

**MERRIAM CITY COUNCIL AGENDA
CITY HALL
9001 WEST 62ND STREET
August 9, 2021
7:00 P.M.**

If you require any accommodation (i.e. qualified interpreter, large print, reader, hearing assistance) in order to attend this meeting, please notify the Administrative Office at 913-322-5500 no later than 24 hours prior to the beginning of the meeting.

I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

II. ROLL CALL

III. PUBLIC ITEMS

Members of the public are encouraged to use this time to make comments about matters that do not appear on the agenda. Comments about items on the regular agenda will be taken as each item is considered. ***Please note: individuals making Public Comments will be limited to 5 minutes.*** In accordance with the *Governing Body Rules of Procedure*, the City reserves the right to refuse Public Comments that are personal, impertinent or slanderous.

IV. CONSENT AGENDA

All items listed under the heading are considered to be routine by the City Council and may be enacted by one motion. There will be no separate discussion of these items unless a Councilmember so requests, in which case that item will be removed from the Consent Agenda and considered separate.

1. Consider approval of the minutes of the City Council meeting held July 26, 2021.

V. MAYOR'S REPORT

1. Presentation - MARC Community for All Ages.
2. Consider approval of a Resolution supporting and promoting the Mid-America Regional Council's Community for All Ages Program.
3. Presentation - United Community Services Housing Study.

VI. COUNCIL ITEMS

1. Consider approval of an ordinance adopting the 2021 Uniform Public Offense Code (UPOC). (recommend waving first reading)
2. Consider approval of the 2021 Standard Traffic Ordinance (STO). (recommend waiving the first reading)
3. CIP Update.

VII. STAFF ITEMS

VIII. EXECUTIVE SESSION

IX. ADJOURNMENT

Respectfully submitted,

Juliana Pinnick

City Clerk

**MERRIAM CITY COUNCIL MINUTES
CITY HALL
9001 WEST 62ND STREET
July 26, 2021
7:00 P.M.**

I. CALL TO ORDER - PLEDGE OF ALLEGIANCE

Mayor Sissom called the meeting to order at 7:00 pm.

II. ROLL CALL

Scott Diebold
Chris Evans Hands
Bruce Kaldahl
Brian Knaff
David Neal
Bob Pape
Jason Silvers
Whitney Yadrich

Staff present: Chris Engel, City Administrator; Ryan Denk, City Attorney; Jennifer Jones-Lacy, Assistant City Administrator; Jim MacDonald, Public Works Director; Jenna Gant, Communication and Public Engagement Manager; Bryan Dyer, Community Development Director; Donna Oliver, Finance Director; Darren McLaughlin, Police Chief and Juli Pinnick, City Clerk.

III. PUBLIC ITEMS

Members of the public are encouraged to use this time to make comments about matters that do not appear on the agenda. Comments about items on the regular agenda will be taken as each item is considered. ***Please note: individuals making Public Comments will be limited to 5 minutes.*** In accordance with the *Governing Body Rules of Procedure*, the City reserves the right to refuse Public Comments that are personal, impertinent or slanderous.

Al Frisby, 10121 W. 59th Ter., commented that he would like to bring before the council a speaker from the Citizens' Climate Lobby. Jennifer Brown had spoken briefly at a previous meeting during Public Comments, but he would like to have a formal presentation to the council. He is working with the Mayor to possibly make it happen.

IV. CONSENT AGENDA

All items listed under the heading are considered to be routine by the City Council and may be enacted by one motion. There will be no separate discussion of these

items unless a Councilmember so requests, in which case that item will be removed from the Consent Agenda and considered separate.

1. Consider approval of the minutes of the City Council meeting held July 12, 2021.

COUNCILMEMBER SILVERS MOVED THAT THE COUNCIL APPROVE CONSENT AGENDA ITEM 1. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

V. MAYOR'S REPORT

1. Presentation - MARC Climate Action Plan Presentation.

Karen Clawson, Mid-America Regional Council, presented information regarding the Climate Action Plan.

VI. COUNCIL ITEMS

1. Consider approval of a resolution approving the 2022-2026 CARS application.

Public Works Director Jim MacDonald presented the background for this item.

The Johnson County Board of Commissioners recognized that one of the keys to the success of Johnson County is in its major transportation corridors that connect the cities of Johnson County. In response to the need of constructing and maintaining these major corridors, the Board created the County Assistance Road System (CARS) program.

The CARS program provides funds to the cities of Johnson County to construct and maintain their major roads. Each year the cities submit a 5-year road improvement program to Johnson County. Using a scoring system, Johnson County selects projects and allocates funds. The County pays 50% of the project's construction and construction inspection costs. Cities are responsible for design, right-of-way, and utility relocation costs.

Staff plans to submit the following projects for Merriam's 2022-2026 road improvement program:

2022 - 55th Street between west city limits to Merriam Drive. The scope of work includes the replacement of curb/gutters/sidewalk/ADA ramps as required, 2" mill/overlay, new pavement markings, storm drainage improvements, and streetlights improvements as needed.

2023 - Merriam Drive between Johnson Drive to 55th Street. The scope of work includes the replacement of curb/gutters/sidewalk/ADA ramps as required, 2" mill/overlay, streetscape improvements, storm drainage improvements, and new pavement markings

2024 - 49th Street between Switzer Road to Antioch Road. The scope of work includes the replacement of curb/gutters/sidewalk/ADA ramps as required, 2" mill/overlay, storm drainage improvements and new pavement markings.

2025 - Merriam Drive between 55th Street to Antioch Road. The scope of work includes the replacement of curb/gutters/sidewalk/ADA ramps as required, 2" mill/overlay, storm drainage improvements and new pavement markings.

2026 - Johnson Drive - Mackey Street to east city limits. The scope of work includes the replacement of curb/gutters/sidewalk/ADA ramps as required, 2" mill/overlay, new pavement markings.

There was some discussion regarding the timing of the projects on Merriam Drive with the on-going Planning Sustainable Places (PSP) grant projects. Depending on what recommendations arise from the PSP projects, the timing on some of those CARS projects may not coincide.

Mr. MacDonald commented that each of the projects listed in the resolution are all CARS eligible projects and are one-year projects and are applied for annually. The projects can be switched to different years if needed.

COUNCILMEMBER HANDS MOVED THAT THE COUNCIL APPROVE A RESOLUTION APPROVING THE 2022-2026 CARS APPLICATION. COUNCILMEMBER YADRICH SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

2. Monthly Finance Report.

Finance Director Donna Oliver presented the Finance Report for the month of June.

3. 2020 Building Permit Report.

Community Development Director Bryan Dyer presented the 2020 Building Permit Report.

4. Community Development Update.

Community Development Director Bryan Dyer provided the following updates:

The Downtown Merriam PSP Grant Committee held their first meeting last week. The consultant is working on a website for that grant.

The Merriam Drive Corridor Grant PSP Committee has had three meetings to date. There will be an open house at the Merriam Community Center on Wednesday July 28. This grant, in partnership with Overland Park, Mission, and Kansas City, Kansas focuses on transportation and street design from W. 51st Street to Southwest Boulevard.

The bike connection plan is moving along; the committee met last week to get the project rolling.

The Downtown Exterior Grant Program has received one grant application.

Bob's Discount Furniture is nearly complete with their tenant finish and plans to open soon.

DS Bus Lines parking lot and intersection improvements are close to getting underway and they should be obtaining their building permit soon.

VII. STAFF ITEMS

City Administrator Chris Engel reminded the council that Representative Sharice Davids will be touring the Turkey Creek area this weekend. Councilmembers can attend if desired.

VIII. EXECUTIVE SESSION

IX. ADJOURNMENT

THERE BEING NO FURTHER BUSINESS TO COME BEFORE THE COUNCIL, COUNCILMEMBER HANDS MOVED TO ADJOURN AT 7:56 PM. COUNCILMEMBER PAPE SECONDED AND THE MOTION WAS UNANIMOUSLY APPROVED.

Respectfully submitted,

Juliana Pinnick

City Clerk



Merriam, Kansas
City Council Meeting
Monday, August 9, 2021

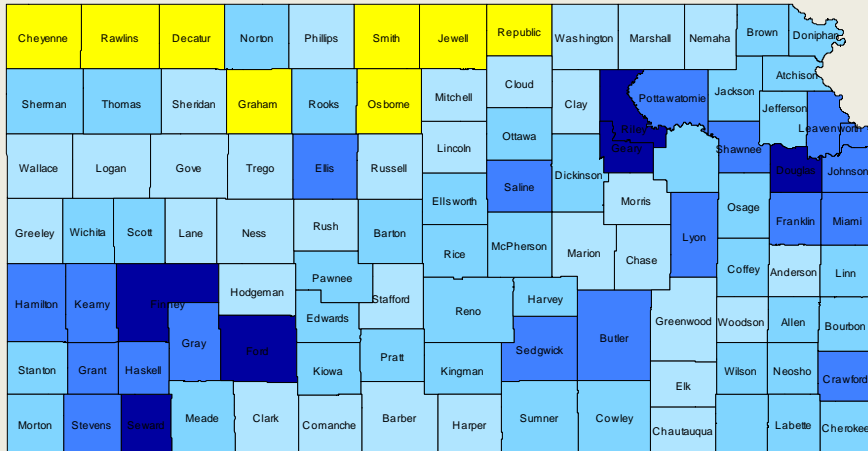
Ready or not...

- In 2011, the first baby boomers began turning 65.
- Approximately **10,000 boomers** turn **65** every day.
- This will continue until **2030**.



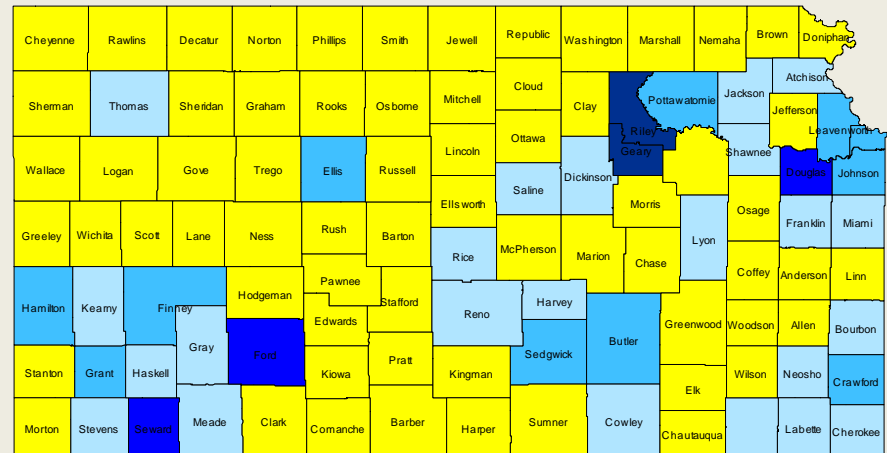
Kansas' Senior Population

2010



2030

Percent of Population 65+

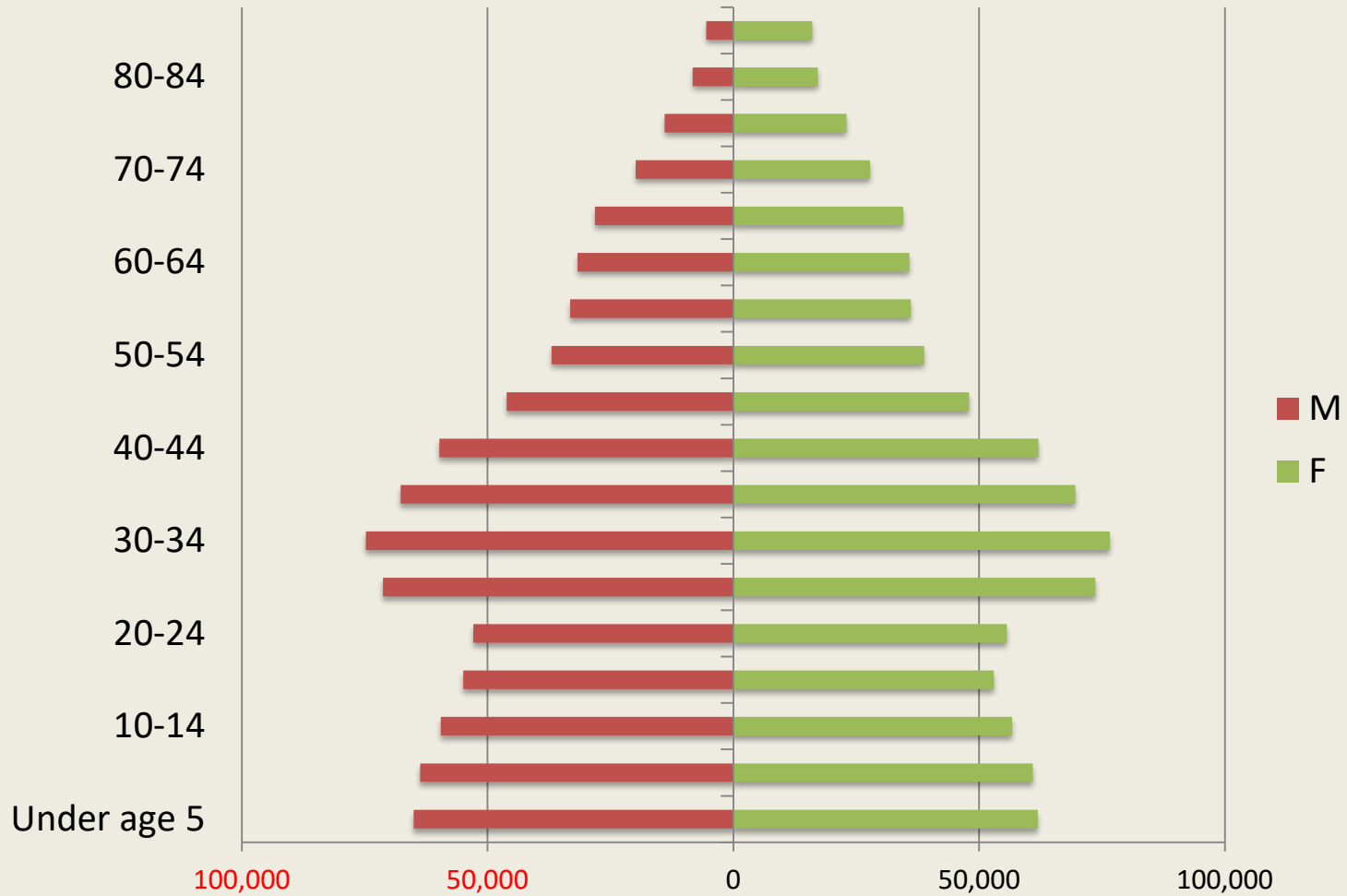


KC Metro Data

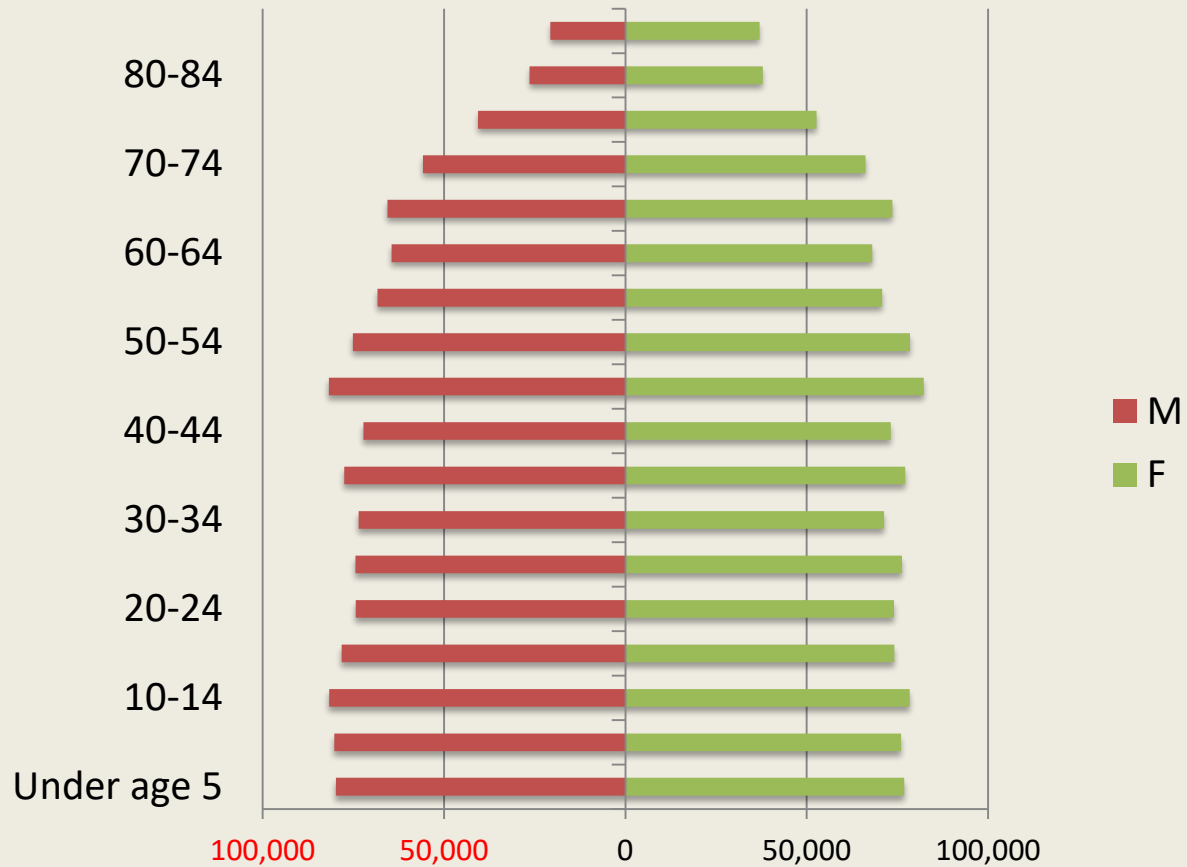
Population Age 55+					
County	2000	2010	2020	2030	% Change 2010-2030
Johnson	45,365	56,097	94,121	137,117	144.4%
Leavenworth	6,766	8,118	11,848	13,253	63.2%
Miami	3,378	4,071	6,037	8,236	102.3%
Wyandotte	18,520	16,024	20,837	24,277	51.5%
Cass	9,636	14,806	21,896	31,049	109.7%
Clay	19,848	24,985	35,656	48,778	95.2%
Jackson	81,981	81,570	101,079	127,923	56.8%
Platte	6,505	9,750	15,055	21,060	116.0%
Ray	2,994	3,215	3,807	4,675	45.4%
9-co. area	194,993	218,636	310,336	416,367	90.4%

The metropolitan Kansas City's population is becoming more and more a region of all ages — where all groups are represented relatively equally.

1990



2030



The future of our region's older adult population



152,513
KC-area residents
turned 65 since 2011



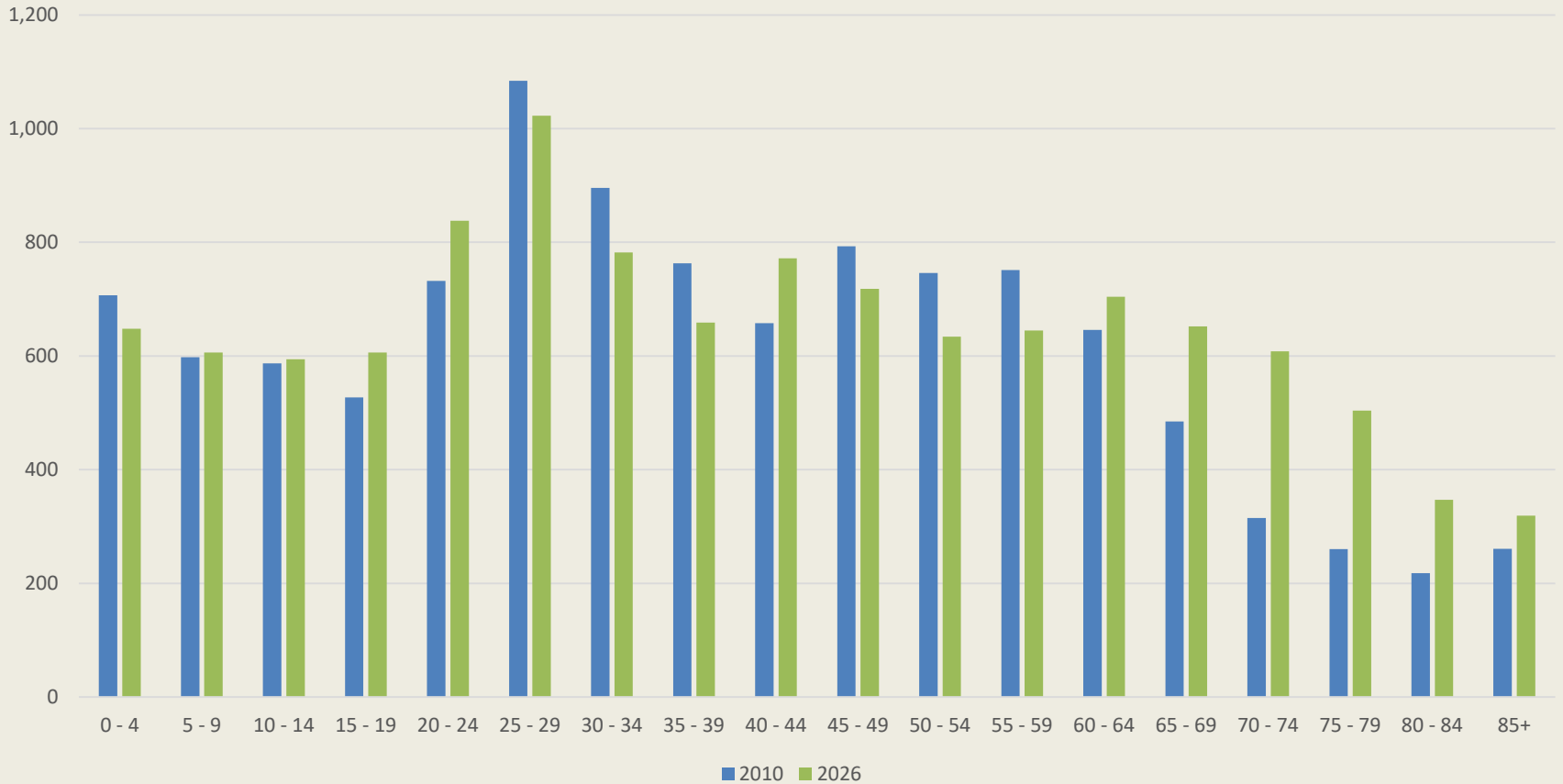
293,218
KC-area residents
will turn 65 by 2030



735,472
KC-area residents
will turn 65 by 2045

Estimates based on 2010 U.S. Census population data.

