In that event, the definition therein given shall apply.

Out-of-service order means a declaration by an authorized enforcement officer of a Federal, State, Canadian, Mexican, or local jurisdiction that a driver, a commercial motor vehicle, or a motor carrier operation, is out-of-service pursuant to §§386.72, 392.5, 395.13., 396.9, or compatible laws, or the North American Uniform Out-of-Service Criteria.

Person means any individual, partnership, association, corporation, business trust, or any other organized group of individuals.

Principal place of business means the single location designated by the motor carrier, normally its headquarters, for purposes of identification under this subchapter. The motor carrier must make records required by parts 382, 387, 390, 391, 395, 396, and 397 of this subchapter available for inspection at this location within 48 hours (Saturdays, Sundays, and Federal holidays excluded) after a request has been made by a special agent or authorized representative of the Federal Highway Administration.

Private motor carrier means a person who provides transportation of property or passengers, by commercial motor vehicle, and is not a for-hire motor carrier.

Private motor carrier of passengers (business) means a private motor carrier engaged in the interstate transportation of passengers which is provided in the furtherance of a commercial enterprise and is not available to the public at large.

Private motor carrier of passengers (nonbusiness) means private motor carrier involved in the interstate transportation of passengers that does not otherwise meet the definition of a private motor carrier of passengers (business).

Radar detector means any device or mechanism to detect the emission of radio microwaves, laser beams or any other future speed measurement technology employed by enforcement personnel to measure the speed of commercial motor vehicles upon public roads and highways for enforcement purposes. Excluded from this definition are radar detection devices that meet both of the following requirements:

- (1) Transported outside the driver's compartment of the commercial motor vehicle. For this purpose, the *driver's compartment* of a passenger-carrying CMV shall include all space designed to accommodate both the driver and the passengers; and
- (2) Completely inaccessible to, inoperable by, and imperceptible to the driver while operating the commercial motor vehicle.

Regional Director of Motor Carriers means the Director of the Office of Motor Carriers, Federal Highway Administration, for a given geographical region of the United States.

Residential district means the territory adjacent to and including a highway which is not a business district and for a distance of 300 feet or more along the highway is primarily improved with residences.

School bus means a passenger motor vehicle which is designed or used to carry more than 10 passengers in addition to the driver, and which the Secretary determines is likely to be significantly used for the purpose of transporting preprimary, primary, or secondary school students to such schools from home or from such schools to home.

School bus operation means the use of a school bus to transport only school children and/or school personnel from home to school and from school to home.

Secretary means the Secretary of Transportation.

Single-employer driver means a driver who, in any period of 7 consecutive days, is employed or used as a driver solely by a single motor carrier. This term includes a driver who operates a commercial motor vehicle on an intermittent, casual, or occasional basis.

Special agent – See Appendix B to Subchapter B – Special Agents.

State means a State of the United States and the District of Columbia and includes a political subdivision of a State.

Trailer includes:

- (a) **Full trailer** means any motor vehicle other than a pole trailer which is designed to be drawn by another motor vehicle, and so constructed that no part of its weight, except for the towing device, rests upon the self-propelled towing motor vehicle. A semi trailer equipped with an auxiliary front axle (converter dolly) shall be considered a full trailer.
- (b) **Pole trailer** means any motor vehicle which is designed to be drawn by another motor vehicle and attached to the towing motor vehicle by means of a "reach" or "pole," or by being "boomed" or otherwise secured to the towing motor vehicle, for transporting long or irregularly shaped loads such as poles, pipes, or structural members, which generally are capable of sustaining themselves as beams between the supporting connections.
- (c) **Semi trailer** means any motor vehicle, other than a pole trailer, which is designed to be drawn by another motor vehicle and is constructed so that some part of its weight rests upon the self-

propelled towing motor vehicle.

Truck means any self-propelled commercial motor vehicle except a truck tractor, designed and/or used for the transportation of property.

Truck tractor means a self-propelled commercial motor vehicle designed and/or used primarily for drawing other vehicles.

United States means the 50 States and the District of Columbia.”

(Ord. 2006-38)

15-405. SECTION 396.9 AMENDED – Inspection of Motor Vehicles in Operation. Section 396.9 of the Federal Motor Carrier Safety Regulations entitled “Inspection of Motor Vehicles” is amended and changed to read as follows:

- A. Personnel authorized to perform inspections. Inspections of motor carriers’ vehicles in operation shall be conducted by Commercial Vehicle Safety Alliance (CVSA) certified officers. These certified officers are authorized to enter upon and perform inspections of motor carriers’ vehicles in operation.
- B. Prescribed inspection report. A driver/vehicle examination report shall be used to record results of motor vehicle inspections conducted by authorized City of Olathe personnel.
- C. Motor vehicles declared “out of service.”
 - 1. Authorized personnel shall declare and mark “out of service” any motor vehicle which by reason of its mechanical condition or loading would likely cause an accident or a breakdown. An “Out of Service Vehicle” sticker, shall be used to mark vehicles “out of service.”
 - 2. No motor carrier shall require or permit any person to operate nor shall any person operate any motor vehicle declared and marked, “out of service” until all repairs required by the “out of service notice” have been satisfactorily completed.

The term “operate” as used in this section shall include towing the vehicle, except that vehicles marked “out of service” may be towed away by means of a vehicle using a crane or hoist. A vehicle combination consisting of the emergency towing vehicle and an “out of service” vehicle shall not be operated unless such combination meets the performance requirements of this subchapter except for those conditions noted on the driver equipment compliance check.