Merriam population: 16 year comparison



What does this mean for cities?

- Emergency preparedness.
- Public safety.
- Public works.
- Parks and recreation.
- Health.
- Neighborhoods.
- Housing.



Communities for All Ages Recognition Program



Community for All Ages
A great place to grow up and grow old.

Recognition program

Is your city age friendly? Be recognized for the work you've done.
KC Communities for All Ages (CPAA) and the First Suburbs Coalition (FSC) are offering the Community for All Ages Recognition Program as an Incentive for your city to become a Community for All Ages.

How it works
This program will recognize communities that have taken steps to become more welcoming to residents of all ages and, in the process, more vibrant, healthy and prosperous. It is not meant to be a formal certification program.

A community can earn one of three levels of recognition representing the extent of its work in becoming a Community for All Ages: **Bronze** (Awareness), **Silver** (Assessment) or **Gold** (Implementation).

Recognition for each level requires a community to complete a set of tasks (see reverse). The tasks don't necessarily require a great financial commitment, but do require time and effort from elected officials and staff, as well as citizen engagement. In most cases, the tasks can be included in already-existing processes and programs.

Application process
To apply for Communities for All Ages recognition, submit an application form and supporting documentation to the First Suburbs Coalition via the Mid-America Regional Council (MARC) by 5 p.m., April 1, 2015.

A joint First Suburbs Coalition and KC Communities for All Ages committee will review applications and certify those communities that meet the criteria. Communities will be notified by June 1, 2015 if they have met the recognition criteria and, if not, what additional work needs to be done.

Communities are encouraged to use "Making Your Community Work for All Ages: A Toolkit for Cities" and the "Communities for All Ages Checklist" to guide their work. They are also encouraged to seek assistance from the First Suburbs Coalition, KC Communities for All Ages and MARC.

An application form may be downloaded at www.KCCommunitiesforAllAges.org.

Advantages of participating

- A more aware, well-planned community that meets the needs of all its residents.
- Regional recognition that your city is looking to the future, creating a community that is vibrant, connected and green, and serves the needs of all residents regardless of age.
- Recognition at First Suburbs Coalition and or Communities for All Ages events and on websites.
- Assistance with materials for websites, newsletters and news releases.
- News releases on the recognition and why it is important for communities.
- Templates for Community for All Ages street signs.

Step **Effort required**

3	Implementation	Adopt Community for All Ages plan	Gold
2	Assessment	Use tools to assess your city's progress	Silver
1	Awareness	Use "All Ages" lens	Bronze

See recognition level tasks on reverse >>

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Checklist

- Public outdoor spaces and buildings.
- Housing and commercial development.
- Transportation and mobility.
- Social inclusion, communication and participation.
- Civic participation and employment.
- Community and health services.

Become a Community for All Ages

A checklist to help you become age friendly

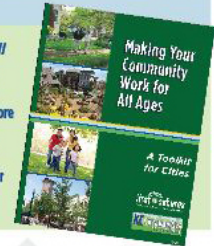
KC Communities
for All Ages

JULY 2014

Does your city or county need tools to help it become a Community for All Ages? This checklist is designed to be used together with *Making Your Community Work for All Ages — A Toolkit for Cities* as a way to raise awareness, plan actions and assess your city for age friendliness.

The first suburbs of Kansas City, established nearly 60 years ago, have done exactly what they were intended to do — provide homes and services for families that raised the generation of Americans we now call the baby boomers. But, as the baby boomers have aged, and the oldest of the generation known as the millennials (young adults born between 1982 and 2004, now age 10 to 32) have come into adulthood, it is time to reevaluate the role that the suburbs play in housing and serving the American population.

Making Your Community Work for All Ages — A Toolkit for Cities provides detailed information on steps that communities can take to become more age friendly. The toolkit is available at www.kccfaa.org, or contact Cathy Boyer-Shesol at cboyer@marc.org or 816/701-8246 to get a printed copy.



Kansas City's first suburbs can evolve in response to new trends and needs as communities for all ages.

A community for all ages seeks to meet the needs and interests of the very old, the very young and everyone in between. A key driver for this work is the rapidly changing older adult demographics.

The post-war population swell known as the baby boom is paving the way for the next "baby boomlet," the generation known as the millennials that followed the smaller Generation X (ages 33 to 53) population. Today, the oldest baby boomers are in their late 60s. By 2030, one

in five Americans — or 72,774,000 million — will be older than 65, while researchers estimate there will be 76 million millennials in the U.S. at that time.

In the Greater Kansas City area, more than 416,000 residents will be 65 or older in 2030, while approximately 633,000 millennials will live here. Historically, the needs and interests of older adults have been seen as vastly different from younger generations and those of families with young children.



Today, research shows that communities that are adapting to meet the needs of its older adult citizens raise the quality of life in ways that also appeal across the age spectrum.

Promote communities for a lifetime — Communities for All Ages Recognition Program

● Bronze

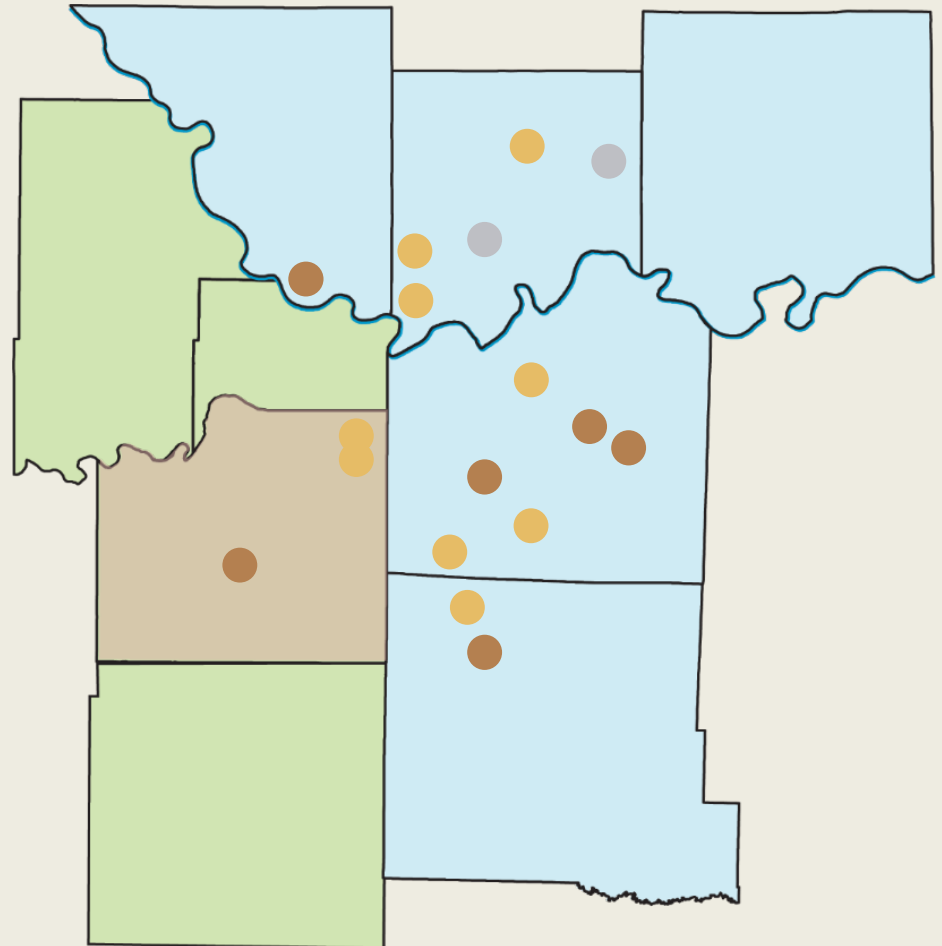
- Blue Springs, Missouri
- Grain Valley, Missouri
- Johnson County, Kansas
- Olathe, Kansas
- Parkville, Missouri
- Peculiar, Missouri
- Raytown, Missouri
- In progress: Lenexa, Kansas;
Smithville, Missouri

● Silver

- Excelsior Springs, Missouri
- Liberty, Missouri
- In progress: Blue Springs, Missouri;
Grain Valley, Missouri; Peculiar,
Missouri

● Gold

- Grandview, Missouri
- Gladstone, Missouri
- Independence, Missouri
- Kearney, Missouri
- Lee's Summit, Missouri
- Mission, Kansas
- North Kansas City, Missouri
- Raymore, Missouri
- Roeland Park, Kansas
- In progress: Excelsior Springs,
Missouri



Bronze Level

City requirements to achieve Bronze Level recognition

- Adoption of resolution of city council to participate in the Communities for All Ages program.
- Make a presentation to governing bodies and relevant commissions on becoming age friendly and the Communities for All Ages program, and take at least two of the following actions:
 - Hold at least one community meeting to discuss Communities for All Ages issues and present information.
 - Prepare written materials on age-friendly communities and distribute to the public.
 - Establish a speakers' bureau to share information with neighborhood groups, businesses and civic groups.
 - Put information about demographic changes and Communities for All Ages on city website.

Other city requirements

- Designate lead staff person to support city involvement, including responsibility to submit application for Bronze level recognition.
- Organization and hosting of focus groups and meetings, including recruitment of focus group participants.

MARC responsibilities

- Opening planning meeting with staff and officials.
- One to two citizen focus groups.
- Two to four Communities for All Ages awareness presentations.
- Staff assistance in fulfilling Bronze level requirements.
- Wrap up meeting with staff and officials.



Silver Level

City requirements to achieve Silver Level recognition

- Meet the requirements for Bronze Awareness level
- Form a Community for All Ages committee of elected officials, staff and community members (or assign tasks to an existing committee) and have members use the Communities for All Ages Checklist to conduct a self-assessment of your community and issue a report based on their findings.

Other city requirements

- Provide lead staff person, including responsibility to submit application for Silver level recognition.
- Appointment of new citizen-based assessment committee or assignment of assessment to existing city committee.
- Arranging and hosting meetings for assessment committees.
- Preparation of final assessment report.
 - Presentation of assessment report to governing body.

MARC responsibilities

- Planning meeting with staff and officials.
- Facilitation of up to six assessment meetings with assessment committee.
- Assistance in preparing final assessment.
- Assistance in presenting final assessment to governing body.



Gold Level

City requirements to achieve Gold Level recognition

- Meet the Bronze Awareness and Silver Assessment level criteria.
- Adopt a Communities for All Ages Plan or include a Community for All Ages component in a major local plan, such as a comprehensive plan, strategic plan or park plan.

Other City requirements

- Provide lead person, including responsibility to submit application for Gold level recognition.
 - Identification of Communities for All Ages plan or incorporation into existing plan.
 - Plan preparation and community engagement.
 - Adoption of plan by governing body.

MARC Responsibilities

- Assistance in developing elements of Communities for All Ages plan or incorporation of Communities for All Ages into existing plan based on assessment.
- Assistance in presentation and adoption of Communities for All Ages plan.



Bronze Level

- Identify leadership. (Completed)
- Presentation: department heads. (Completed)
- City Council presentation and resolution. (Tonight)
- Develop and implement plan (with MARC's assistance).
- Participate in joint meetings with other communities participating in the recognition program. (optional)
- Participate in Communities for All Ages Professional Network. (optional)

Questions?

Contact Information



Cathy Boyer-Shesol

Project Manager

KC Communities for All Ages

816-701-8246

cboyer@marc.org



RESOLUTION NO. _____

A RESOLUTION ACKNOWLEDGING, SUPPORTING AND PROMOTING THE FIRST SUBURBS COALITION AND MID-AMERICA REGIONAL COUNCIL'S COMMUNITIES FOR ALL AGES INITIATIVE AND RECOGNITION PROGRAM.

WHEREAS, the City of Merriam has worked in partnership with the First Suburb Coalition, and the Mid-America Regional Council, and

WHEREAS, the First Suburbs Coalition and Mid-America Regional Council, through the efforts of its members developed a Communities for All Ages Tool Kit and Idea Book; and,

WHEREAS, the First Suburbs Coalition and Mid-America Regional Council have, through the efforts of its members developed a Communities for All Ages Checklist which helps communities orient their physical and service efforts to meet the needs of all ages; and,

WHEREAS, the City of Merriam intends to utilize these tools to assess City policies, programs and investments to make sure they are responsive to the needs of the residents of the City;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS:

Section 1. The City Council hereby expresses its support for the recommended concepts and strategies of the Community or All Ages.

Section 2. City staff is hereby directed to take reasonable steps necessary to participate in the Community for All Ages Recognition Program for the City of Merriam.

PASSED BY THE City Council this ____ day of _____, 2021.

APPROVED BY THE Mayor this ____ day of _____, 2021.

Ken Sissom, Mayor

(SEAL)

ATTEST:

Juliana Pinnick, City Clerk



MEMO:

To: Mayor & City Council
From: Jennifer Jones-Lacy, Asst. City Administrator
Date: 8/5/2021
Re: Housing Study & Tool Kit Presentation

Kristy Baughman, Director of Education and Planning for United Community Services will present the Johnson County Housing Study and Tool Kit to the Governing Body. The City of Merriam partnered with other communities in Johnson County and UCS to bring the report to fruition as well as sat on several committees and task forces during the development process. For the full Housing Study and Tool Kit, [please click here](#).



AGENDA ITEM INFORMATION FORM

AGENDA ITEM: Adopting 2021 UPOC Ordinance No.1827

SUBMITTED BY: Chief Darren McLaughlin

MEETING DATE: August 9, 2021

PROJECT BACKGROUND/DESCRIPTION:

Each year the Kansas League of Municipalities publishes an updated version of the Uniform Public Offense Code (UPOC) for Kansas Cities. The 2021 edition is available and should be “incorporated by reference”. Passing and publishing this ordinance will bring our ordinances into compliance with any changes made by the latest Kansas Legislative session.

The following are changes made to the 2021 UPOC:

1.1 Modified definitions for “Class A Club” and “Drinking Establishment.”

3.2.1 “Sexual Battery”, this section was amended to remove the spousal exception to sexual battery.

5.5 “Watercraft”, this section was updated to new requirements for approved floatation devices

6.2 “Intent; Permanently Deprive”, changes were made to this section of law when dealing with a motor vehicle.

6.7.2 (NEW SECTION) “Trespassing on a critical infrastructure facility”, this section was added making it a misdemeanor to trespass on a critical infrastructure facility.

7.1 (NEW SECTION) “Unlawfully tampering with electronic monitoring equipment”, municipal courts can require court ordered supervision. This section was added as a new section.

7.5 (NEW SECTION) “Distribution of unattributed applications for advance voting ballots.

7.14 (NEW SECTION) “Electioneering”, new limitations were added when a ballot can be handled by a candidate.

9.3 (NEW SECTION) “Violation of Executive Order under K.S.A 48-925 mandating a curfew or prohibiting public entry”, changes were made to the Kansas Emergency Management Act to include mandating a curfew or prohibiting public entry a criminal offenses.

11.3 “Commercialization of Wildlife”, grammatical error changes were made

The following sections of the UPOC will NOT be adopted due to them being in our City Ordinances.

Section 6.21 Taking of wildlife without permission on Land Posted. *(included in Merriam Code 44-57)*

Section 6.22 Criminal Hunting *(included in Merriam Code 44-57)*

Section 9.9.1 Unlawful Possession of Marijuana. *We are not going to adopt this section as it is included in Merriam Code 44-242.1.*

Section 9.9.2 Possession of Drug Paraphernalia. *We are not going to adopt this section because it is covered in Merriam Code 44-242.3.*

Section 9.9.3 Unlawful Distribution of Controlled Substances. *We are not going to adopt this section because it is covered in Merriam Code 44-242.*

Section 9.9.4 Unlawful Possession of Controlled Substances. *We are not going to adopt this section because it is covered in Merriam Code 44-242.1.*

Section 9.9.5 Unlawful Possession of a Simulated Substance. *We are not adopting this section because it is covered in Merriam Code 44-242.5.*

Section 9.9.6 Distribution of a Non Controlled Substance. *We are not adopting this section because it is covered in Merriam Code 44-242.6.*

10.5 Section (B)(3) *This section provided an exception to the unlawful discharge of a firearm in the corporate limits of a city if the firearm was discharged to lawfully take wildlife during hunting season. We prohibit this in Merriam Code 44-57.*

CITY COUNCIL GOALS AND OBJECTIVES

FINANCIAL IMPACT

Amount of Request/Contract: N/A

Amount Budgeted: N/A

Funding Source/Account #: N/A

SUPPORTING DOCUMENTS

- Memo
- Ordinance 1827
- 2021 UPOC

ACTION NEEDED/STAFF RECOMMENDATION

Waive the first reading and approve the ordinance.

**FROM THE OFFICE OF CHIEF OF POLICE
MERRIAM, KANSAS**

DATE: 08-02-2021
TO: CITY ADMINISTRATOR CHRIS ENGEL
CC:
FROM: CHIEF DARREN MCLAUGHLIN
RE: UPOC CHANGES

The 2021 UPOC had a few changes. Listed below is a detail look at those changes and additions.

2021 UPOC

The following items were changed or added to the UPOC:

Section 1.1 modified the definition of a Class A Club and Drinking Establishment.

***Class A Club.** A premise which is owned or leased by a corporation, partnership, business trust or association and that is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them. (K.S.A. 41-2601(e))*

***Drinking Establishment.** Premises that may be open to the general public, where alcoholic liquor or cereal malt beverage by the individual drink is sold. The term Drinking establishment includes a railway car. (K.S.A. 41-2601(n))*

Section 3.2.1 modified Sexual Battery. It removed the section of the law that said a spouse could not be the victim of sexual battery.

(a) Sexual battery is the touching of a victim who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another. (b) Sexual battery is a Class A violation. (K.S.A. 21-5505)

Section 5.5 modified Watercraft. Updated requirements for approved flotation devices.

(a) (1) No operator of any vessel may operate such vessel while any person 12 years of age or under is aboard or being towed by such vessel unless such person is either: (A) Wearing a United States Coast guard approved personal flotation device as prescribed in rules and regulations of the secretary of wildlife, parks, and tourism; or 49 (B) is below decks or in an enclosed cabin. (2) A life belt or ring shall not satisfy the requirement of this section. (b) As used in this section, operator means the person who operates or has charge of the navigation or use of a motorboat or a vessel. (c) Violation of this section shall constitute a Class C violation. (K.S.A. 32-1129)

Section 6.2 modified Intent; Permanently Deprive. They added section (e) makes fleeing a police officer in a stolen vehicle is proof that the driver was depriving the owner of its possession, use or benefit.

e) In a prosecution for theft as defined in Section 6.1, and such theft is of a motor vehicle as defined in Section 1.1, fleeing or attempting to elude a police officer as defined in K.S.A. 8-1568(a)(1)(B) or (b), and amendments thereto, shall be prima facie evidence of intent to permanently deprive the owner of the motor vehicle of the possession, use or benefit thereof

Section 6.7.2 added Trespassing on a Critical Infrastructure Facility. This is a new section added to the UPOC this year.

(a) Trespassing on a critical infrastructure facility is, without consent of the owner or the owner's agent, knowingly entering or remaining in:

(1) A critical infrastructure facility; or

(2) any property containing a critical infrastructure facility, if such property is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders or is clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization. 62

(b) Trespassing on a critical infrastructure facility is a class A nonperson violation.

(c) Nothing in this section shall be construed to prevent: (1) An owner or operator of a critical infrastructure facility that has been damaged from pursuing any other remedy in law or equity; or (2) a person who violates the provisions of this section from being prosecuted for, convicted of and punished for any other offense in article 58 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 66-2303, and amendments thereto

(d) As used in this section "critical infrastructure facility" means any: (1) Petroleum or alumina refinery; (2) electric generation facility, substation, switching station, electrical

control center, electric distribution or transmission lines, or associated equipment infrastructure; (3) chemical, polymer or rubber manufacturing facility; (4) water supply diversion, production, treatment, storage or distribution facility and appurtenances, including, but not limited to, underground pipelines and a wastewater treatment plant or pump station; (5) natural gas compressor station; (6) liquid natural gas or propane terminal or storage facility; (7) facility that is used for wireline, broadband or wireless telecommunications or video services infrastructure, including backup power supplies and cable television headend; (8) port, railroad switching yard, railroad tracks, trucking terminal or other freight transportation facility; (9) gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas, propane or natural gas liquids; (10) transmission facility used by a federally licensed radio or television station; (11) steelmaking facility that uses an electric arc furnace to make steel; 63 (12) facility identified and regulated by the United States department of homeland security chemical facility anti-terrorism standards program, a facility operated by the office of laboratory services under the supervision of the secretary of health and environment pursuant to K.S.A. 75-5608, and amendments thereto, the national bio and agro-defense facility or the biosecurity research institute at Kansas state university; (13) dam that is regulated by the state as a hazard class B or C dam or by the federal government; (14) natural gas distribution utility facility or natural gas transmission facility, including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, belowground or aboveground piping, a regular station or a natural gas storage facility; (15) crude oil, including y-grade or natural gas liquids, or refined products storage and distribution facility, including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, belowground or aboveground pipeline or piping and truck loading or offloading facility; or (16) portion of any belowground or aboveground oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility or any other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.

Section 7.1 added Unlawfully Tampering with Electronic Monitoring Equipment.

This section was added to give municipal courts the ability to charge a defendant with a crime if they remove or tamper with an electronic monitoring device ordered to be worn by a person under court ordered supervision.

(a) Unlawfully tampering with electronic monitoring equipment is, knowingly and without authorization, removing, disabling, altering, tampering with, damaging or destroying any electronic monitoring equipment used pursuant to court ordered supervision or as a condition of post-release supervision or parole. (b) Unlawfully tampering with electronic monitoring equipment is a class A nonperson violation in the case of electronic monitoring equipment used pursuant to court-ordered supervision or as a condition of post release supervision for any violation of municipal code. (K.S.A. 21-6322).

Section 7.5 added Distribution of Unattributed Applications for Advanced Voting. This new ordinance provides rules for the distribution of advance voting ballots.

(a) (1) Any person who solicits by mail a registered voter to file an application for an advance voting ballot and includes an application for an advance voting ballot in such mailing shall include on the exterior of such mailing, and on each page contained therein, except the application, a clear and conspicuous label in 14-point font or larger that includes: (A) The name of the individual or organization that caused such solicitation to be mailed; (B) if an organization, the name of the president, chief executive officer or executive director of such organization; (C) the address of such individual or organization; and (D) the following statement: “Disclosure: This is not a government mailing. It is from a private individual or organization.” (2) The application for an advance voting ballot included in such mailing shall be the official application for advance ballot by mail provided by the secretary of state. No portion of such application shall be completed prior to mailing such application to the registered voter (3) An application for an advance voting ballot shall include an envelope addressed to the appropriate county election office for the mailing of such application. In no case shall the person who mails the application to the voter direct that the completed application be returned to such person. (4) The provisions of this subsection shall not apply to: (A) The secretary of state or any election official or county election office; or 88 (B) the official protection and advocacy for voting access agency for this state as designated pursuant to the federal help America vote act of 2002, public law 107-252, or any other entity required to provide information concerning elections and voting procedures by federal law (5) A violation of this subsection is a class C nonperson Violation. (K.S.A. 25-1122).

Section 7.14 added a section to Electioneering. This ordinance limits when a ballot can be handled by a candidate and some exceptions.

(B) if committed by a candidate: (i) Touching or handling any voter’s ballot during the voting process; (ii) distributing ballots or counting ballots; (iii) hindering or obstructing any voter from voting or from entering and leaving the polling place; or (iv) hindering or obstructing any election board worker from performing election duties.

(b) The provisions of subsection (a)(1)(B) shall not apply to: (1) The secretary of state or any election official or county election office; or (2) a candidate transmitting or delivering an advance voting ballot in accordance with section 2(b), and amendments thereto. 92 (c) As used in this section, “advance voting site” means the central county election office or satellite advance voting sites designated as such pursuant to subsection (c) of K.S.A. 25–1122(c), and amendments thereto, and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in K.S.A. 2020 Supp. 25–2812, and amendments thereto

Section 9.3 added Violation of Executive Order under K.S.A. 48-925. This ordinance was put into place after the modification of the Kansas Emergency Management Act that would declare a curfew or public entry due to an emergency declaration under the act.

A knowing violation of an executive order issued pursuant to K.S.A. 48-925, and amendments thereto, that mandates a curfew or prohibits public entry into an area affected by a disaster is a Class A nonperson violation.

Section 11.3 Commercialization of Wildlife. Minor correction to some grammar errors.

We are deleting the following sections from the UPOC due to conflict with our City Code:

Section 6.21: Taking of Wildlife without permission on Posted Land: *Being deleted with the passage of the Criminal Hunting 44-5 in City Code.*

Section 6.22 Criminal Hunting. *No longer needed due to passage of Criminal Hunting 44-57 in City Code.*

Section 9.9.1 Unlawful Possession of Marijuana: *We are not going to adopt this section as it is included in Merriam Code 44-242.1.*

Section 9.9.2 Possession of Drug Paraphernalia. *We are not going to adopt this section because it is covered in Merriam Code 44-242.3.*

Section 9.9.3 Unlawful Distribution of Controlled Substances. *We are not going to adopt this section because it is covered in Merriam Code 44-242.*

Section 9.9.4 Unlawful Possession of Controlled Substances. *We are not going to adopt this section because it is covered in Merriam Code 44-242.1.*

Section 9.9.5 Unlawful Possession of a Simulated Substance. *We are not adopting this section because it is covered in Merriam Code 44-242.5.*

Section 9.9.6 Distribution of a Non Controlled Substance. *We are not adopting this section because it is covered in Merriam Code 44-242.6.*

Section 10.5(b)(3) *This UPOC section is Unlawful Discharge of a Firearm. Section (b)(3) refers to an exception to violating this law when a person discharges a firearm when legally taking wildlife during hunting season, except when prohibited by the governing body of a city. Passage of City Code 44-57 Criminal Hunting will prohibit hunting in the city limits even during hunting season, making this section unnecessary.*

Chief Darren McLaughlin

ORDINANCE NO. 1827

AN ORDINANCE AMENDING SECTION 44-1 OF THE CODE OF ORDINANCES OF THE CITY OF MERRIAM, KANSAS REGULATING PUBLIC OFFENSES; INCORPORATING BY REFERENCE THE “2021 UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES,” 37TH EDITION, WITH AMENDMENTS AND DELETIONS THERETO; AND REPEALING SECTION 44-1 HEREBY AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS:

SECTION 1. That section 44-1 of the Code of Ordinances, City of Merriam, Kansas is hereby amended to read as follows:

“Sec. 44-1. Incorporating Uniform Public Offense Code. There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Merriam, Kansas, that certain code known as the “2021 Uniform Public Offense Code for Kansas Cities,” 37th edition, (“UPOC”) prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified, or changed by this Ordinance or by Chapter 44 of the Code of Ordinances, City of Merriam, Kansas. At least one copy of the UPOC shall be marked or stamped “Official Copy as Incorporated by Ordinance No. 1827” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this Ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

SECTION 2. Deletion. Section 6.21 of the UPOC relating to Taking Wildlife Without Permission on Land Posted “By Written Permission Only” is hereby omitted and deleted.

SECTION 3. Deletion. Section 6.22 of the UPOC relating to Criminal Hunting is hereby omitted and deleted.

SECTION 4. Deletion. Section 9.9.1 of the UPOC relating to Unlawful Possession of Marijuana and Tetrahydrocannabinols is hereby omitted and deleted.

SECTION 5. Deletion. Section 9.9.2 of the UPOC relating to Possession of Drug Paraphernalia and Certain Drug Precursors is hereby omitted and deleted.

SECTION 6. Deletion. Section 9.9.3 of the UPOC relating to Unlawful Distribution of Controlled Substances is hereby omitted and deleted.

SECTION 7. Deletion. Section 9.9.4 of the UPOC relating to Unlawful Possession of Controlled Substances is hereby omitted and deleted.

SECTION 8. Deletion. Section 9.9.5 of the UPOC relating to Unlawful Possession of a Simulated Substance is hereby omitted and deleted.

SECTION 9. Deletion. Section 9.9.6 of the UPOC relating to Distribution of a Non-controlled Substance is hereby omitted and deleted.

SECTION 10. Deletion. Subsection (b)(3) of Section 10.5 providing for an exception to the unlawful discharge of a firearm within or into the corporate limits of any city if “(3) The firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife, parks and tourism or the governing body of the city;” is hereby omitted and deleted.

SECTION 11. Repeal. That section 44-1 of the Code of Ordinances, City of Merriam, Kansas, as such section existed prior to the above amendment, is hereby repealed.

SECTION 12. Existing Sections. Those sections of Chapter 44 of the Code of Ordinances, City of Merriam, Kansas not heretofore repealed shall remain in full force and effect.

SECTION 13. Severability. If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

SECTION 14. Savings Clause. Neither the adoption of this Ordinance, nor the future repeal or amendment of any section or part or portion thereof, nor the repeal of Ordinance No. 1827, shall in any manner affect the prosecution for violation of this Ordinance or a violation of Ordinance No. 1827, nor be construed as a waiver of any license, fee or penalty at said effective date and unpaid under either ordinance, nor be construed as affecting any of the provisions of these 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 shall continue in full force and effect.

SECTION 15. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval and publication in the official City newspaper, all as provided by law.

PASSED by the Governing Body this _____ day of _____, 2021.

APPROVED AND SIGNED by the Mayor this _____ day of _____, 2021.

Ken Sissom, Mayor

ATTEST:

Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

Ryan B. Denk, City Attorney

Ordinance Incorporated by Reference
Under the Provisions of K.S.A. 12-3009 through
12-3012, and K.S.A. 12-3301 and 12-3302

by Ordinance No. _____

City of _____, Kansas

37th Edition

Uniform Public Offense Code
For Kansas Cities

Published in 2021
Edited By Amanda L. Stanley
General Counsel

UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES

The League of Kansas Municipalities has published the *Uniform Public Offense Code* since 1980. The *Uniform Public Offense Code* is designed to provide a comprehensive public offense ordinance for Kansas cities. It does not take effect in a city until the governing body has passed and published an ordinance incorporating it by reference under the authority of and by the procedure prescribed by K.S.A. 12-3009 through 12-3012 and K.S.A. 12-3301 and 12-3302. All citations refer to the Kansas Statutes in effect 7/1/2021 unless otherwise noted.

It is not necessary to publish the *Uniform Public Offense Code* in a newspaper if it is properly incorporated by reference. It is only necessary to publish the incorporating ordinance. The incorporating ordinance may delete articles or sections that the governing body considers unnecessary. The incorporating ordinance may also change sections. The League advises, however, that cities changing sections with a statutory citation should exercise care to ensure the changes do not conflict with state law.

The *Uniform Public Offense Code*, in large part, parallels the state criminal code. Additional provisions for local regulations, if any, may be included in the incorporating ordinance. Previous ordinances relating to public offenses in conflict with provisions of the *Uniform Public Offense Code* and ordinances incorporating earlier editions of the *Uniform Public Offense Code* should be repealed by the incorporating ordinance.

There must be at least one official copy of the *Uniform Public Offense Code* on file with the city clerk. Enforcing officers should also have copies. The blanks on the first page should be filled in on all copies.

There are several blank pages at the end of this book. Newspaper clippings of the incorporating ordinance and subsequent ordinances on public offenses may be pasted on these pages. Extra copies of the newspaper should be procured, or reprints made so that copies may be pasted in all copies of the *Uniform Public Offense Code*.

A listing of changes made to the *Uniform Public Offense Code* for 2021 can be found on page 156 of this edition.

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Article 1. General Provisions

Sec. 1.1 Definitions. The following definitions shall apply when the words and phrases defined are used in this code, except when a particular context clearly requires a different meaning.

Act. Includes a failure or omission to take action. (K.S.A. 21-5111(a))

Advance Voting Site. The central county election office or satellite advance voting sites designated as such pursuant to subsection (c) of K.S.A. 25-1122, and amendments thereto, and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in K.S.A. 25-2812. (K.S.A. 25-2430(b))

Air Gun or Air Rifle. Any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun, or any other type of gun designed to forcibly expel from an opening therein any pellet or BB shot, and whether operating from and upon compressed air or mechanical or elastic spring work or otherwise. (K.S.A. 72-6181(i))

Alcohol Concentration. The number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath. (K.S.A. 8-1013(a))

Alcohol Without Liquid Machine. A device designed or marketed for the purpose of mixing alcohol with oxygen or another gas to produce a mist for inhalation for recreational purposes. (K.S.A. 21-6321(c))

Alcoholic Liquor. Alcohol, spirits, wine, beer, alcoholic candy and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed by a human being, but shall not include any cereal malt beverage. (K.S.A. 41-102(c))

Animal. Every living vertebrate except a human being. (K.S.A. 21-6411(a))

Animal Shelter. The same as such term is defined in K.S.A. 47-1701, and amendments thereto. (K.S.A. 21-6412(i)(1))

Another. A person or persons as defined in this code other than the person whose act is claimed to be an offense. (K.S.A. 21-5111(b))

Auction Motor Vehicle Dealer. Any person who for commission, money or other thing of value is engaged in an auction of motor vehicles except that the sales of such motor vehicles shall involve only motor vehicles owned by licensed motor vehicle dealers and sold to licensed motor vehicle dealers, except that any auction motor vehicle dealer, registered as such and lawfully operating prior to June 30, 1980, shall be deemed to be and have been properly licensed under this act from and after July 1, 1980. For the purposes of this subsection, an auction is a private sale of motor vehicles where any and all licensed motor vehicle dealers who choose to do so are permitted to attend and offer bids and the private sale of such motor vehicles is to the highest bidder. (K.S.A. 8-2401(bb))

Audiovisual Recording Function. The capability of a device to record or transmit a motion picture or any part thereof by means of any technology now known or later developed. (K.S.A. 51-301(d)(1))

Beer. A beverage, containing more than 3.2% alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager beer, porter and similar beverages having such alcoholic content. (K.S.A. 41-102(d))

Body Piercing. Puncturing the skin of a person by aid of needles designed or used to puncture the skin for the purpose of inserting removable jewelry through the human body, except puncturing the external part of the human earlobe shall not be included in this definition. (K.S.A. 65-1940)

Cannabidiol Treatment Preparation. An oil containing cannabidiol (other trade name: 2-[(3-methyl-6-(1-methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-1,3-benzenediol)) and tetrahydrocannabinol, as described in K.S.A. 65-4105, and amendments thereto, and having a tetrahydrocannabinol concentration of on more than 5% relative to the cannabidiol concentration in the preparation, verified through testing by a third-party, independent laboratory. (K.S.A. 65-4101(aa)(3))

Cardholder. The person or entity to whom or for whose benefit a financial card is issued. (K.S.A 21-5828(c)(2))

Caterer. An individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit, selling alcoholic liquor in accordance with the terms of such permit. (K.S.A. 41-2601(c))

Cereal Malt Beverage. Any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage, as defined in K.S.A. 41-2729, and amendments thereto, but does not include any such liquor which is more than 3.2% alcohol by weight. (K.S.A 41-2701(a))

Cigarette. Any roll for smoking, made wholly or in part of tobacco, irrespective of size or shape, and irrespective of tobacco being flavored, adulterated or mixed with any other ingredient if the wrapper is in greater part made of any material except tobacco. (K.S.A. 79-3301(d))

City or This City. All land and water either within or outside the boundary of the city over which the city has either exclusive or concurrent jurisdiction, and the air space above such land and water.

City or County Correctional Officer or Employee. Any correctional officer or employee of the city or county or any independent contractor, or any employee of such contractor, working at a city holding facility or county jail facility. (K.S.A 21-5413(h)(4))

Club. Class A or Class B club. (K.S.A. 41-2601(a))

Class A Club. A premise which is owned or leased by a corporation, partnership, business trust or association and that is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the director, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members) and their families and guests accompanying them. (K.S.A. 41-2601(e))

Class B Club. A premise operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment. (K.S.A. 41-2601(f))

Conduct. An act or series of acts, and the accompanying mental state. (K.S.A. 21-5111(c))

Controlled Substance. Any drug or substance included in the Uniform Controlled Substances Act found in Chapter 21 of the Kansas Statutes Annotated, and amendments thereto.

Conviction. A judgment of guilt entered upon a plea of guilt. (K.S.A. 21-5111(d))

Cosmetic Tattooing. The process by which the skin is marked or colored by insertion of nontoxic dyes or pigments into or under the subcutaneous portion of the skin, by use of a needle, so as to form indelible marks for cosmetic or figurative purposes. (K.S.A. 65-1940(l))

Court Appointed Guardian. One who is appointed by a court and has legal authority and duty to care for another person, especially because of the other's infancy, incapacity or disability. (K.S.A. 65-1940(n))

Debilitating Medical Condition. A medically diagnosed chronic disease or medical condition causing a serious impairment of strength or ability to function, including one that produces seizures, for which the patient is under current and active treatment by a physician licensed to practice medicine and surgery in Kansas. (K.S.A. 21-5706(b)(2))

Deception. Knowingly creating or reinforcing a false impression, including false impressions as to law, value, intention or other state of mind. Deception as to a person's intention to perform a promise shall not be inferred from the fact alone that such person did not subsequently perform the promise. Falsity as to matters having no pecuniary significance, or puffing by statements unlikely to deceive reasonable persons, is not deception. (K.S.A. 21-5111(e))

Deprive Permanently.

- (a) Take from the owner the possession, use or benefit of property, without an intent to restore the same;
- (b) Retain property without intent to restore the same or with intent to restore it to the owner only if the owner purchases or leases it back, or pays a reward or other compensation for its return; or
- (c) Sell, give, pledge or otherwise dispose of any interest in property or subject it to the claim of a person other than the owner. (K.S.A. 21-5111(f))

Distribute. The actual or constructive transfer from one person to another of some item whether or not there is an agency relationship. **Distribute** includes, but is not limited to, sale, offer for sale, furnishing, buying for, delivering, giving, or any act that causes or is intended to cause some item to be transferred from one person to another. **Distribute** does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act, or otherwise authorized by law. (K.S.A. 21-5111(g))

Domestic Pet. Any domesticated animal which is kept for pleasure rather than utility. (K.S.A. 21-6411(e))

Drinking Establishment. Premises that may be open to the general public, where alcoholic liquor or cereal malt beverage by the individual drink is sold. The term **Drinking establishment** includes a railway car. (K.S.A. 41-2601(n))

Dwelling. A building or portion thereof, a tent, a vehicle, or other enclosed space which is used or intended for use as a human habitation, home or residence. (K.S.A. 21-5111(k))

Dwelling Unit. A single-family residence, multiple-family residence and each living unit in a mixed-use building. (K.S.A. 21-5111(k))

Electronic Cigarette. A battery-powered device, whether or not such device is shaped like a cigarette, that can provide inhaled doses of nicotine by delivering a vaporized solution by means of cartridges or other chemical delivery systems. (K.S.A. 79-3301(m))

Equine. A horse, pony, mule, jenny, donkey or hinny. (K.S.A. 21-6412(i)(2))

Explosives. Any chemical compound, mixture or device, of which the primary purpose is to function by explosion, and includes, but is not limited to, dynamite and other high explosives, black powder, pellet powder, initiating explosives, detonators, safety fuses, squibs, detonating cord, igniter cord and igniters. (K.S.A. 21-6312(e))

Farm Animal. An animal raised on a farm or ranch and used or intended for use as food or fiber. (K.S.A. 21-6411(b))

Federal Law Enforcement Officer. A law enforcement officer employed by the United States federal government who, as part of such officer's duties, is permitted to make arrests and to be armed. (K.S.A. 21-5413(h)(11))

Fighting Words. Words that by their very utterance inflict injury or tend to incite the listener to an immediate breach of the peace. (K.S.A. 21-6203(c))

Financial Card. An identification card, plate, instrument, device or number issued by a business organization authorizing the cardholder to purchase, lease or otherwise obtain money, goods, property or services or to conduct other financial transactions. (K.S.A. 21-5828(c)(1))

Firearm. Any weapon designed or having the capacity to propel a projectile by force of an explosion or combustion. (K.S.A.21-5111(m))

Fire Department. A public fire department under the control of the governing body of a city, township, county, fire district or benefit district or a private fire department operated by a nonprofit corporation providing fire protection services for a city, township, county, fire district or benefit district under contract with the governing body of the city, township, county or district.

Fish. As a verb, means take, in any manner, any fish.

Funeral. The ceremonies, processions, and memorial services held in connection with the burial or cremation of a person. (K.S.A. 21-6106(c)(1))

Furbearing Animal. Any badger, beaver, bobcat, grey fox, lynx, marten, mink, muskrat, opossum, otter, raccoon, red fox, spotted skunk, striped skunk, swift fox or weasel. (K.S.A. 32-701(e))

Furharvest.

- (a) Take, in any manner, any furbearing animal; or
- (b) Trap or attempt to trap any coyote.

(K.S.A. 32-701(f))

Game Animal. Any big game animal, wild turkey or small game animal. (K.S.A. 32-701(g))

Gamecock. A domesticated fowl that is bred, reared or trained for the purpose of fighting with other fowl. (K.S.A. 21-6417(e))

Health Care Facility. Any licensed medical care facility, certificated health maintenance organization, licensed mental health center, or mental health clinic, licensed psychiatric hospital or other facility or office where services of a health care provider are provided directly to patients. (K.S.A. 21-5808(c)(1))

Health Care Provider. Any person:

- (a) Licensed to practice a branch of the healing arts;
- (b) Licensed to practice psychology;
- (c) Licensed to practice professional or practical nursing;
- (d) Licensed to practice dentistry;
- (e) Licensed to practice optometry;
- (f) Licensed to practice pharmacy;
- (g) Registered to practice podiatry;
- (h) Licensed as a social worker; or
- (i) Registered to practice physical therapy

(K.S.A. 21-5808(c)(2))

Hunt.