- 3. No person shall remove the “Out of Service Vehicle” sticker from any motor vehicle prior to completion of all repairs required by the “out of service notice.”
- D. Motor Carrier’s disposition.
 - 1. The driver of any motor vehicle receiving an inspection report shall deliver it to the motor carrier operating the vehicle upon his arrival at the next terminal or facility. If the driver is not scheduled to arrive at a terminal or facility of the motor carrier operating the vehicle within 24 hours, the driver shall immediately mail the report to the motor carrier.
 - 2. Motor carriers shall examine the report. Violations or defects noted thereon shall be corrected.
 - 3. Within 15 days following the date of the inspection, the motor carrier shall:
 - a. Certify that all violations noted have been corrected by completing the “Signature of Carrier Official, Title, and Date Signed” portions of the form; and

- b. Return the completed roadside inspection form to the issuing agency at the address indicated on the form and retain a copy at the motor carrier's principal place of business or where the vehicle is housed for 12 months from the date of inspection."

(Ord. 2006-38)

15-406. EXCEPTIONS TO THE COMMERCIAL VEHICLE SAFETY ACT. Any rules and regulations adopted pursuant to this Chapter shall not apply to the following while engaged in the carriage of intrastate commerce in this state:

- A. The owner of livestock or producer of farm products transporting livestock of such owner or farm products of such producer to market in a motor vehicle of such owner or producer, or the motor vehicle of a neighbor on the basis of barter or exchange for service or employment, or to such owner or producer transporting supplies for the use of such owner or producer, or in the motor vehicle of a neighbor on the basis of barter or exchange for service or employment.
- B. The transportation of children to and from school, or to motor vehicles owned by schools, colleges, and universities, religious or charitable organizations and institutions, or governmental agencies when used to convey students, inmates, employees, athletic teams, orchestras, bands or other similar activities.
- C. Motor vehicles carrying tools, property or material belonging to the owner of the vehicle and
 - (1) Except for motor vehicles under subparagraph (2), motor vehicles with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle, and used in repair, building or construction work, not having been sold or being transported for the purpose of sale, except vehicles transporting hazardous materials which require placards; or
 - (2) Except vehicles transporting hazardous materials which require placards, motor vehicles with a gross vehicle weight rating of 26,000 pounds or less, carrying tools, property or material belonging to the owner of the vehicle and used in repair, building or construction work and such tools, property or material are being transported to or from an active construction site located within a radius of 25 miles of the principal place of business of the motor carrier.
- D. Persons operating motor vehicles which have an ad valorem tax situs in and are registered in the state of Kansas, and used only to transport grain from the producer to an elevator or other place for storage or sale for a distance of not to exceed 50 miles.
- E. The operation of hearses, funeral coaches, funeral cars or ambulances by motor carriers.
- F. Motor vehicles owned and operated by the United States, the District of Columbia, any state, any municipality or any other political subdivisions of this state.
- G. Any motor vehicle with a normal seating capacity of not more than the driver and 15 passengers while used for vanpooling or otherwise not for profit in transporting persons who, as a joint undertaking, bear or agree to bear all the costs of such operations, or motor vehicles with a normal seating capacity not more than the driver and 15 passengers for not-for-profit transportation by one or more employers of employees to and from the factories, plants, offices, institutions, construction sites or other places of like nature where such persons are employed or accustomed to work.

- H. Motor vehicles used to transport water for domestic purposes or livestock consumption.
- I. The operation of vehicles used for servicing, repairing or transporting of implements of husbandry, as defined in K.S.A. 8-1427, and amendments thereto, by a person actively engaged in the business of buying, selling or exchanging implements of husbandry, if such operation is within 100 miles of such person's established place of business in this state."

(Ord. 2006-38)

15-407. PENALTIES.

- A. It is unlawful for any person to violate any of the provisions of this ordinance.
- B. The judge in the municipal court shall in the manner prescribed by K.S.A. 12-4305 and amendments thereto establish scheduled fines for violation of any section of this ordinance. Such fines shall be imposed upon a voluntary entry of appearance and upon a plea of guilty or no contest to a complaint alleging such violation and payment of the fine and any court costs.
- C. Any person convicted of a violation of any of the provisions of this ordinance shall be punished, subject to limitations otherwise provided in this adopting ordinance, by a fine not to exceed Twenty Five Hundred Dollars (\$2,500.00) or imprisonment in jail for not more than six (6) months, or be both so fined and imprisoned. Each day during or upon which a violation occurs or continues shall constitute a separate offense and shall be punishable as such hereunder.

(Ord. 2006-38)

15-408. SEVERABILITY. If any provision of this Chapter is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality of the remainder of the code and the applicability thereof to other persons and circumstances shall not be affected thereby. (Ord. 2006-38)

15-409. SAVINGS CLAUSE. Neither the adoption of this ordinance nor the repeal or amendment of any ordinance or part or portion thereof shall in any manner affect the prosecution or civil enforcement for violations of ordinances, which violations were committed prior to the effective date hereof, nor be construed as a waiver of any license, fee or penalty at said effective date due and unpaid under such ordinances, nor be construed as affecting any of the provisions of such ordinances relating to the collection of any such license, fee or penalty, or the penal provisions applicable to any violation thereof, nor to affect the validity of any bond or cash deposit in lieu thereof required to be posted, filed or deposited pursuant to any ordinance, and all rights and obligations thereunder appertaining shall continue in full force and effect. (Ord. 2006-38)