- (a) Take, in any manner, any wildlife other than a fish, bullfrog, furbearing animal or coyote; or
- (b) Take, in any manner other than by trapping, any coyote. (K.S.A. 32-701(i))

Intent to Defraud. An intention to deceive another person, and to induce such other person, in reliance upon such deception, to assume, create, transfer, alter or terminate a right, obligation or power with reference to property. (K.S.A. 21-5111(o))

Juvenile Detention Facility Officer or Employee. Any officer or employee of a juvenile detention facility as defined in K.S.A. 38-2302, and amendments thereto.

Law Enforcement Officer.

- (a) Any person who by virtue of such person's office or public employment is vested by law with a duty to maintain public order or to make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses.
- (b) Any university police officer or campus police officer, as defined in K.S.A. 22-2401a, and amendments thereto.

(K.S.A. 21-5111(p))

Maliciously. A state of mind characterized by actual evil-mindedness or specific intent to do a harmful act without a reasonable justification or excuse.

Motion Picture Theater. A movie theater, screening room or other venue when used primarily for the exhibition of a motion picture. (K.S.A. 51-301(d)(2))

Motorboat. Any vessel propelled by machinery, whether or not such machinery is the principal source of propulsion. (K.S.A. 32-1102(b))

Motor Vehicle. Every vehicle, other than a motorized bicycle or a motorized wheelchair, which is self-propelled.

Needle. A sharp, pointed implement used for the purpose of tattooing, cosmetic tattooing or body piercing. The term **needle** does not include any implements or object altered to be used as needles. (K.S.A. 65-1948(o))

Nonferrous Metal. A metal that does not contain iron or steel. (K.S.A. 50-6,109(b)(5))

Obtain. To bring about a transfer of interest in or possession of property, whether to the offender or to another. (K.S.A. 21-5111(a))

Obtains or Exerts Control Over Property. Includes but is not limited to, the taking, carrying away, sale, conveyance, transfer of title to, interest in, or possession of property. (K.S.A. 21-5111(r))

Ordinance Cigarette or Tobacco Infraction. A violation of an ordinance that proscribes the same behavior as proscribed by subsection (m) or (n) of K.S.A. 79-3321 and amendments thereto.

Owner. A person who has any interest in property. (K.S.A. 21-5111(s))

Paint Ball Gun. Any device whether or not in the shape and form commonly associated with the terms pistol, sidearm, small arm, rifle, shotgun, or any other type of gun designed to forcibly expel from an opening therein any paint ball, and whether operating from and upon compressed air or mechanical or elastic springwork or otherwise.

Person. An individual, public or private corporation, government, partnership or unincorporated association. (K.S.A. 21-5111(t))

Personal Property. Goods, chattels, effects, evidences of rights in action and all written instruments by which any pecuniary obligation, or any right or title to property, real or personal, shall be created, acknowledged, assigned, transferred, increased, defeated, discharged, or dismissed. (K.S.A. 21-5111(u))

Police Dog. Any dog which is owned, or the service of which is employed, by a law enforcement agency for the principal purpose of aiding in the detection of criminal activity, enforcement of laws or apprehension of offenders.

Possession. Having joint or exclusive control over an item with knowledge of or intent to have such control or knowingly keeping some item in a place where the person has some measure of access and right of control. (K.S.A. 21-5111(v))

Private Place. A place where one may reasonably expect to be safe from uninvited intrusion or surveillance. (K.S.A. 21-6101(f))

Property. Anything of value, tangible or intangible, real or personal. (K.S.A. 21-5111(w))

Prosecution. All legal proceedings by which a person's liability for an offense is determined. (K.S.A. 21-5111(x))

Public Demonstration.

- (a) Any picketing or similar conduct; or
- (b) Any oration, speech, use of sound amplification equipment or device, or similar conduct that is not part of a funeral. (K.S.A. 21-6106(c)(2))

Public Employee. A person employed by or acting for the city for the purpose of exercising the city's respective power and performing their respective duties and who is not a public officer. (K.S.A. 21-5111(z))

Public Offense or Offense. An act or omission defined by this code which, upon conviction, is punishable by fine, confinement or both fine and confinement.

Public Officer. Includes the following, whether elected or appointed.

- (a) An executive or administrative officer of the city;
- (b) A member of the governing body of the city;
- (c) A judicial officer, which shall include a judge, municipal judge, magistrate, juror, master or any other person appointed by a judge or court to hear or determine a cause of controversy;
- (d) A hearing officer, which shall include any person authorized by law or private agreement, to hear or determine a cause or controversy and who is not a judicial officer;
- (e) A law enforcement officer; and
- (f) Any other person exercising the functions of a public officer under color of right.

(K.S.A. 21-5111(aa))

Railroad Property. Includes, but is not limited to, any train, locomotive, railroad car, caboose, rail-mounted work equipment, rolling stock, work equipment, safety device, switch, electronic signal, microwave communication equipment, connection, railroad track, rail, bridge, trestle, right-of-way or other property that is owned, leased, operated or possessed by a railroad company. (K.S.A. 21-5809(e))

Real Property or Real Estate. Every estate, interest and right in lands, tenements and hereditaments. (K.S.A. 21-5111(bb))

Rebuilder. A person who is engaged in the business of rebuilding salvage vehicles, as defined in K.S.A. 8-196, and amendments thereto, and selling such rebuilt salvage vehicles. (K.S.A. 8-2401(o))

Retail Dealer. A person, other than a vending machine operator, in possession of cigarettes or electronic cigarettes for the purpose of sale to a consumer. (K.S.A. 79-3301(v))

Runaway. A child under 18 years of age who is voluntarily absent from:

- (a) The child's home without the consent of the child's parent or other custodian; or
- (b) A court ordered or designated placement, or a placement pursuant to court order, if the absence is without the consent of the person with whom the child is placed or, if the child is placed in a facility, without the consent of the person in charge of such facility or such person's designee.

(K.S.A. 21-5603(d))

Sail Board. A surfboard using for propulsion a free sail system comprising one or more swivel-mounted rigs (mast, sail and booms) supported in an upright position by the crew and the wind. (K.S.A. 32-1102(p))

Sailboat. Any vessel, other than a sail board, that is designed to be propelled by wind action upon a sail for navigation on the water. (K.S.A. 32-1102(s))

Salvage Vehicle Dealer. Any person engaged in the business of buying, selling or exchanging used vehicles and primarily engaged in the business of the distribution at wholesale or retail of used motor vehicle parts and includes establishments primarily engaged in dismantling motor vehicles for the purpose of selling parts. (K.S.A. 8-2401(y))

Salvage Vehicle Pool. Any person who as an agent for a third party is primarily engaged in the business of storing, displaying and offering for sale salvage vehicles. (K.S.A. 8-2401(hh))

Sample. Cigarettes or tobacco products distributed to members of the general public at no cost for purposes of promoting the product. (K.S.A. 79-3301(x))

School Employee. Any employee of a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12. (K.S.A. 21-5413(h)(5))

Scrap Metal Recycler. A person who engages in the business of shredding or otherwise processing nonrepairable vehicles or other scrap metal into prepared grades and whose principal product is scrap iron, scrap steel or nonferrous metallic scrap for sale for remelting purposes. (K.S.A. 8-2401(mm))

Sexual Intercourse. Any penetration of the female sex organ by a finger, the male sex organ or any object. Any penetration, however slight, is sufficient to constitute sexual intercourse. **Sexual Intercourse** does not include penetration of the female sex organ by a finger or object in the course of the performance of:

- (a) Generally recognized health care practices; or
- (b) A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

(K.S.A. 21-5501(a))

Smoke Detector. A device or combination of devices which operate from a power supply in the dwelling unit or at the point of installation for the purpose of detecting visible or invisible particles of combustion. Such term shall include smoke detectors approved or listed for the purpose for which they are intended by an approved independent testing laboratory. (K.S.A. 31-161(b))

Smoking; Definitions.

- (a) **Access Point** means the area within a 10 foot radius outside of any doorway, open window or air intake leading into a building or facility that is not exempted pursuant to subsection (d) of section 10.24.
- (b) **Bar** means any indoor area that is operated and licensed for the sale and service of alcoholic beverages, including alcoholic liquor as defined in K.S.A. 41-102, and amendments thereto, or cereal malt beverages as defined in K.S.A. 41-2701, and amendments thereto, for on premises consumption.
- (c) **Employee** means any person who is employed by an employer in consideration for direct or indirect monetary wages or profit, and any person who volunteers their services for a nonprofit entity.

- (d) **Employer** means any person, partnership, corporation, association or organization, including municipal or nonprofit entities, which employs one or more individual persons.
- (e) **Enclosed Area** means all space between a floor and ceiling which is enclosed on all sides by solid walls, windows or doorways which extend from the floor to the ceiling, including all space therein screened by partitions which do not extend to the ceiling or are not solid or similar structures. For purposes of this section, the following shall not be considered an enclosed area:
 - (1) Rooms or areas, enclosed by walls, windows or doorways, having neither a ceiling nor a roof and which are completely open to the elements and weather at all times; and
 - (2) Rooms or areas, enclosed by walls, fences, windows or doorways and a roof or ceiling, having openings that are permanently open to the elements and weather and which comprise an area that is at least 30% of the total perimeter wall area of such room or area.
- (f) **Food Service Establishment** means any place in which food is served or is prepared for sale or service on the premises. Such term shall include, but not be limited to, fixed or mobile restaurants, coffee shops, cafeterias, short-order cafes, luncheonettes, grills, tea rooms, sandwich shops, soda fountains, taverns, private clubs, roadside kitchens, commissaries and any other private, public or nonprofit organization or institution routinely serving food and any other eating or drinking establishment or operation where food is served or provided for the public with or without charge.
- (g) **Gaming Floor** means the area of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto, where patrons engage in Class III gaming. The gaming floor shall not include any areas used for accounting, maintenance, surveillance, security, administrative offices, storage, cash or cash counting, records, food service, lodging or entertainment, except that the gaming floor may include a bar where alcoholic beverages are served so long as the bar is located entirely within the area where Class III gaming is conducted.

- (h) **Medical Care Facility** means a physician's office, general hospital, special hospital, ambulatory surgery center or recuperation center, as defined by K.S.A. 65-425, and amendments thereto.
- (i) **Outdoor Recreational Facility** means a hunting, fishing, shooting or golf club, business or enterprise operated primarily for the benefit of its owners, members and their guests and not normally open to the general public.
- (j) **Place of Employment** means any enclosed area under the control of a public or private employer, including, but not limited to, work areas, auditoriums, elevators, private offices, employee lounges and restrooms, conference and meeting rooms, classrooms, employee cafeterias, stairwells and hallways, that is used by employees during the course of employment. For purposes of this section, a private residence shall not be considered a place of employment unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.
- (k) **Private Club** means an outdoor recreational facility operated primarily for the use of its owners, members and their guests that in its ordinary course of business is not open to the general public for which use of its facilities has substantial dues or membership fee requirements for its members.
- (l) **Public Building** means any building owned or operated by:
 - (1) The state, including any branch, department, agency, bureau, commission, authority or other instrumentality thereof;
 - (2) Any county, city, township, other political subdivision, including any commission, authority, agency or instrumentality thereof; or
 - (3) Any other separate corporate instrumentality or unit of the state or any municipality.
- (m) **Public Meeting** means any meeting open to the public pursuant to K.S.A. 75-4317 et seq., and amendments thereto, or any other law of this state.
- (n) **Public Place** means any enclosed areas open to the public or used by the general public including, but not limited to: Banks, bars, food service establishments, retail service establishments, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, medical care facilities, educational facilities,

libraries, courtrooms, public buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities. For purposes of this section, a private residence shall not be considered a public place unless such residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto.

- (o) **Smoking** means possession of a lighted cigarette, cigar, pipe or burning tobacco in any other form or device designed for the use of tobacco.
- (p) **Tobacco Shop** means any indoor area operated primarily for the retail sale of tobacco, tobacco products or smoking devices or accessories, and which derives not less than 65% of its gross receipts from the sale of tobacco.
- (q) **Substantial Dues or Membership Fee Requirements** means initiation costs, dues or fees proportional to the cost of membership in similarly situated outdoor recreational facilities that are not considered nominal and implemented to otherwise avoid or evade restrictions of a statewide ban on smoking.

(K.S.A. 21-6109)

Sodomy. Oral contact or oral penetration of the female genitalia or oral contact of the male genitalia; anal penetration, however slight, of a male or female by any body part or object; or oral or anal copulation or sexual intercourse between a person and an animal. **Sodomy** does not include penetration of the anal opening by a finger or object in the course of the performance of:

- (a) Generally recognized health care practices; or
- (b) A body cavity search conducted in accordance with K.S.A. 22-2520 through 22-2524, and amendments thereto.

(K.S.A. 21-5501(b))

Solicit or Solicitation. To command, authorize, urge, incite, request or advise another to commit an offense.

(K.S.A. 21-5111(cc))

State of Nudity. Any state of undress in which the human genitals, pubic region, buttock or female breast, at a point below the top of the areola, is less than completely and opaquely covered. (K.S.A. 21-5611(g)(2))

State or This State. Means the state of Kansas and all land and water in respect to which the state of Kansas has either exclusive or concurrent jurisdiction or the air space above such land and water. (K.S.A. 21-5111(dd))

State Correctional Officer or Employee. Any officer or employee of the Kansas department of corrections or any independent contractor, or any employee of such contractor, working at a correctional institution. (K.S.A. 21-5413(n)(2))

Spirits. Any beverage which contains alcohol obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, gin or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances. (K.S.A. 41-102(hh))

Spouse. A lawful husband or wife, unless the couple is living apart in separate residences or either spouse has filed an action for annulment, separate maintenance or divorce or for relief under the protection from abuse act. (K.S.A. 21-5501(c))

Stolen Property. Property over which control has been obtained by theft. (K.S.A. 21-5111(ee))

Tattooing. The process by which the skin is marked or colored by insertion of nontoxic dyes or pigments by use of a needle into or under the subcutaneous portion of the skin so as to form indelible marks for cosmetic or figurative purposes. (K.S.A 65-1040(i))

Telecommunications Device. Includes telephones, cellular telephones, telefacsimile machines and any other electronic device which makes use of an electronic communication service, as defined in K.S.A. 22-2514, and amendments thereto. (K.S.A. 21-6206(d))

Telefacsimile Communication. The use of electronic equipment to send or transmit a copy of a document via telephone line.

Temporary Permit. A temporary permit issued pursuant to K.S.A. 41-2645, and amendments thereto. (K.S.A. 41-102(jj))

Threat. A communicated intent to inflict physical or other harm on any person or on property. (K.S.A. 21-5111(ff))

Throwing Star. Any instrument, without handles, consisting of a metal plate having three or more radiating points with one or more sharp edges and designed in the shape of a polygon, trefoil, cross, star, diamond, or other geometric shape, manufactured for use as a weapon for throwing. (K.S.A. 21-6301(m)(4))

Tobacco Products. Cigars, cheroots, stogies, periques; granulated, plug cut, crimp cut, ready rubbed and other smoking tobacco; snuff, snuff flour; cavendish; plug and twist tobacco; fine cut and other chewing tobaccos; shorts; refuse scraps, clippings, cuttings and sweepings of tobacco, and other kinds and forms of tobacco, prepared in such manner as to be suitable for chewing or smoking in a pipe or otherwise, or both for chewing and smoking. Tobacco products do not include cigarettes. (K.S.A. 79-3301(bb))

Toxic Vapors. The following substances or products containing such substances:

- (a) Alcohols, including methyl, isopropyl, propyl, or butyl;
- (b) Aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
- (c) Acetone;
- (d) Benzene;
- (e) Carbon tetrachloride;
- (f) Cyclohexane;
- (g) Freons, including freon 11, freon 12, and other halogenated hydrocarbons;
- (h) Hexane;
- (i) Methyl ethyl ketone;
- (j) Methyl isobutyl ketone;
- (k) Naptha;
- (l) Perchloroethylene;
- (m) Toluene;
- (n) Trichloroethane; or
- (o) Xylene.

(K.S.A. 21-5712(e))

Transmission. Any form of communication, including, but not limited to, physical transmission of paper and electronic transmission that creates a record that may be retained and reviewed by a recipient thereof, and that may be directly reproduced in paper form by such a recipient through an automated process. Transmission also includes a request to receive a transmission of a visual depiction; (K.S.A. 21-5611(g)(3))

Unlawful Sexual Act. Any lewd and lascivious behavior or sexual battery as defined in this code. (K.S.A. 21-5501(d))

Vehicle Crusher. Any person, other than a vehicle recycler or a scrap metal recycler, who engages in the business of flattening, crushing or otherwise processing nonrepairable vehicles for recycling. Vehicle crushers include, but are not limited to, persons who use fixed or mobile equipment to flatten or crush nonrepairable vehicles for a vehicle recycler or a scrap metal recycler. (K.S.A. 8-2401(kk))

Vehicle Dealer. Any person who:

- (a) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in vehicles; or
- (b) For commission, money or other thing of value is engaged in the business of buying, selling or offering or attempting to negotiate a sale of an interest in motor vehicles as an auction motor vehicle dealer as defined below; but does not include:
 - (1) Receivers, trustees, administrators, executors, guardians, or other persons appointed by or acting under the judgment or order of any court, or any bank, trustee or lending company or institution which is subject to state or federal regulations as such, with regard to its disposition of repossessed vehicles;
 - (2) Public officers while performing their official duties;
 - (3) Employees of persons enumerated provisions (1) and (2), when engaged in the specific performance of their duties as such employees;
 - (4) Auctioneers conducting auctions for persons enumerated in provisions (1), (2), or (3); or
 - (5) Auctioneers who, while engaged in conducting an auction of tangible person property for others, offer for sale:
 - (A) Vehicles which have been used primarily in a farm or business operation by the owner offering the vehicle for sale, including all vehicles which qualified for a farm vehicle tag at the time of sale except vehicles owned by a business engaged primarily in the business of leasing or renting passenger cars;

- (B) Vehicles which meet the statutory definition of antique vehicles; or
- (C) Vehicles for no more than four principals or households per auction. All sales of vehicles exempted pursuant to provision (5), except truck, truck tractors, pole trailers, trailers and semitrailers as defined by K.S.A. 8-126, and amendments thereto, shall be registered in Kansas prior to the sale. (K.S.A. 8-2401(a))

Vehicle Recycler. A person who engages in the business of acquiring, dismantling, removing parts from or destroying nonrepairable vehicles for the primary purpose of reselling the vehicle parts. (K.S.A. 8-2401(11))

Vessel. Any watercraft designed to be propelled by machinery, oars, paddles or wind action upon a sail for navigation on the water. (K.S.A. 32-1102)

Visual Depiction. Any photograph, film, video picture, digital or computer-generated image or picture made or produced by electronic, mechanical or other means. (K.S.A. 21-5611(g)(4))

Wildlife. Any member of the animal kingdom, including, without limitation, any mammal, fish, bird, amphibian, reptile, mollusk, crustacean, arthropod or other invertebrate, and includes any part, product, egg or offspring thereof, or the dead body or parts thereof. Wildlife does not include agricultural livestock (cattle, swine, sheep, goats, horses, mules and other equines) and poultry (domestic chickens, turkeys and guinea fowl). (K.S.A. 32-701(u))

Wine. Any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies. (K.S.A. 41-102(kk))

Written Instrument. Any paper, document or other instrument containing written or printed matter or the equivalent thereof, used for purposes of reciting, embodying, conveying or recording information, and any money, tokens, stamp, seal, badge, trademark, or other evidence or symbol of value, right, privilege or identification, which is capable of being used to the advantage or disadvantage of some person. (K.S.A. 21-5111(gg))

Sec. 1.2 Liability for Offenses of Another.

- (a) A person is criminally responsible for an offense committed by another if such person, acting with the mental culpability required for the commission thereof, advises, hires, counsels or procures the other to commit the offense or intentionally aids the other in committing the conduct constituting the offense.
- (b) A person liable under subsection (a) is also liable for any other offense committed in pursuance of the intended offense if reasonably foreseeable by such person as a probable consequence of committing or attempting to commit the crime intended.
- (c) A person liable under this section may be charged with and convicted of the offense although the person alleged to have directly committed the act constituting the offense.
 - (1) Lacked criminal or legal capacity;
 - (2) Has not been convicted;
 - (3) Has been acquitted; or
 - (4) Has been convicted of some other degree of the offense or of some other offense based on the same act. (K.S.A. 21-5210)

Sec. 1.3. Corporations: Criminal Responsibility; Individual Liability.

- (a) **Corporations; Criminal Responsibility.**
 - (1) A corporation is criminally responsible for acts committed by its agents when acting within the scope of their authority.
 - (2) Agent means any director, officer, servant, employee or other person who is authorized to act on behalf of the corporation.

(b) Individual Liability for Corporate Offenses.

- (1) An individual who performs public offenses, or causes such acts to be performed, in the name of or on behalf of a corporation is legally responsible to the same extent as if such acts were in the person's own name or on the person's own behalf.
- (2) An individual who has been convicted of an offense based on conduct performed by such individual for and on behalf of a corporation is subject to punishment as an individual upon conviction of such offense, although a lesser or different punishment is authorized for the corporation. (K.S.A. 21-5211;5212)

Article 2. Anticipatory Offenses

Sec. 2.1. Attempt.

- (a) An attempt is any overt act toward the perpetration of an offense done by a person who intends to commit such offense but fails in the perpetration thereof or is prevented or intercepted in executing such offense.
- (b) It shall not be a defense to a charge of attempt that the circumstances under which the act was performed, or the means employed or the act itself were such that the commission of the offense was not possible.
- (c) An attempt to commit a Class A violation is a Class B violation.
- (d) An attempt to commit a Class B or C violation is a Class C violation. (K.S.A. 21-5301)

Sec. 2.2. Conspiracy.

- (a) A conspiracy is an agreement with another person to commit an offense or to assist in committing an offense. No person may be convicted of a conspiracy unless an overt act in furtherance of such conspiracy is alleged and proved to have been committed by such person or by a co-conspirator.

- (b) It is immaterial to the criminal liability of a person charged with conspiracy that any other person with whom the defendant conspired lacked the actual intent to commit the underlying crime provided that the defendant believed the other person did have the actual intent to commit the underlying crime.
- (c) It shall be a defense to a charge of conspiracy that the accused voluntarily and in good faith withdrew from the conspiracy, and communicated the fact of such withdrawal to one or more of the accused person's co-conspirators, before any overt act in furtherance of the conspiracy was committed by the accused or by a co-conspirator.
- (d) A conspiracy to commit a violation is a Class C violation. (K.S.A. 21-5302)

Article 3. Offenses Against Persons

Sec. 3.1. Battery.

- (a) Battery is:
 - (1) Knowingly or recklessly causing bodily harm to another person; or
 - (2) Knowingly causing physical contact with another person when done in a rude, insulting or angry manner.
- (b) Battery is a Class B violation. (K.S.A. 21-5413)

Sec. 3.1.1. Domestic Battery.

- (a) Domestic battery is:
 - (1) Knowingly or recklessly causing bodily harm to a person with whom the offender is involved or has been involved in a dating relationship or a family or household member; or
 - (2) Knowingly causing physical contact with a person with whom the offender is involved or has been involved in a dating relationship or a family or household member, when done in a rude, insulting or angry manner.

- (b)
 - (1) Upon a first conviction of a violation of domestic battery, an offender shall be guilty of a Class B violation and sentenced to not less than 48 consecutive hours nor more than six months' imprisonment and fined not less than \$200, nor more than \$500 or in the court's discretion the court may enter an order which requires the offender to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program;
 - (2) If, within five years immediately preceding commission of the crime, an offender is convicted of a violation of domestic battery a second time, the offender shall be guilty of a Class A violation and sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$500 nor more than \$1,000. The five days' imprisonment mandated by this subsection may be served in a work release program only after such offender has served 48 consecutive hours' imprisonment, provided such work release program requires such offender to return to confinement at the end of each day in the work release program. The offender shall serve at least five consecutive days' imprisonment before the offender is granted probation, suspension or reduction of sentence or parole or is otherwise released. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the offender shall be required to undergo a domestic violence offender assessment conducted by a certified batterer intervention program and follow all recommendations made by such program, unless otherwise ordered by the court or department of corrections; and
- (c) In determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offense under this section, a court shall consider information presented to the court relating to any current or prior protective order issued against such person.

(d) As used in this section:

- (1) **Dating relationship** means a social relationship of a romantic nature. In addition to any other factors the court deems relevant, the trier of fact may consider the following when making a determination of whether a relationship exists or existed: Nature of the relationship, length of time the relationship existed, frequency of interaction between the parties and time since the termination of the relationship, if applicable;
- (2) **Family or household member** means persons 18 years of age or older who are spouses, former spouses, parents or stepparents and children or stepchildren, and persons who are presently residing together or who have resided together in the past, and persons who have a child in common regardless of whether they have been married or who have lived together at any time. **Family or household member** also includes a man and woman if the woman is pregnant and the man is alleged to be the father, regardless of whether they have been married or have lived together at any time; and
- (3) **Protective Order** means:
 - (A) A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 or 60-3107, and amendments thereto;
 - (B) A protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. § 2265;
 - (C) A restraining order issued pursuant to K.S.A. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, or K.S.A. 60-1607, prior to its transfer;
 - (D) An order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, postrelease supervision or at any other time during the criminal case or upon appeal that orders the person to refrain from having any direct or indirect contact with a family or household member;
 - (E) An order issued in this or any other state as a condition of release after conviction or as a condition of a supersedeas bond pending

disposition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person; or

- (F) A protection from stalking order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments thereto.
- (e) For the purpose of determining whether a conviction is a first or second conviction in sentencing under this section:
- (1) **Conviction** includes being convicted of a violation of this section or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;
 - (2) **Conviction** includes being convicted of a violation of a law of another state, or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion or deferred judgment agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance or resolution;
 - (3) Only convictions occurring in the immediately preceding five years including prior to the effective date of this act shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first or second offender, whichever is applicable; and
 - (4) It is irrelevant whether an offense occurred before or after conviction for a previous offense.
- (f) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section or an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits only twice during any five-year period. (K.S.A. 21-5414)

Sec. 3.2. Battery Against a Law Enforcement Officer.

- (a) Battery against a law enforcement officer is a battery, as defined in Section 3.1(a)(2) of this article, committed against a:

- (1) Uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty;
- (2) Uniformed or properly identified state, county, or city law enforcement officer, other than a state correctional officer or employee, a city or county correctional officer or employee, or a juvenile detention facility officer, or employee, while such officer is engaged in the performance of such officer's duty;
- (3) Uniformed or properly identified federal law enforcement officer while such officer is engaged in the performance of such officer's duty;
- (4) Judge, while such judge is engaged in the performance of such judge's duty;
- (5) Attorney, while such attorney is engaged in the performance of such attorney's duty; or
- (6) Community corrections officer or court services officer, while such officer is engaged in the performance of such officer's duty.

(b) As used in this section:

- (1) **Judge** means a duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge;
- (2) **Attorney** means a (A) City attorney, assistant city attorney, city prosecutor, assistant city prosecutor, county attorney, assistant county attorney, special assistant county attorney, district attorney, assistant district attorney, special assistant district attorney, attorney general, assistant attorney general or special assistant attorney general; and (B) public defender, assistant public defender, contract counsel for the state board of indigents' defense services or an attorney who is appointed by the court to perform services for an indigent person as provided by article 45 of chapter 22 of the Kansas Statutes Annotated and amendments thereto;
- (3) **Community Corrections Officer** means an employee of a community correctional services program responsible for supervision of adults or

juveniles as assigned by the court to community corrections supervision and any other employee of a community correctional services program that provides enhanced supervision of offenders such as house arrest and surveillance programs;

- (4) **Court Services Officer** means an employee of the Kansas judicial branch or local judicial district responsible for supervising, monitoring or writing reports relating to adults or juveniles as assigned by the court, or performing related duties as assigned by the court.

- (c) Battery against a law enforcement officer is a Class A violation. (K.S.A. 21-5413)

Sec. 3.2.1. Sexual Battery.

- (a) Sexual battery is the touching of a victim who is 16 or more years of age and who does not consent thereto, with the intent to arouse or satisfy the sexual desires of the offender or another.
- (b) Sexual battery is a Class A violation. (K.S.A. 21-5505)

{**Editor's note:** Prior to *City of Shawnee v. Adem*, 58 Kan. App. 2d 560 (2020), municipal courts were not considered a court of record and therefore, a conviction for this section in municipal court did not subject the defendant to registering as a sexual offender pursuant to K.S.A. 22-4902(b)(5). See *State v. Adams*, No. 114,276, (Kan. App. August 26, 2016) Unpublished opinion.}; however, the Court of Appeals in *Adem* found that a violation of the crime of Sexual Battery under the UPOC does require the municipal court to impose sex offender registration requirements on a defendant convicted of sexual battery under city ordinance. The Supreme Court has granted review in this case.

Sec. 3.2.2. Battery Against a School Employee.

- (a) Battery against a school employee is a battery, as defined in Section 3.1, committed against a school employee in or on any school property or grounds upon which is located a building or structure used by a unified school district or an accredited nonpublic school for student instruction or attendance or extracurricular activities of pupils enrolled in kindergarten or any of the grades one through 12 or at any regularly scheduled school sponsored activity or event, while such employee is engaged in the performance of such employee's duty.

- (b) Battery against a school employee is a Class A violation. (K.S.A. 21-5413)

Sec. 3.3. Assault and Assault of a Law Enforcement Officer.

- (a) Assault is knowingly placing another person in reasonable apprehension of immediate bodily harm.
- (b) Assault of a law enforcement officer is assault, as defined in subsection (a), committed against:
 - (1) A uniformed or properly identified state, county or city law enforcement officer while such officer is engaged in the performance of such officer's duty;
 - (2) A uniformed or properly identified university or campus police officer while such officer is engaged in the performance of such officer's duty; or
 - (3) A uniformed or properly identified federal law enforcement officer as defined in K.S.A. . 21-5413, and amendments thereto, while such officer is engaged in the performance of such officer's duty.
- (c) Assault is a Class C violation.
- (d) Assault of a law enforcement officer is a Class A violation. (K.S.A. 21-5412)

Sec. 3.4. Unlawful Interference with an Emergency Medical Services Attendant.

- (a) Unlawful interference with an emergency medical service provider is knowingly:
 - (1) Interfering with any emergency medical service provider while engaged in the performance of such emergency medical service provider's duties; or
 - (2) Obstructing, interfering with or impeding the efforts of any emergency medical service provider to reach the location of an emergency.
- (b) Unlawful interference with an emergency medical service provider is a Class B person violation.

- (c) As used in this section, “emergency medical service provider” means the same as in K.S.A. 65-6112, and amendments thereto.
- (d) A person who violates the provisions of this section may also be prosecuted for, convicted of and punished for assault or battery (K.S.A. 21-6326)

Sec. 3.5. Unlawful Interference with Firefighter.

- (a) Unlawful interference with a firefighter is knowingly:
 - (1) Interfering with any firefighter while engaged in the performance of such firefighter’s duties; or
 - (2) Obstructing, interfering with or impeding the efforts of any firefighter to reach the location of a fire or other emergency.
- (b) Unlawful interference with a firefighter is a Class B person violation.
- (c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for assault or battery. (K.S.A. 21-6325)

Sec. 3.6. Unlawful Restraint.

- (a) Unlawful restraint is knowingly and without legal authority restraining another person so as to interfere substantially with such person’s liberty.
- (b) This section shall not apply to acts done in the performance of duty by any law enforcement officer of the city.
- (c) Any merchant, or a merchant’s agent or employee, who has probable cause to believe that a person has actual possession of and has wrongfully taken, or is about to wrongfully take merchandise from a mercantile establishment, may detain such person on the premises or in the immediate vicinity thereof, in a reasonable manner and for a reasonable period of time for the purpose of investigating the circumstances of such possession. Such reasonable detention shall not constitute an arrest nor unlawful restraint.
- (d) Unlawful restraint is a Class A violation. (K.S.A. 21-5411)

Sec. 3.7. Mistreatment of a Confined Person.

- (a) Mistreatment of a confined person is knowingly abusing, neglecting or ill-treating any person, who is detained or confined by any law enforcement officer or by any person in charge of or employed by the owner or operator of any correctional institution.
- (b) Mistreatment of a confined person is a Class A violation. (K.S.A. 21-5416)

Sec. 3.7.1. Interference with Custody of a Committed Person.

- (a) Interference with custody of a committed person is knowingly taking or enticing any committed person away from the control of such person's lawful custodian without privilege to do so.
- (b) Interference with custody of a committed person is a class A nonperson violation.
- (c) As used in this section, "committed person" means any person committed other than by criminal process to any institution or other custodian by a court, officer or agency authorized by law to make such commitment. (K.S.A. 21-5416)

Sec. 3.8. Violation of Protection from Abuse Order.

- (a) If a person enters or remains on premises or property violating an order issued pursuant to K.S.A. 60-3107(a)(2), and amendments thereto, such violation shall constitute criminal trespass and violation of a protective order.
- (b) If a person abuses, molests or interferes with the privacy or rights of another violating an order issued pursuant to K.S.A. 60-3107(a)(1), and amendments thereto, such violation may constitute assault, battery, or domestic battery and violation of a protective order. (K.S.A. 60-3107)

Sec. 3.8.1. Violation of a Protective Order.

- (a) Violation of a protective order is knowingly violating:
 - (1) A protection from abuse order issued pursuant to K.S.A. 60-3105, 60-3106 or 60-3107, and amendments thereto;
 - (2) A protective order issued by a court or tribunal of any state or Indian tribe that is consistent with the provisions of 18 U.S.C. Section 2265, and amendments thereto;
 - (3) A restraining order issued pursuant to K.S.A. 23-2707, 38-2243, 38-2244 or 38-2255, and amendments thereto, or K.S.A. 60-1607, prior to its transfer;
 - (4) An order issued in this or any other state as a condition of pretrial release, diversion, probation, suspended sentence, post release supervision or at any other time during the criminal case that orders the person to refrain from having any direct or indirect contact with another person;
 - (5) An order issued in this or any other state as a condition of release after conviction or as a condition of a supersedeas bond pending disposition of an appeal, that orders the person to refrain from having any direct or indirect contact with another person;
 - (6) A protection from stalking or sexual assault order issued pursuant to K.S.A. 60-31a05 or 60-31a06, and amendments thereto.
- (b) Order includes any order issued by a municipal or district court.
- (c) No protective order, as set forth in this section, shall be construed to prohibit an attorney, or any person acting on the attorney's behalf, who is representing the defendant in any civil or criminal proceeding, from contacting the protected party for a legitimate purpose within the scope of the civil or criminal proceeding. The attorney, or person acting on the attorney's behalf, shall be identified in any such contact. (K.S.A. 21-5924)
- (d) Violation of a protective order is a Class A violation. (K.S.A. 21-5924)

Sec. 3.9. Criminal False Communication.

- (a) Criminal false communication is:
 - (1) Communicating to any person, by any means, information that the person communicating such information knows to be false will tend to:
 - (A) Expose another living person to public hatred, contempt or ridicule;
 - (B) Deprive such person of the benefits of public confidence and social acceptance; or
 - (C) Degrade and vilify the memory of one who is dead and to scandalize or provoke surviving relatives and friends; or
 - (2) Recklessly making, circulating or causing to be circulated any false report, statement or rumor with intent to injure the financial standing or reputation of any bank, financial or business institution or the financial standing of any individual in this state.
- (b) In all prosecutions under this section the truth of the information communicated shall be admitted as evidence. It shall be a defense to a charge of criminal false communication if it is found that such matter was true.
- (c) Criminal false communication is a Class A violation.
(K.S.A. 21-6103)

Sec. 3.10. Hazing.

- (a) Hazing is recklessly coercing, demanding or encouraging another person to perform, as a condition of membership in a social or fraternal organization, any act which could reasonably be expected to result in great bodily harm, disfigurement or death or which is done in a manner whereby great bodily harm, disfigurement or death could be inflicted.
- (b) Hazing is a Class B nonperson violation.
(K.S.A. 21-5418)

Sec. 3.11. Unlawful Administration of a Substance.

- (a) Unlawful administration of a substance is the administration of a substance to another person without consent with the intent to impair such other person's physical or mental ability to appraise or control such person's conduct.
- (b) As used in this section, **administration of a substance** means any method of causing the ingestion by another person of a controlled substance, including gamma hydroxybutyric acid or any controlled substance analog, as defined in K.S.A. 65-4101, and amendments thereto, of gamma hydroxybutyric acid, including gamma butyrolactone; butyrolactone; butyrolactone gamma; 4-butyrolactone; 2(3H)-furanone dihydro; dihydro-2(3H)-furanone; tetrahydro-2-furanone; 1,2-butanolide; 1,4-butanolide; 4-butanolide; gamma-hydroxybutyric acid lactone; 3-hydroxybutyric acid lactone and 4-hydroxybutanoic acid lactone with CAS No. 96-48-0; 1,4 butanediol; butanediol; butane-1,4-diol; 1,4-butylene glycol; butylene glycol; 1,4-dihydroxybutane; 1,4-tetramethylene glycol, tetramethylene glycol; tetramethylene 1,4-diol.
- (c) This section shall not prohibit administration of any substance described in subsection (b) for lawful medical or therapeutic treatment. (K.S.A. 21-5425)
- (d) Unlawful administration of a substance is a Class A violation. (K.S.A. 21-5425)

Sec. 3.12. Breach of Privacy.

- (a) Breach of privacy is knowingly and without lawful authority:
 - (1) Intercepting, without the consent of the sender or receiver, a message by telephone, telegraph, letter or other means of private communication;
 - (2) Divulging, without the consent of the sender or receiver, the existence or contents of such message if such person knows that the message was illegally intercepted, or if such person illegally learned of the message in the course of employment with an agency in transmitting it;

- (3) Entering with intent to listen surreptitiously to private conversations in a private place or to observe the personal conduct of any other person or persons entitled to privacy therein;
 - (4) Installing or using outside or inside a private place any device for hearing, recording, amplifying or broadcasting sounds originating in such place, which sounds would not ordinarily be audible or comprehensible without the use of such device, without the consent of the person or persons entitled to privacy therein; or
 - (5) Installing or using any device or equipment for the interception of any telephone, telegraph or other wire or wireless communication without the consent of the person in possession or control of the facilities for such communication.
- (b) Subsection (a)(1) shall not apply to messages overheard through a regularly installed instrument on a telephone party line or on an extension.
- (c) The provisions of this section shall not apply to: (1) an operator of a switchboard, or any officer, employee or agent of any public utility providing telephone communications service, whose facilities are used in the transmission of a communication, to intercept, disclose or use that communication in the normal course of employment while engaged in any activity which is incident to the rendition of public utility service or to the protection of the rights of property of such public utility; (2) a provider of an interactive computer service, as defined in 47 U.S.C. § 230, for content provided by another person; (3) a radio common carrier, as defined in K.S.A. 66-1,143, and amendments thereto; and (4) a local exchange carrier or telecommunications carrier as defined in K.S. A. 66-1,187, and amendments thereto.
- (d) Breach of privacy, as defined in this section, is a Class A violation. (K.S.A 21-6101)

Sec. 3.13. Stalking.

- (a) Stalking is:
 - (1) Recklessly engaging in a course of conduct targeted at a specific person which would cause a reasonable person in the circumstances of the targeted person to fear for such person's safety, or the safety of a member of such person's immediate family and the targeted person is actually placed in such fear;
 - (2) Engaging in a course of conduct targeted at a specific person with knowledge that the course of conduct will place the targeted person in fear for such person's safety or the safety of a member of such person's immediate family.
- (b) For the purposes of this section, a person served with a protective order as defined by K.S.A. 21-3843, prior to its repeal or K.S.A. 21-5924, and amendments thereto, or a person who engaged in acts which would constitute stalking, after having been advised by a law enforcement officer, that such person's actions were in violation of this section, shall be presumed to have acted knowingly as to any like future act targeted at the specific person or persons named in the order or as advised by the officer.
- (c) In a criminal proceeding under this section, a person claiming an exemption, exception, or exclusion has the burden of going forward with evidence of the claim.
- (d) The present incarceration of a person alleged to be violating this section shall not be a bar to prosecution under this section.
- (e) As used in this section:
 - (1) **Course of Conduct** means two or more acts over a period of time, however short, which evidence a continuity of purpose. A course of conduct shall not include constitutionally protected activity nor conduct that was necessary to accomplish a legitimate purpose independent of making contact with the targeted person. A course of conduct shall include, but not be limited to, any of the following acts or a combination thereof:

- (A) Threatening the safety of the targeted person or a member of such person's immediate family;
 - (B) Following, approaching, or confronting the targeted person or a member of such person's immediate family;
 - (C) Appearing in close proximity to, or entering the targeted person's residence, place of employment, school, or other place where such person can be found, or the residence, place of employment, or school of a member of such person's immediate family;
 - (D) Causing damage to the targeted person's residence or property or that of a member of such person's immediate family;
 - (E) Placing an object on the targeted person's property or the property of a member of such person's immediate family, either directly or through a third person;
 - (F) Causing injury to the targeted person's pet or a pet belonging to a member of such person's immediate family;
 - (G) Any act of communication.
- (2) **Communication** means to impart a message by any method of transmission, including, but not limited to: Telephoning, personally delivering, sending or having delivered, any information or material by written or printed note or letter, package, mail, courier service or electronic transmission, including electronic transmissions generated or communicated via a computer.
- (3) **Computer** means a programmable, electronic device capable of accepting and processing data.
- (4) **Conviction** includes being convicted of a violation of this section or being convicted of a law of another state which prohibits the acts that this section prohibits.
- (5) **Immediate Family** means father, mother, stepparent, child, stepchild, sibling, spouse, or grandparent of the targeted person; any person residing in the household of the targeted person; or any person involved in an intimate relationship with the targeted person.

- (f) Upon a first conviction, stalking as described in subsection (a) is a Class A violation. Subsequent violations are considered felonies under state law and will be referred to the appropriate prosecuting authority. (K.S.A. 21-5427)

Article 4. Sex Offenses

Sec. 4.1. Lewd, Lascivious Behavior.

- (a) Lewd and lascivious behavior is:
 - (1) Publicly engaging in otherwise lawful sexual intercourse or sodomy with knowledge or reasonable anticipation that the participants are being viewed by others; or
 - (2) Publicly exposing a sex organ or exposing a sex organ in the presence of a person who is not the spouse of the offender and who has not consented thereto, with intent to arouse or gratify the sexual desires of the offender or another. (K.S.A. 21-5513)
- (b) Lewd and lascivious behavior if committed in the presence of a person 16 or more years of age is a Class B violation. (K.S.A. 21-5513)

Sec. 4.2. Reserved for Future Use.

Sec. 4.3. Selling Sexual Relations.

- (a) Selling Sexual Relations is performing for hire, or offering or agreeing to perform for hire where there is an exchange of value, any of the following acts:
 - (1) Sexual intercourse;
 - (2) Sodomy; or
 - (3) Manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another.
- (b) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subjected to human trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 21-6422, and amendments thereto. (K.S.A. 21-6419)

- (c) Selling Sexual Relations is a Class B violation. (K.S.A. 21-6421)

Sec. 4.4. Reserved for Future Use.

Sec. 4.5. Buying Sexual Relations.

- (a) Buying sexual relations is knowingly:
 - (1) Entering or remaining in a place where sexual relations are being sold or offered for sale with intent to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act with a person selling sexual relations who is 18 years of age or older; or
 - (2) Hiring a person selling sexual relations who is 18 years of age or older to engage in manual or other bodily contact stimulation of the genitals of any person with the intent to arouse or gratify the sexual desires of the offender or another, sexual intercourse, sodomy or any unlawful sexual act. (K.S.A. 21-6421)
- (b) Buying Sexual Relations is a Class A violation on conviction of a first offense. In addition to any other sentence imposed, a person convicted under this section shall be fined not less than \$1,200 nor more than \$2,500. One-half of each fine collected pursuant to this subsection shall be remitted to the human trafficking victim assistance fund and the remainder shall be remitted as otherwise provided by law. (K.S.A. 21-6421)

Sec. 4.5.1. Unlawful use of a Communication Facility.

- (a) It shall be unlawful for any person to knowingly or intentionally use any communication facility in committing, causing, or facilitating the commission of any violation under Section 4.5, or in any attempt to commit, any conspiracy to commit, or any criminal solicitation of any violation under Section 4.5.
- (b) Violation of this section is a class A violation.

- (c) As used in this section, communication facility means any and all public and private instrumentalities used or useful in the transmission of writing, signs, signals, pictures or sounds of all kinds and includes telephone, wire, radio, computer, computer networks, beepers, pagers and all other means of communication.
- (d) It shall be an affirmative defense to any prosecution under this section that the defendant committed the violation of this section because such defendant was subject to human trafficking or aggravated human trafficking, as defined by K.S.A. 21-5426, and amendments thereto, or commercial sexual exploitation of a child, as defined by K.S.A. 21-6422, and amendments thereto.
- (e) Each separate use of a communication facility may be charged as a separate offense under this section. (K.S.A. 21-6424)

Article 5. Offenses Affecting Children

Sec. 5.1. Contributing to a Child's Misconduct or Deprivation.

- (a) Contributing to a child's misconduct or deprivation is:
 - (1) Knowingly causing or encouraging a child under 18 years of age to become or remain a child in need of care as defined by the revised Kansas code for care of children;
 - (2) Knowingly causing or encouraging a child under 18 years of age to commit a traffic infraction or an act which, if committed by an adult, would be a misdemeanor or to violate the provisions of K.S.A. 41-727 or subsection (j) of K.S.A. 74-8810, and amendments thereto;
 - (3) Failure to reveal, upon inquiry by a uniformed or properly identified law enforcement officer engaged in the performance of such officer's duty, any information one has regarding a runaway, with intent to aid the runaway in avoiding detection or apprehension;
 - (4) Knowingly causing or encouraging a child to violate the terms or conditions of the child's probation or conditional release pursuant to subsection (a)(1) of K.S.A. 38-2361, and amendments thereto.

- (b) A person may be found guilty of contributing to a child's misconduct or deprivation even though no prosecution of the child whose misconduct or deprivation the defendant caused or encouraged has been commenced pursuant to the revised Kansas code for care of children, revised Kansas juvenile justice code or Kansas criminal code.
- (c) Contributing to a child's misconduct or deprivation is a Class A violation. (K.S.A. 21-5603)

Sec. 5.1.2. Unlawful Possession of a Visual Depiction of a Child.

- (a) Unlawful possession of a visual depiction of a child is knowingly possessing a visual depiction of a child 12 years of age or older but less than 16 years of age in a state of nudity, if committed by a person less than 19 years of age, and the possessor of such visual depiction received such visual depiction directly and exclusively from the child who is the subject of such visual depiction.
- (b) It shall be an affirmative defense to any prosecution under this section that the recipient of a visual depiction of a child in a state of nudity:
 - (1) Received such visual depiction without requesting, coercing or otherwise attempting to obtain such visual depiction;
 - (2) Did not transmit, exhibit or disseminate such visual depiction; and
 - (3) Made a good faith effort to erase, delete or otherwise destroy such visual depiction.
- (c) The provisions of this section shall not apply to possession of a visual depiction of a child in a state of nudity if the person possessing such visual depiction is the child who is the subject of such visual depiction.
- (d) The provisions of this section shall not apply to a visual depiction of a child engaged in sexually explicit conduct or a visual depiction that constitutes obscenity as defined in K.S.A. 21-6401(f)(1), and amendments thereto.
- (e) It shall not be unlawful for a person who is less than 19 years of age to possess a visual depiction of a child in a state of nudity who is 16 years of age or older.

- (f) Unlawful possession of a visual depiction of a child is a Class B person violation. (K.S.A. 21-5610)

Sec. 5.1.3. Unlawful Transmission of a Visual Depiction of a Child.

- (a) Unlawful transmission of a visual depiction of a child is knowingly transmitting a visual depiction of a child 12 or more years of age but less than 18 years of age in a state of nudity when the offender is less than 19 years of age.
- (b) It shall be a rebuttable presumption that an offender had the intent to harass, embarrass, intimidate, defame or otherwise inflict emotional, psychological or physical harm if the offender transmitted a visual depiction of a person other than such child in a state of nudity to more than one person.
- (c) The provisions of this section shall not apply to transmission of a visual depiction of a child in a state of nudity by the child who is the subject of such visual depiction.
- (d) The provisions of this section shall not apply to a visual depiction of a child engaged in sexually explicit conduct or a visual depiction that constitutes obscenity as defined in K.S.A. 21-6401(f)(1), and amendments thereto.
- (e) Upon a first conviction, unlawful transmission of a visual depiction of a child is a Class A person violation. (K.S.A. 21-5611)

Sec. 5.2. Furnishing Alcoholic Liquor or Cereal Malt Beverage to a Minor.

- (a) Furnishing alcoholic liquor or cereal malt beverage to a minor is recklessly, directly or indirectly, buying for or distributing any alcoholic liquor or cereal malt beverage to any minor.
- (b) This section shall not apply to wine intended for use and used by any church or religious organization for sacramental purposes.

- (c) It shall be a defense to a prosecution under this section if:
 - (1) The defendant is a licensed retailer, club, drinking establishment or caterer or holds a temporary permit, or an employee thereof;
 - (2) The defendant sold the alcoholic liquor or cereal malt beverage to the minor with reasonable cause to believe that the minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage; and
 - (3) To purchase the alcoholic liquor or cereal malt beverage, the person exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official document, that reasonably appears to contain a photograph of the minor and purporting to establish that such minor was 21 or more years of age or of legal age for the consumption of alcoholic liquor or cereal malt beverage.
- (d) This section shall not apply to the furnishing of cereal malt beverage by a parent or legal guardian to such parent's child or such guardian's ward when such furnishing is permitted and supervised by the child's or ward's parent or legal guardian.
- (e) As used in this section, **minor** means a person under 21 years of age.
- (f) Furnishing alcoholic liquor or cereal malt beverage to a minor is a Class B violation for which the minimum fine is \$200. (K.S.A. 21-5607)

Sec. 5.3. Unlawfully Hosting Minors Consuming Alcoholic Liquor or Cereal Malt Beverage.

- (a) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is recklessly permitting a person's residence or any land, building, structure or room owned, occupied, or procured by such person to be used by an invitee of such person or an invitee of such person's child or ward, in a manner that results in the unlawful possession or consumption therein of alcoholic liquor or cereal malt beverages by a minor.

- (b) As used in this section, **minor** means a person under 21 years of age.
- (c) The provisions of this section shall not be deemed to create any civil liability for any lodging establishment, as defined in K.S.A. 36-501, and amendments thereto.
- (d) Unlawfully hosting minors consuming alcoholic liquor or cereal malt beverage is a Class A violation, for which the minimum fine is \$1,000. If the court sentences the offender to perform community or public service work as a condition of probation, as described in subsection (b)(10) of K.S.A. 21-6607, and amendments thereto, the court shall consider ordering the offender to serve the community or public service at an alcohol treatment facility.
(K.S.A. 21-5608)

Sec. 5.4. Endangering a Child.

- (a) Endangering a child is knowingly and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health may be injured or endangered.
- (b) Nothing in this section shall be construed to mean a child is endangered for the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.
- (c) Endangering a child is a Class A violation.
(K.S.A. 21-5601)

Sec. 5.5. Watercraft; Lifesaving Devices Required.

- (a) (1) No operator of any vessel may operate such vessel while any person 12 years of age or under is aboard or being towed by such vessel unless such person is either:
 - (A) Wearing a United States Coast guard-approved personal flotation device as prescribed in rules and regulations of the secretary of wildlife, parks, and tourism; or

- (B) is below decks or in an enclosed cabin.
- (2) A life belt or ring shall not satisfy the requirement of this section.

(b) As used in this section, **operator** means the person who operates or has charge of the navigation or use of a motorboat or a vessel.

(c) Violation of this section shall constitute a Class C violation. (K.S.A. 32-1129)

Sec. 5.6. Purchase or Possession of Cigarettes or Tobacco Products by a Minor.

It shall be unlawful for any person:

(a) Who is under 18 years of age to purchase or attempt to purchase cigarettes, electronic cigarettes, or tobacco products; or

(b) Who is under 18 years of age to possess or attempt to possess cigarettes, electronic cigarettes, or tobacco products.

(c) Violation of this section shall be an ordinance cigarette or tobacco infraction for which the fine shall be \$25. In addition, the judge may require the juvenile to appear in court with a parent or legal guardian. (K.S.A. 79-3321;3322)

Sec. 5.7. Selling, Giving or Furnishing Cigarettes or Tobacco Products to a Minor.

(a) It shall be unlawful for any person to:

(1) Sell, furnish or distribute cigarettes, electronic cigarettes, or tobacco products to any person under 21 years of age; or

(2) Buy any cigarettes, electronic cigarettes, or tobacco products for any person under 21 years of age.

(b) It shall be a defense to a prosecution under this section if:

(1) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;

- (2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person under 21 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes or tobacco products; and
 - (3) To purchase or receive the cigarettes, electronic cigarettes, or tobacco products, the person under 21 years of age exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes, electronic cigarettes, or tobacco products.
 - (4) For purposes of this section the person who violates this section shall be the individual directly selling, furnishing or distributing the cigarettes, electronic cigarettes, or tobacco products to any person under 21 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.
- (c) It shall be a defense to a prosecution under this subsection if:
- (1) The defendant engages in the lawful sale, furnishing or distribution of cigarettes, electronic cigarettes, or tobacco products by mail; and
 - (2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601 and amendments thereto, that the person was 21 or more years of age.
- (d) As used in this section, **sale** means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration.
- (e) Violation of this section shall constitute a Class B violation punishable by a minimum fine of \$200. (K.S.A. 79-3302, 79-3321:79-3322)

Sec. 5.8. Purchase, Consumption or Possession of Alcoholic Liquor or Cereal Malt Beverage by a Minor; 18-21.

- (a) Except with regard to serving of alcoholic liquor or cereal malt beverage as permitted by K.S.A. 41-308a, 41-308b, 41-727a, 41-2610, 41-2652, 41-2704, and 41-2727, and amendments thereto, and subject to any rules and regulations adopted pursuant to such statutes, no person under 21 years of age shall possess, consume, obtain, purchase or attempt to obtain or purchase alcoholic liquor or cereal malt beverage except as authorized by law.
- (b) In addition to any other penalty provided for a violation of this section:
 - (1) The court may order the offender to do either or both of the following:
 - (A) Perform 40 hours of public service; or
 - (B) Attend and satisfactorily complete a suitable educational or training program dealing with the effects of alcohol or other chemical substances when ingested by humans.
 - (2) Upon a first conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 30 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 30 days whether or not that person has a driver's license.
 - (3) Upon a second conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for 90 days. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for 90 days whether or not that person has a driver's license.
 - (4) Upon a third or subsequent conviction of a violation of this section, the court shall order the division of vehicles to suspend the driving privilege of such offender for one year. Upon receipt of the court order, the division shall notify the violator and suspend the driving privileges of the violator for one year whether or not that person has a driver's license.

- (c) This section shall not apply to the possession and consumption of cereal malt beverage by a person under the legal age for consumption of cereal malt beverage when such possession and consumption is permitted and supervised, and such beverage is furnished, by the person's parent or legal guardian.

- (d) (1) A person and, if applicable, one or two other persons acting in concert with such person are immune from criminal prosecution for a violation of this section, if such person:
 - (A) (i) Initiated contact with law enforcement or emergency medical services and requested medical assistance on such person's behalf because such person reasonably believed such person was in need of medical assistance; and
(ii) Cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance;
 - (B) (i) Initiated contact with law enforcement or emergency medical services, or was one of one or two other persons who acted in concert with such person, and requested medical assistance for another person who reasonably appeared to be in need of medical assistance;
(ii) Provided their full name, the name of one or two other persons acting in concert with such person, if applicable, and any other relevant information requested by law enforcement or emergency medical services;
(iii) Remained at the scene with the person who reasonably appeared to be in need of medical assistance until emergency medical services personnel and law enforcement officers arrived; and
(iv) Cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance; or

- (C)
 - (i) Was the person who reasonably appeared to be in need of medical assistance as described in subsection (d)(1)(B), but did not initiate contact with law enforcement or emergency medical services; and
 - (ii) Cooperated with emergency medical services personnel and law enforcement officers in providing such medical assistance.
- (2) A person shall not be allowed to initiate or maintain an action against a law enforcement officer, or such officer's employer, based on the officer's compliance or failure to comply with this subsection.
- (e) Violation of this section by a person 18 or more years of age but less than 21 years of age is a Class C violation for which the minimum fine is \$200.
(K.S.A. 41-727)

Article 6. Offenses Against Property

Sec. 6.1. Theft.

- (a) Theft is any of the following acts done with the intent to permanently deprive the owner of the possession, use or benefit of the owner's property or services.
 - (1) Obtaining or exerting unauthorized control over property or services;
 - (2) Obtaining control over property or services by deception;
 - (3) Obtaining control over property or services by threat;
 - (4) Obtaining control over stolen property or services knowing the property or services to have been stolen by another; or
 - (5) Knowingly dispensing motor fuel into a storage container or the fuel tank of a motor vehicle at an establishment in which motor fuel is offered for retail sale and leaving the premises of the establishment without making payment for the motor fuel.
- (b) Theft of property or services of the value of less than \$1,500 is a Class A violation.

(c) As used in this section:

- (1) **Regulated scrap metal** means the same as in K.S.A. 50-6,109, and amendments thereto; and
- (2) **Value** means the value of the property or, if the property is regulated scrap metal, the cost to restore the site of the theft of such regulated scrap metal to its condition at the time immediately prior to the theft of such regulated scrap metal, whichever is greater.
(K.S.A. 21-5801)

{Editor's Note: Under state law, theft of property or services of the value of less than \$1,500 is a Class A violation, unless any one of the following is present:

- (1) Property of the value of less than \$1,500 from three separate mercantile establishments within a period of 72 hours as part of the same act or transaction or in two or more acts or transactions connected together or constituting parts of a common scheme or course of conduct is a severity level 9, nonperson felony;
- (2) Property of the value of at least \$50 but less than \$1,500 is a severity level 9, nonperson felony if committed by a person who has, within five years immediately preceding commission of the crime, excluding any period of imprisonment, been convicted of theft two or more times; and
- (3) Property which is a firearm of the value of less than \$25,000 is a severity level 9, nonperson felony. Violations under these facts are considered felony violations over which municipal court has no jurisdiction and should be referred to the appropriate prosecuting authority}.

Sec. 6.2. Intent; Permanently Deprive.

- (a) In any prosecution under this article, the following shall be prima facie evidence of intent to permanently deprive the owner or lessor of property of the possession, use or benefit thereof:
 - (1) The giving of a false identification or fictitious name, address or place of employment at the time of buying, selling, leasing, trading, gathering, collecting, soliciting, procuring, receiving, dealing or otherwise obtaining or exerting control over the property.
 - (2) The failure of a person who leases or rents personal property and fails to return the same within 10 days after the date set forth in the lease or rental agreement for the return of the property,

if notice is given to the person renting or leasing the property to return the property within seven days after receipt of the notice, in which case the subsequent return of the property within the seven-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section;

- (3) Destroying, breaking or opening a lock, chain, key switch, enclosure or other device used to secure the property in order to obtain control over the property;
- (4) Destruction of or substantially damaging or altering the property so as to make the property unusable or unrecognizable in order to obtain control over the property;
- (5) The failure of a person who leases or rents from a commercial renter a motor vehicle under a written agreement that provides for the return of the motor vehicle to a particular place at a particular time, if notice has been given to the person renting or leasing the motor vehicle to return such vehicle within three calendar days from the date of the receipt or refusal of the demand. In addition, if such vehicle has not been returned after demand, the lessor may notify the local law enforcement agency of the failure of the lessee to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into any appropriate state and local computer system listing stolen motor vehicles;
- (6) The failure of a person who is provided with a use of a vehicle by the owner of the vehicle to return it to the owner pursuant to a written instruction specifying:
 - (A) The time and place to return the vehicle; and
 - (B) That failure to comply may be prosecuted as theft, and such instructions are delivered to the person by the owner at the time the person is provided with possession of the vehicle. In addition, if such vehicle has not been returned pursuant to the specifications in such instructions, the owner may notify the local law enforcement agency of the failure of the person to return such motor vehicle and the local law enforcement agency shall cause such motor vehicle to be put into appropriate state and local computer system listing stolen motor vehicles;

- (7) Removing a theft detection device, without authority, from merchandise or disabling such device prior to purchase; or
 - (8) Under the provisions of subsection (a)(5) of section 6.1 the failure to replace or reattach the nozzle and hose of the pump used for the dispensing of motor fuels or placing such nozzle and hose on the ground or pavement.
- (b) In any prosecution in which the object of the alleged theft is a book or other material borrowed from a library, it shall be prima facie evidence of intent to permanently deprive the owner of the possession, use or benefit thereof if the defendant failed to return such book or material within 30 days after receiving notice from the library requesting its return, in which case the subsequent return of the book or material within the 30-day period shall exempt such transaction from consideration as prima facie evidence as provided in this section.
- (c) In prosecution for theft as defined in Section 6.1, and such theft is of services, the existence of any of the connections of meters, alterations or use of unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service, caused by tampering, shall be prima facie evidence of intent to commit theft of services by the person or persons using or receiving the direct benefits from the use of the electricity, natural gas, water, telephone service or cable television service passing through such connections or meters, or using the electricity, natural gas, water, telephone service or cable television service which has not been authorized or measured.
- (d) In prosecution for theft as defined in Section 6.1, and such theft is of regulated scrap metal as defined in K.S.A. 50-6,109, and amendments thereto, either in whole or in part, the failure to give information or the giving of false information to a scrap metal dealer pursuant to the requirements of the scrap metal theft reduction act, the transportation of regulated scrap metal outside the county from where it was obtained, the transportation of regulated scrap metal across state lines or the alteration of any regulated scrap metal prior to any transaction with a scrap metal dealer shall be prima facie evidence of intent to permanently deprive the owner of the regulated scrap metal of the possession, use or benefit thereof.

- (e) In a prosecution for theft as defined in Section 6.1, and such theft is of a motor vehicle as defined in Section 1.1, fleeing or attempting to elude a police officer as defined in K.S.A. 8-1568(a)(1)(B) or (b), and amendments thereto, shall be prima facie evidence of intent to permanently deprive the owner of the motor vehicle of the possession, use or benefit thereof.
- (f) As used in this section:
- (1) **Notice** means notice in writing and such notice in writing will be presumed to have been given three days following deposit of the notice as registered or certified matter in the United States mail, addressed to such person who has leased or rented the personal property or borrowed the library material at the address as it appears in the information supplied by such person at the time of such leasing, renting or borrowing, or to such person's last known address; and
 - (2) **Tampering** includes, but is not limited to:
 - (A) Making a connection of any wire, conduit or device, to any service or transmission line owned by a public or municipal utility, or by a cable television service provider;
 - (B) Defacing, puncturing, removing, reversing or altering any meter or any connections, for the purpose of securing unauthorized or unmeasured electricity, natural gas, water, telephone service or cable television service;
 - (C) Preventing any such meters from properly measuring or registering;
 - (D) Knowingly taking, receiving, using or converting to such person's own use, or the use of another, (i) any electricity, water or natural gas that has not been measured; or (ii) any telephone or cable television service which has not been authorized; or
 - (E) Causing, procuring, permitting, aiding or abetting any person to do any of the acts described in subparagraphs (A) through (D). (K.S.A. 21-5804)

Sec. 6.3. Theft of Property Lost, Mislaid or Delivered by Mistake.

- (a) Theft of property lost, mislaid or delivered by mistake is obtaining control of property of another by a person who:
 - (1) Knows or learns the identity of the owner thereof;
 - (2) Fails to take reasonable measures to restore to the owner lost property, mislaid property or property delivered by a mistake; and
 - (3) Intends to permanently deprive the owner of the possession, use or benefit of the property.

- (b) As used in this section, **property delivered by mistake** includes, but is not limited to, a mistake as to the:
 - (1) Nature or amount of the property; or
 - (2) Identity of the recipient of the property.

- (c) Theft of property lost, mislaid or delivered by mistake of the value of less than \$1,000 is a Class A violation. (K.S.A. 21-5802)

Sec. 6.4. Reserved for Future Use.

Sec. 6.5. Criminal Deprivation of Property.

- (a) Criminal deprivation of property is obtaining or exerting unauthorized control over property, with intent to deprive the owner of temporary use thereof, without the owner's consent but not with the intent of depriving the owner permanently of the possession, use or benefit of such owner's property.

- (b) Penalties.
 - (1) Criminal deprivation of property that is a motor vehicle upon a first or second conviction is a Class A violation. Upon a first conviction of this paragraph, a person shall be sentenced to not less than 30 days nor more than one year's imprisonment and fined not less than \$100. Upon a second conviction of this paragraph, a person shall be sentenced to not less than 60 days nor more than one year's imprisonment and

fined not less than \$200. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served the minimum mandatory sentence as provided herein. The mandatory provisions of this subsection shall not apply to any person where such application would result in a manifest injustice.

- (2) Criminal deprivation of property other than a motor vehicle or a firearm is a Class A violation. Upon a second or subsequent conviction of this subsection, a person shall be sentenced to not less than 30 days imprisonment and fined not less than \$100, except that the provisions of this subsection relating to a second or subsequent conviction shall not apply to any person where such application would result in a manifest injustice. (K.S.A. 21-5803)

Sec. 6.6. Criminal Damage to Property.

- (a) Criminal damage to property is by means other than by fire or explosive:
 - (1) Knowingly damaging, destroying, defacing or substantially impairing the use of any property in which another has an interest without the consent of such other person; or
 - (2) Damaging, destroying, defacing or substantially impairing the use of any property with intent to injure or defraud an insurer or lienholder.
- (b) Criminal damage to property is a Class B violation if the property damaged is of the value of less than \$1,000 or is of the value of \$1,000 or more and is damaged to the extent of less than \$1,000.
- (c) In determining the amount of damage to property, damages may include the cost of repair or replacement of the property that was damaged, the reasonable cost of the loss of production, crops and livestock, reasonable labor costs of any kind, reasonable material costs of any kind and any reasonable costs that are attributed to equipment that is used to abate or repair the damage to the property. (K.S.A. 21-5813)

Sec. 6.7. Criminal Trespass.

- (a) Criminal trespass is entering or remaining upon or in any:
 - (1) Land, non-navigable body of water, structure, vehicle, aircraft or watercraft by a person who knows such person is not authorized or privileged to do so, and:
 - (A) Such person enters or remains therein in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person;
 - (B) Such premises or property are posted as provided in K.S.A. 32-1013, and amendments thereto, or in any other manner reasonably likely to come to the attention of intruders, or are locked or fenced or otherwise enclosed, or shut or secured against passage or entry; or
 - (C) Such person enters or remains therein in defiance of a restraining order issued by a court of competent jurisdiction and the restraining order has been personally served upon the person so restrained.
 - (2) Public or private land or structure in a manner that interferes with access to or from any health care facility by a person who knows such person is not authorized or privileged to do so and such person enters or remains thereon or therein in defiance of an order not to enter or to leave such land or structure personally communicated to such person by the owner of the health care facility or other authorized person.
- (b) (1) This section shall not apply to a land surveyor, licensed pursuant to article 70 of chapter 74 of the Kansas Statutes Annotated, and amendments thereto, and such surveyor's authorized agents and employees who enter upon lands, waters, and other premises in the making of a survey; or
- (2) Railroad Property as defined in K.S.A. 21-5809, and amendments thereto, or nuclear generating facility as defined in K.S.A. 66-2302 and amendments thereto.

- (c) Criminal trespass is a Class B violation. Upon a conviction of a violation of subsection (a)(1)(C), a person shall be sentenced to not less than 48 consecutive hours of imprisonment which shall be served either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. (K.S.A. 21-5808)

Sec. 6.7.1. Trespassing on Railroad Property.

- (a) Trespassing on railroad property is:
 - (1) Entering or remaining on railroad property, without consent of the owner or the owner's agent, knowing that it is railroad property; or
 - (2) Recklessly causing in any manner the derailment of a train, railroad car or rail-mounted work equipment.
- (b) Subsection (a) shall not be construed to interfere with the lawful use of a public or private crossing.
- (c) Nothing in this section shall be construed as limiting a representative or member of a labor organization which represents or is seeking to represent the employees of the railroad, from conducting such business as provided under the railway labor act (45 U.S.C. § 151 et seq.) and other federal labor laws.
- (d) Trespassing on railroad property is a Class A nonperson violation. (K.S.A. 21-5809)

Sec. 6.7.2. Trespassing on a Critical Infrastructure Facility.

- (a) Trespassing on a critical infrastructure facility is, without consent of the owner or the owner's agent, knowingly entering or remaining in:
 - (1) A critical infrastructure facility; or
 - (2) any property containing a critical infrastructure facility, if such property is completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders or is clearly marked with a sign or signs that are posted on the property that are reasonably likely to come to the attention of intruders and indicate that entry is forbidden without site authorization.

- (b) Trespassing on a critical infrastructure facility is a class A nonperson violation.
- (c) Nothing in this section shall be construed to prevent:
 - (1) An owner or operator of a critical infrastructure facility that has been damaged from pursuing any other remedy in law or equity; or
 - (2) a person who violates the provisions of this section from being prosecuted for, convicted of and punished for any other offense in article 58 of chapter 21 of the Kansas Statutes Annotated, and amendments thereto, or K.S.A. 66-2303, and amendments thereto
- (d) As used in this section “critical infrastructure facility” means any:
 - (1) Petroleum or alumina refinery;
 - (2) electric generation facility, substation, switching station, electrical control center, electric distribution or transmission lines, or associated equipment infrastructure;
 - (3) chemical, polymer or rubber manufacturing facility;
 - (4) water supply diversion, production, treatment, storage or distribution facility and appurtenances, including, but not limited to, underground pipelines and a wastewater treatment plant or pump station;
 - (5) natural gas compressor station;
 - (6) liquid natural gas or propane terminal or storage facility;
 - (7) facility that is used for wireline, broadband or wireless telecommunications or video services infrastructure, including backup power supplies and cable television headend;
 - (8) port, railroad switching yard, railroad tracks, trucking terminal or other freight transportation facility;
 - (9) gas processing plant, including a plant used in the processing, treatment or fractionation of natural gas, propane or natural gas liquids;
 - (10) transmission facility used by a federally licensed radio or television station;
 - (11) steelmaking facility that uses an electric arc furnace to make steel;

- (12) facility identified and regulated by the United States department of homeland security chemical facility anti-terrorism standards program, a facility operated by the office of laboratory services under the supervision of the secretary of health and environment pursuant to K.S.A. 75-5608, and amendments thereto, the national bio and agro-defense facility or the biosecurity research institute at Kansas state university;
- (13) dam that is regulated by the state as a hazard class B or C dam or by the federal government;
- (14) natural gas distribution utility facility or natural gas transmission facility, including, but not limited to, pipeline interconnections, a city gate or town border station, metering station, belowground or aboveground piping, a regular station or a natural gas storage facility;
- (15) crude oil, including y-grade or natural gas liquids, or refined products storage and distribution facility, including, but not limited to, valve sites, pipeline interconnections, pump station, metering station, belowground or aboveground pipeline or piping and truck loading or offloading facility; or
- (16) portion of any belowground or aboveground oil, gas, hazardous liquid or chemical pipeline, tank, railroad facility or any other storage facility that is enclosed by a fence or other physical barrier or is clearly marked with signs prohibiting trespassing, that are obviously designed to exclude intruders.

Sec. 6.8. Criminal Littering.

- (a) Criminal littering is recklessly depositing or causing to be deposited any object or substance into, upon or about:
 - (1) Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water, except by direction of some public officer or employee authorized by law to direct or permit such acts; or
 - (2) Any private property without the consent of the owner or occupant of such property.

- (b) Criminal littering is an unclassified offense punishable:
 - (1) Upon a first conviction by a fine of not less than \$250 nor more than \$1,000;
 - (2) Upon a second conviction by a fine of not less than \$1,000 nor more than \$2,000; and
 - (3) Upon a third or subsequent conviction by a fine of not less than \$2,000 nor more than \$4,000.
- (c) The provisions of Standard Traffic Ordinance Section 112.1, Littering from a motor vehicle, are excepted from the application of this section.
- (d) In addition to the fines in subsection (b), a person convicted of littering shall be required to pick up litter for a time prescribed by and at a place within the jurisdiction of the court. (K.S.A. 21-5815)

Sec. 6.9. Tampering with a Landmark.

- (a) Tampering with a landmark is doing any of the following acts with intent to fraudulently alter a boundary:
 - (1) Removing any monument of stone or other durable material, established or created for the purpose of designating the corner of or any other point upon the boundary of any lot or tract of land, or of the state, or any legal subdivision thereof;
 - (2) Defacing or altering marks upon any tree, post or other monument, made for the purpose of designating any point on such boundary;
 - (3) Cutting down or removing any tree, post or other monument upon which any such marks have been made for such purpose, with intent to destroy such marks;
 - (4) Defacing or altering any inscription on any such marker or monument; or
 - (5) Altering, removing, damaging or destroying any public land survey corner or accessory without complying with the provisions of K.S.A. 58-2011.
- (b) Tampering with a landmark is a Class C violation. (K.S.A. 21-5816)

Sec. 6.10. Tampering with a Traffic Signal.

- (a) Tampering with a traffic signal is knowingly manipulating, altering, destroying or removing any light, sign, marker, railroad switching device, or other signal device erected or installed for the purpose of controlling or directing the movement of motor vehicles, railroad trains, aircraft or watercraft.
- (b) A person who violates the provisions of the section may also be prosecuted for, convicted of, and punished for violating sections 6.1 (Theft) and 6.3 (Theft of Property Lost, Mislaid, or Delivered by Mistake).
- (c) Tampering with a traffic signal is a Class C violation. (K.S.A. 21-5817)

Sec. 6.11. Unlawful Manufacture or Disposal of False Tokens.

- (a) Unlawful manufacture or disposal of false tokens is manufacturing for sale, offering for sale or giving away any false token, slug, substance, false or spurious coin or other device intended or calculated to be placed or deposited in any automatic vending machine, coin-operated telephone, parking meter or other such receptacle with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of such automatic vending machine, coin-operated telephone, parking meter or other receptacle designed to receive coins or currency of the United States of America in connection with the sale, use or enjoyment of property or services.
- (b) The manufacture for sale, advertising, offering for sale or distribution of any such false token, slug, substance, false or spurious coin or other device shall be prima facie evidence of an intent to cheat or defraud within the meaning of this section.
- (c) Unlawful manufacture or disposal of false tokens is a Class B violation. (K.S.A. 21-5829)

Sec. 6.12. Serial Numbers.

- (a) It shall be unlawful for any person to willfully change, cover, alter, remove, obliterate or deface any serial number or other manufacturer's number or any identification letters, words, or numbers of any machine, apparatus, or article that carries a manufacturer's serial number or any other identification letters, words or numbers, with the intent to conceal the identify of such machine, apparatus, or article from the rightful owner thereof or from law enforcement personnel.
- (b) It shall be unlawful for any person to knowingly buy, sell, receive, barter, trade, dispose of or have in his or her possession any articles, devices, apparatuses, or machines from which the manufacturer's number or identification letters, words or numbers have been changed, covered, altered, removed, obliterated, defaced or destroyed with the intent to conceal the identity thereof from the rightful owner or from law enforcement personnel.
- (c) Possession of any of the a forenamed manufacturer's articles, devices, apparatuses or machines from which the manufacturer's serial number of other manufacturer's number or identification mark, or the name of the manufacturer or make or model, or any other identification letters, words or numbers have been changed, covered, altered, removed, obliterated, defaced, or destroyed shall be prima facie evidence that the possessor has changed, covered, altered, removed, obliterated, defaced, or destroyed the same with the intent to cancel, destroy or misrepresent the identity or type, or ownership of such machine, apparatus, or article.
- (d) Violation of this section is a Class C violation.

Sec. 6.13. Withholding Possession of Public Property.

- (a) It shall be unlawful for any person to unlawfully take possession of any property, real or personal belonging to the city, or to the possession of which the city shall be entitled or to commit any trespass thereon or to unlawfully withhold any property from the city. The unlawful withholding of the possession of any property belonging to the city after demand therefor

has been made under the direction of the governing body of the city shall be deemed a new and separate offense for each day the possession is withheld after such demand.

- (b) Withholding possession of public property is a Class C violation.

Sec. 6.14. Unlawful Deposits in Sewers.

- (a) No person shall discharge or cause to be discharged any of the following described waters or wastes to any public sewer:
 - (1) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit;
 - (2) Any water or waste which may contain more than 100 parts per million, by weight, of fat, oil or grease;
 - (3) Any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquid, solid or gas;
 - (4) Any garbage that has not been properly shredded;
 - (5) Any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch manure, or any other solid or viscous substance capable of causing obstruction of the flow in sewers or other interference with the proper operation of the sewage works;
 - (6) Any waters or wastes having a pH lower than 5.5 or higher than nine or having any other corrosive property capable of causing damage or hazard to structures, equipment and personnel of the sewage works;
 - (7) Any waters or wastes containing a toxic or poisonous substance in sufficient quantity to injure or interfere with any sewage treatment process, constitute a hazard to humans or animals, or create any hazard in the receiving waters of the sewage treatment plant;
 - (8) Any waters or wastes containing suspended solids of such character and quantity that unusual attention or expense is required to handle such materials at the sewage treatment plant;
 - (9) Any noxious or malodorous gas or substance capable of creating a public nuisance.
- (b) Unlawful deposits in sewers is a Class C violation.

Sec. 6.15. Damaging Sewers.

- (a) It shall be unlawful for any person willfully to injure or destroy, or attempt to injure or destroy any public sewer, or to molest any sewer or any part thereof by removing the cover of any flush tank, manhole or any part of the public sewer system of the city without authority.
- (b) Violation of this section is a Class C violation.

Sec. 6.16. Giving a Worthless Check.

- (a) Giving a worthless check is the making, drawing, issuing or delivering or causing or directing the making, drawing, issuing or delivering of any check on any financial institution for the payment of money or its equivalent with intent to defraud and knowing, at the time of the making, drawing, issuing or delivering of such check that the maker or drawer has no deposit in or credits with the financial institution or has not sufficient funds in, or credits with, the financial institution for the payment of such check in full upon its presentation.
- (b) As used in this section:
 - (1) **Check** is any check, order or draft on a financial institution;
 - (2) **Financial institution** means any bank, credit union, savings and loan association or depository; and
 - (3) **Notice** includes oral or written notice to the person entitled thereto.
- (c) In any prosecution against the maker or drawer of a check, payment of which has been refused by the financial institution on account of insufficient funds, the making, drawing, issuing or delivering of such check shall be prima facie evidence of intent to defraud and of knowledge of insufficient funds in, or on deposit with, the financial institution:
 - (1) Unless the maker or drawer pays the holder thereof the amount due thereon and a service charge not exceeding \$30 for each check, within seven days after notice has been given to the maker or drawer that such check has not been

paid by the financial institution. Written notice shall be presumed to have been given when deposited as restricted matter in the United States mail, addressed to the person to be given notice at such person's address as it appears on such check; or

- (2) If a postdated date is placed on the check without the knowledge or consent of the payee.
- (d) It shall not be a defense to a prosecution under this section that the check upon which such prosecution is based was:
- (1) Postdated, unless such check was presented for payment prior to the postdated date; or
 - (2) Given to a payee who had knowledge or had been informed, when the payee accepted such check that the maker did not have sufficient funds in the hands of the financial institution to pay such check upon presentation, unless such check was presented for payment prior to the date the maker informed the payee there would be sufficient funds.
- (e) In addition to all other costs and fees allowed by law, each prosecutor who takes any action under the provisions of this section may collect from the issuer in such action an administrative handling cost, except in cases filed in a court of appropriate jurisdiction. The cost shall not exceed \$10 for each check.
- (f) Giving a worthless check is a Class A violation if the check, draft or order is drawn for less than \$1,000 except when the person has, within five years immediately preceding commission of the offense, been convicted of giving a worthless check two or more times, in which case it is a felony under state statute and will be referred to the appropriate prosecuting authority. (K.S.A. 21-5821)

Sec. 6.17. Criminal Use of a Financial Card.

- (a) Criminal use of a financial card is any of the following acts done with intent to defraud and to obtain money, goods, property or services:
- (1) Using a financial card without the consent of the cardholder;

- (2) Using a financial card, or the number or description thereof, which has been revoked or canceled; or
 - (3) Using a falsified, mutilated, altered or nonexistent financial card or a number or description thereof.
- (b) For the purposes of subsection (a)(2), a financial card shall be deemed canceled or revoked when notice in writing thereof has been received by the named holder thereof as shown on such financial card or by the records of the company.
- (c) Criminal use of a financial card is a Class A violation if the money, goods, property or services obtained within a seven-day period is of the value of less than \$1,000. (K.S.A. 21-5828)

Sec. 6.18. Motor Vehicle Dealers; Selling Motor Vehicles Without a License.

- (a) It shall be unlawful for any person to do business as a motor vehicle dealer, salvage vehicle dealer, motor vehicle manufacturer, motor vehicle converter, auction motor vehicle dealer, vehicle crusher, vehicle recycler, rebuilder, scrap metal recycler, salvage vehicle pool or salesperson without a license issued by the director of vehicles. The isolated or occasional sale of a vehicle by a person who owned such vehicle shall not constitute the doing of business as a vehicle dealer.
- (b) As used in this section:
- (1) **Vehicle** means every device in, upon or by which any person or property is or may be transported or drawn upon a public highway, and is required to be registered under the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto, but shall not include motorized bicycles, and such term shall not include manufactured homes or mobile homes. As used herein, the terms “manufactured home” and “mobile home” shall have the meanings ascribed to them by K.S.A. 58-4202, and amendments thereto. (K.S.A. 8-2401(h))

- (2) **Motor vehicle** means any vehicle other than a motorized bicycle, which is self-propelled and is required to be registered under the provisions of article 1 of chapter 8 of the Kansas Statutes Annotated, except that such term shall include micro utility trucks, as defined in K.S.A. 8-126, and amendments thereto. (K.S.A. 8-2401(i))
- (c) Violation of this section shall be punishable by a fine not to exceed \$2,500. (K.S.A. 8-2434)

Sec. 6.19. Equity Skimming.

- (a) Equity skimming is, with the intent to defraud, intentionally engaging in a pattern or practice of:
 - (1) Purchasing one family to four family dwellings, including condominiums and cooperatives or acquiring any right, title or interest therein, including, but not limited to, an equity of redemption interest, which are subject to a loan in default at time of purchase or in default within one year subsequent to the purchase and the loan is secured by a mortgage;
 - (2) Failing to deliver to the holder of the mortgage before a sheriff's sale or holder of the certificate of purchase during the period of redemption all rent proceeds received from rental of the property, not to exceed the monthly payment of principal and interest required by the note and mortgage; and
 - (3) Applying or authorizing the application of rents from such dwellings for such person's own use.
- (b) Violation of this section is a Class A violation. Each purchase of a dwelling pursuant to this section shall be deemed a separate offense.
(K.S.A. 21-6504)

Sec. 6.20. Unlawful Acts Concerning Computers.

- (a) It is unlawful for any person to:
 - (1) Knowingly and without authorization, disclose a number, code, password or other means of access to a computer, computer network, social networking website or personal electronic content; or

- (2) Knowingly and without authorization, access or attempt to access any computer, computer system, social networking website, computer network or computer software, program, documentation, data or property contained in any computer, computer system or computer network.
- (b) As used in this section:
- (1) **Access** means to instruct, communicate with, store data in, retrieve data from, or otherwise make use of any resources of a computer, computer system or computer network.
 - (2) **Computer** means an electronic device which performs work using programmed instruction and which has one or more of the capabilities of storage, logic, arithmetic or communication and includes all input, output, processing, storage, software or communication facilities which are connected or related to such a device in a system or network.
 - (3) **Computer Network** means the interconnection of communication lines, including microwave or other means of electronic communication, with a computer through remote terminals, or a complex consisting of two or more interconnected computers.
 - (4) **Computer Program** means a series of instructions or statements in a form acceptable to a computer which permits the functioning of a computer system in a manner designed to provide appropriate products from such computer system.
 - (5) **Computer Software** means computer programs, procedures and associated documentation concerned with the operation of a computer system.
 - (6) **Computer System** means a set of related computer equipment or devices and computer software which may be connected or unconnected.
 - (7) **Financial Instrument** means any check, draft, money order, certificate of deposit, letter of credit, bill of exchange, credit card, debit card or marketable security.

- (8) **Personal Electronic Content** means the electronically stored content of an individual including, but not limited to, pictures, videos, emails, and other data files.
 - (9) **Property** includes, but is not limited to, financial instruments, information, electronically produced or stored data, supporting documentation and computer software in either machine or human readable form.
 - (10) **Services** includes, but is not limited to, computer time, data processing and storage functions and other uses of a computer, computer system or computer network to perform useful work.
 - (11) **Social Networking Website** means a privacy-protected internet website which allows individuals to construct a public or semi-public profile within a bounded system created by the service, create a list of other users with whom the individual shares a connection within the system and view and navigate the list of users with whom the individual shares a connection and those lists of users made by others within the system.
 - (12) **Supporting Documentation** includes, but is not limited to, all documentation used in the construction, classification, implementation, use or modification of computer software, computer programs or data.
- (c) Unlawful acts concerning computers is a Class A violation. (K.S.A. 21-5839)

Sec. 6.21. Taking Wildlife Without Permission on Land Posted “By Written Permission Only.”

- (a) Any landowner or person in lawful possession of any land may post such land with signs stating that hunting, trapping, or fishing on such land shall be by written permission only. It is unlawful for any person to take wildlife on land which is posted as provided in this subsection, without having in the person’s possession the written permission of the owner or person in lawful possession thereof.
- (b) Instead of posting land as provided in subsection (a), any landowner or person in lawful possession of any land may post such land by placing identifying purple paint marks on trees or posts around the area to be

- posted. Each paint mark shall be a vertical line of at least eight inches in length and the bottom of the mark shall be not less than three feet nor more than five feet high. Such paint marks shall be readily visible to any person approaching the land. Land posted as provided in this subsection shall be considered to be posted by written permission only as provided in subsection (a).
- (c) A person licensed to hunt or fur harvest who is following or pursuing a wounded animal on land as provided in this section posted without written permission of the landowner or person in lawful possession thereof shall not be in violation of this section while in such pursuit, except that the provisions of this subsection shall not authorize a person to remain on such land if instructed to leave by the owner or person in lawful possession of the land. Any person who fails to leave such land when instructed is subject to the provisions of subsection (b) of Section 6.22.
 - (d) Violation of this section is a Class C violation. A second conviction of this section is a Class C violation in which the minimum fine is \$250. A third conviction of this section is a Class C violation in which the minimum fine is \$300. A fourth or subsequent conviction of this section is a Class C violation in which a minimum fine of \$400 shall be imposed and a minimum of 7 days' imprisonment shall be served. Any conviction of this section that occurred before July 1, 2005, shall not be considered for purposes of this section. (K.S.A. 32-1013)

{Editor's note: The editor has chosen to not include penalties for violating the Kansas wildlife parks and tourism laws of this state or rules and regulations regarding big game and wild turkey.}

Sec. 6.22. Criminal Hunting.

- (a) Criminal hunting is knowingly hunting, shooting, fur harvesting, pursuing any bird or animal, or fishing:
 - (1) Upon any land or non-navigable body of water of another, without having first obtained permission of the owner or person in possession of such premises;

- (2) Upon or from any public road, public road right-of-way or railroad right-of-way that adjoins occupied or improved premises, without having first obtained permission of the owner or person in possession of such premises; or
 - (3) Upon any land or non-navigable body of water of another person who knows such person is not authorized or privileged to do so, and:
 - (A) Such person remains therein and continues to hunt, shoot, fur harvest, pursue any bird or animal or fish in defiance of an order not to enter or to leave such premises or property personally communicated to such person by the owner thereof or other authorized person; or
 - (B) Such premises or property are posted in a manner consistent with K.S.A. 32-1013 and amendments thereto.
- (b) Criminal hunting as defined in:
- (1) Subsection (a)(1) or (a)(2), is a Class C violation. Upon the first conviction thereof and in addition to any authorized sentence imposed by the court, such court may require the forfeiture of the convicted person's hunting, fishing, or fur harvesting license, or all, or, in any case where such person has a combination license, the court may require forfeiture of a part or all of such license and the court may order such person to refrain from hunting, fishing, or fur harvesting, or all, for up to one year from the date of such conviction. Upon any second or subsequent conviction of subsection (a)(1) or (a)(2), in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing, or fur harvesting license, or all, or in any case where such person has a combination license, the court shall require the forfeiture of a part or all of such license and the court shall order such person to refrain from hunting, fishing, or fur harvesting, or all, for one year from the date of such conviction. A person licensed to hunt and following or pursuing a wounded game bird or animal upon any land

of another without permission of the landowner or person in lawful possession thereof shall not be deemed to be in violation of this provision while in such pursuit, except that this provision shall not authorize a person to remain on such land if instructed to leave by the owner thereof or other authorized person. For the purpose of determining whether a conviction is a first, second or subsequent conviction of subsection (a)(1) or (a)(2), **conviction** or **convicted** includes being convicted of a violation of subsection (a) of K.S.A. 21-3728, prior to its repeal, or subsection (a)(1) or (a)(2); and

- (2) Subsection (a)(3) is a Class B violation. Upon the first conviction or a diversion agreement of subsection (a)(3), in addition to any authorized sentence imposed by the court, the court shall require forfeiture of such person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for six months. Upon the second conviction of subsection (a)(3), in addition to any authorized sentence imposed by the court, such court shall require the forfeiture of the convicted person's hunting, fishing, or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for one year. Upon the third or subsequent conviction of subsection (a)(3), in addition to any authorized sentence imposed by the court, such court shall require forfeiture of convicted person's hunting, fishing or fur harvesting license, or all, or in the case where such person has a combination license, the court shall require forfeiture of a part or all of such license for five years. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction of subsection (a)(3), conviction or convicted includes being convicted of a violation of subsection (b) of K.S.A. 21-3728, prior to its repeal, or subsection (a)(3).
- (c) The court shall notify the department of wildlife and parks of any conviction or diversion for criminal hunting. (K.S.A. 21-5810)

Sec. 6.23. Unlawful Use of a Recording Device.

- (a) Unlawful use of a recording device is knowingly operating, in a motion picture theater, while a motion picture is being exhibited, an audiovisual recording function of a device without the consent of the owner or lessee of such theater.
- (b) This section shall not apply to a person operating an audiovisual recording device as part of such person's lawfully authorized investigative, law enforcement, protective or intelligence gathering duties as a lawfully authorized investigative, law enforcement, protective, or intelligence gathering employee or agent of the state or federal government.
- (c) The owner or lessee of a motion picture theater where a motion picture is being exhibited, or the authorized agent or employee thereof, who alerts law enforcement authorities of an alleged violation of subsection (a), and amendments thereto, shall not be liable in any civil action arising out of measures taken by such owner, lessee, agent, or employee in the course of subsequently detaining a person that the owner, lessee, agent, or employee in good faith believed to have violated subsection (a), and amendments thereto, while awaiting the arrival of law enforcement authorities, unless the plaintiff can show by clear and convincing evidence that such measures were manifestly unreasonable or the period of detention was unreasonably long.
- (d) Unlawful use of a recording device is a Class A violation on conviction of the first offense.
(K.S.A. 51-301:302)

Sec. 6.23.1. Unlawful Use of Recordings.

- (a) Unlawful use of recordings is:
 - (1) Knowingly, and without the consent of the owner, duplicating or causing to be duplicated any sounds recorded on a phonograph record, disc, wire, tape, film or other article on which sounds are recorded, or recording or causing to be recorded any live performance, with the intent to sell, rent or cause to be sold or rented, any

such duplicated sounds or any such recorded performance, or to give away such duplicated sounds or recorded performance as part of a promotion for any product or service;

- (2) Distributing or possessing with the intent to distribute, any article produced in violation of subsection (a)(1) knowing or having reasonable grounds to know that such article was produced in violation of law;
- (3) Possessing any article produced in violation of subsection (a)(1) knowing or having reasonable grounds to know that such article was produced in violation of law; or
- (4) Knowingly selling, renting, offering for sale or rental, or possessing, transporting or manufacturing with intent to sell or rent, any phonograph record, audio or video disc, wire, audio or video tape, film or other article now known or later developed on which sounds, images, or both sounds and images are recorded or otherwise stored, unless the outside cover, box or jacket clearly and conspicuously discloses the name and address of the manufacturer of such recorded article.

(b) Unlawful use of recordings:

- (1) As defined in (a)(1) is a felony and as such shall be referred to the appropriate prosecuting authority;
- (2) As defined in subsection (a)(2) or (a)(4), is a class A nonperson violation if the offense involves fewer than seven audio visual recordings, or fewer than 100 sound recordings during a 180-day period; and
- (3) As defined in subsection (a)(3), is a Class B nonperson violation.

(c) The provisions of subsection (a)(1) shall not apply to:

- (1) Any broadcaster who, in connection with or as part of a radio or television broadcast or cable transmission, or for the purpose of archival preservation, duplicates any such sounds recorded on a sound recording;
- (2) Any person who duplicates such sounds or such performance for personal use, and without compensation for such duplication; or
- (3) Any sounds initially fixed in a tangible medium of expression after February 15, 1972.

- (d) The provisions of subsections (a)(1) and (a)(3) shall not apply to any computer program or any audio or visual recording that is part of any computer program or to any article or device on which is exclusively recorded any such computer program.
- (e) As used in this section:
- (1) **Owner** means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master wire, master tape, master film or other device used for reproducing sounds on phonograph records, discs, wires, tapes, films or other articles now known or later developed upon which sound is recorded or otherwise stored, and from which the duplicated recorded sounds are directly or indirectly derived, or the person who owns the right to record such live performance; and
 - (2) **Computer program** means a set of statements or instructions to be used directly or indirectly in a computer in order to bring about a certain result.
- (f) It shall be the duty of all law enforcement officers, upon discovery, to confiscate all recorded devices that do not conform to the provisions of this section and that are possessed for the purpose of selling or renting such recorded devices, and all equipment and components used or intended to be used to knowingly manufacture recorded devices that do not conform to the provisions of such section for the purpose of selling or renting such recorded devices. The nonconforming recorded devices that are possessed for the purpose of selling or renting such recorded devices are contraband and shall be delivered to the district attorney for the county in which the confiscation was made, by court order, and shall be destroyed or otherwise disposed of, if the court finds that the person claiming title to such recorded devices possessed such recorded devices for the purpose of selling or renting such recorded devices. The equipment and components confiscated shall be delivered to the district attorney for the county in which the confiscation was made, by court order upon conviction, and may be given to a charitable or educational organization. (K.S.A. 21-5806)

Sec. 6.24. Commercial Fossil Hunting.

- (a) It is unlawful for any commercial fossil hunter to:
 - (1) Go upon the land of another in search of fossils unless the commercial fossil hunter has obtained the written authorization of the landowner to go upon such land for such purpose and when requesting such written authorization has identified oneself to the landowner as a commercial fossil hunter who intends to explore the land and sell any fossils of value found on the land. The written authorization shall state that the landowner has been informed of such intended activities by the commercial fossil hunter; or
 - (2) Remove a fossil from the land of another upon which the fossil is located unless the landowner is first provided with a description of the fossil and the landowner authorizes in writing the removal of the fossil.
- (b)
 - (1) Violation of subsection (a)(1) is a Class B nonperson Violation.
 - (2) Violation of subsection (a)(2) is a Class A nonperson Misdemeanor.
- (c) As used in this section:
 - (1) **Commercial fossil hunter** means an individual who goes upon the land of another in search of fossils with the intent to sell fossils of value found upon such land;
 - (2) **Fossil** means any impression or trace of an animal or plant of a past geological age preserved in the earth's crust;
 - (3) **Landowner** means the record owner of the fee in real estate or the tenant of such owner who occupies such real estate, if so authorized by the owner; and
 - (4) **Land of another** means all real estate other than that owned or leased by any governmental entity or the commercial fossil hunter.
- (d) This section is supplemental to and not in lieu of any other ordinance of this city or law of this state relating to entering or remaining upon the land of another and relating to the removal of items of value from the property of another.

- (e) It shall not be a defense that the person did not know or have reason to know that such person was on the landowner's property. (K.S.A. 21-5811)

Sec. 6.25. Counterfeiting.

- (a) Counterfeiting is manufacturing, using, displaying, advertising, distributing or possessing with intent to distribute any item or services knowing such item or services bear or are identified by a counterfeit mark.
- (b) Counterfeiting is a class A nonperson violation, if the retail value of such item or service is less than \$1,000.
- (c) A person having possession, custody or control of more than 25 items bearing a counterfeit mark shall be presumed to possess such items with intent to distribute.
- (d) Any state or federal certificate of registration of any intellectual property shall be prima facie evidence of the facts stated therein.
- (e) As used in this section:
 - (1) **Counterfeit mark** means:
 - (A) Any unauthorized reproduction or copy of intellectual property; or
 - (B) Intellectual property affixed to any item knowingly sold, offered for sale, manufactured or distributed, or identifying services offered or rendered, without the authority of the owner of the intellectual property;
 - (2) **Intellectual property** means any trademark, service mark or trade name as such terms are defined in K.S.A. 81-202, and amendments thereto; and
 - (3) **Retail value** means the counterfeiter's regular selling price for the item or service bearing or identified by the counterfeit mark. In the case of items bearing a counterfeit mark which are components of a finished product, the retail value shall be the counterfeiter's regular selling price of the finished product on or in which the component would be utilized.

- (f) The quantity or retail value of items or services shall include the aggregate quantity or retail value of all items bearing, or services identified by, every counterfeit mark the defendant manufactures, uses, displays, advertises, distributes or possesses. (K.S.A. 21-5825)

Section 6.26. Automobile Master Key Violation.

- (a) Automobile master key violation is:
 - (1) Selling or offering to sell a motor vehicle master key knowing it to be designed to fit the ignition switch of more than one motor vehicle; or
 - (2) Possession of a motor vehicle master key designed to fit the ignition switch of more than one motor vehicle by a person knowing it to be such a key.
- (b) Automobile master key violation is a Class C misdemeanor.
- (c) The provisions of this section shall not apply to a:
 - (1) Law enforcement officer;
 - (2) person who is regularly carrying on the business of garage proprietor or locksmith;
 - (3) Owner of two or more vehicles who possess such motor vehicle master key for any or all of the motor vehicles so owned; or
 - (4) Person who sells a motor vehicle master key to a person described in subsection (c)(3). (K.S.A. 21-5833)

**Article 7. Offenses Affecting
Governmental Functions**

Sec. 7.1. Unlawfully Tampering with Electronic Monitoring Equipment.

- (a) Unlawfully tampering with electronic monitoring equipment is, knowingly and without authorization, removing, disabling, altering, tampering with, damaging or destroying any electronic monitoring equipment used pursuant to court ordered supervision or as a condition of post-release supervision or parole.

- (b) Unlawfully tampering with electronic monitoring equipment is a class A nonperson violation in the case of electronic monitoring equipment used pursuant to court-ordered supervision or as a condition of postrelease supervision for any violation of municipal code. (K.S.A. 21-6322).

Sec. 7.2. Interference with Law Enforcement.

- (a) Interference with law enforcement is:
 - (1) Falsely reporting to a law enforcement officer, law enforcement agency, or state investigative agency:
 - (A) That a particular person has committed a crime, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information;
 - (B) That a law enforcement officer has committed a crime or committed misconduct in the performance of such officer's duties, knowing that such information is false and intending that the officer or agency shall act in reliance upon such information; or
 - (C) Any information, knowing that such information is false and intending to influence, impede or obstruct such officer's or agency's duty.
 - (2) Concealing, destroying or materially altering evidence with the intent to prevent or hinder the apprehension or prosecution of any person; or
 - (3) Knowingly obstructing, resisting or opposing any person authorized by law to serve process in the service or execution or in the attempt to serve or execute any writ, warrant, process or order of a court, or in the discharge of any official duty.

- (b) Interference with law enforcement is a Class A violation. (K.S.A. 21-5904)

Sec. 7.3. Escape from Custody.

- (a) Escape from custody is escaping while held in custody on a:
- (1) Charge, conviction of or arrest for a misdemeanor or a code violation;
 - (2) Charge, adjudication or arrest as a juvenile offender where the act, if committed by an adult, would constitute a misdemeanor or a code violation; or
 - (3) Commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto, based on a finding that the person committed an act constituting a misdemeanor or by a person 18 years of age or over who is being held in custody on an adjudication of a misdemeanor or a code violation.
- (b) As used in this section:
- (1) **Custody** means arrest; detention in a facility for holding persons charged with or convicted of offenses or charged or adjudicated as a juvenile offender; detention for extradition or deportation; detention in a hospital or other facility pursuant to court order, imposed as a specific condition of probation or parole or imposed as a specific condition of assignment to a community correctional services program; commitment to the state security hospital as provided in K.S.A. 22-3428, and amendments thereto; or any other detention for law enforcement purposes. **Custody** does not include general supervision of a person or probation on parole or constraint incidental to release on bail.
 - (2) **Escape** means departure from custody without lawful authority or failure to return to custody following temporary leave lawfully granted pursuant to express authorization of law, order of a court; or a custodial official authorized to grant such leave.
 - (3) **Juvenile Offender** means the same as in K.S.A. 38-2302, and amendments thereto; and
 - (4) **State Correctional Institution** means the same as in K.S.A. 75-5202, and amendments thereto.

- (c) As used in this section, the term **charge** shall not require that the offender was held on a written charge contained in a complaint, information or indictment, if such offender was arrested prior to such offender's escape from custody.
- (d) Escape from custody is a Class A violation.
(K.S.A. 21-5911)

Sec. 7.4. Interference With the Judicial Process.

- (a) Interference with the judicial process is:
 - (1) Committing any of the following acts, with intent to influence, impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor:
 - (A) Communicating in any manner a threat of violence to any judicial officer or any prosecutor;
 - (B) Harassing a judicial officer or a prosecutor by repeated vituperative communication; or
 - (C) Picketing, parading or demonstrating near such officer's or prosecutor's residence or place of abode;
 - (2) Picketing parading or demonstrating in or near a building housing a judicial officer or a prosecutor with intent to impede or obstruct the finding, decision, ruling, order, judgment or decree of such judicial officer or prosecutor on any matter then pending before the officer or prosecutor;
 - (3) Knowingly accepting or agreeing to accept anything of value as consideration for a promise:
 - (A) Not to initiate or aid in the prosecution of a person who has committed a crime; or
 - (B) To conceal or destroy evidence of a crime;
 - (4) Knowingly or intentionally in any criminal proceeding or investigation:
 - (A) Inducing a witness or informant to withhold or unreasonably delay in producing any testimony, information, document or thing;
 - (B) Withholding or unreasonably delaying in producing any testimony, information,

- document or thing after a court orders the production of such testimony, information, document or thing;
- (C) Altering, damaging, removing or destroying any record, document or thing, with the intent to prevent it from being produced or used as evidence; or
 - (D) Making, presenting or using a false record, document or thing with the intent that the record, document or thing, material to such criminal proceeding or investigation, appear in evidence to mislead a justice, judge, magistrate, master or law enforcement officer; or
- (5) Knowingly making available by any means personal information about a judge or the judge's immediate family member, if the dissemination of the personal information poses an imminent and serious threat to the judge's safety or the safety of such judge's immediate family member, and the person making the information available knows or reasonably should know of the imminent and serious threat.
- (b) Nothing in this section shall limit or prevent the exercise by any court of this state of its power to punish for contempt.
- (c) As used in this section:
- (1) **Immediate family member** means a judge's spouse, child, parent or any other blood relative who lives in the same residence as such judge.
 - (2) **Judge** means any duly elected or appointed justice of the supreme court, judge of the court of appeals, judge of any district court of Kansas, district magistrate judge or municipal court judge.
 - (3) **Personal information** means a judge's home address, home telephone number, personal mobile telephone number, pager number, personal e-mail address, personal photograph, immediate family member photograph, photograph of the judge's home, and information about the judge's motor vehicle, any immediate family member's motor vehicle, any immediate family member's place of employment, any immediate family member's child care or day care facility and any immediate family member's public or private school that offers instruction in any or all of the grades kindergarten through 12.

- (d) Interference with the judicial process is a Class A violation, except that a second or subsequent conviction of section (a)(5) is a severity level 9, person felony and will be referred to the appropriate prosecuting authority. (K.S.A. 21-5905)

Sec. 7.5. Distribution of Unattributed Applications for Advance Voting Ballots.

- (a) (1) Any person who solicits by mail a registered voter to file an application for an advance voting ballot and includes an application for an advance voting ballot in such mailing shall include on the exterior of such mailing, and on each page contained therein, except the application, a clear and conspicuous label in 14-point font or larger that includes:
 - (A) The name of the individual or organization that caused such solicitation to be mailed;
 - (B) if an organization, the name of the president, chief executive officer or executive director of such organization;
 - (C) the address of such individual or organization; and
 - (D) the following statement: "Disclosure: This is not a government mailing. It is from a private individual or organization."
- (2) The application for an advance voting ballot included in such mailing shall be the official application for advance ballot by mail provided by the secretary of state. No portion of such application shall be completed prior to mailing such application to the registered voter
- (3) An application for an advance voting ballot shall include an envelope addressed to the appropriate county election office for the mailing of such application. In no case shall the person who mails the application to the voter direct that the completed application be returned to such person.
- (4) The provisions of this subsection shall not apply to:
 - (A) The secretary of state or any election official or county election office; or

- (B) the official protection and advocacy for voting access agency for this state as designated pursuant to the federal help America vote act of 2002, public law 107-252, or any other entity required to provide information concerning elections and voting procedures by federal law
- (5) A violation of this subsection is a class C nonperson Violation. (K.S.A. 25-1122).

Sec. 7.6. Performance of Unauthorized Official Act.

- (a) Performance of an unauthorized official act is knowingly and without lawful authority:
 - (1) Conducting a marriage ceremony; or
 - (2) Certifying an acknowledgment of the execution of any document which by law may be recorded.
- (b) Performance of an unauthorized official act is a Class B violation. (K.S.A. 21-5919)

Sec. 7.7. Simulating Legal Process.

- (a) Simulating legal process is:
 - (1) Distributing to another any document which simulates or purports to be, or is designed to cause others to believe it to be, a summons, petition, complaint or other legal process, with the intent to mislead the recipient and cause the recipient to take action in reliance thereon; or
 - (2) Printing or distributing any such document, knowing that it shall be so used.
- (b) This section shall not apply to the printing or distribution of blank forms of legal documents intended for actual use in judicial proceedings.
- (c) Simulating legal process is a Class A violation. (K.S.A. 21-5907)

Sec. 7.8. Tampering With Public Record.

- (a) Tampering with a public record is knowingly and without lawful authority altering, destroying, defacing, removing or concealing any public record.
- (b) Tampering with a public record is a Class A violation. (K.S.A. 21-5920)

Sec. 7.9. Tampering With Public Notice.

- (a) Tampering with public notice is knowingly and without lawful authority altering, defacing, destroying, removing or concealing any public notice posted according to law, during the time such notice is required or authorized to remain posted.
- (b) Tampering with a public notice is a Class C violation. (K.S.A. 21-5921)

Sec. 7.10. False Signing of Petition.

- (a) False signing of a petition is knowingly affixing any fictitious or unauthorized signature to any petition, memorial or remonstrance, intended to be presented to the legislature, or either house thereof, or to any agency or officer of the State of Kansas or any of its political subdivisions.
- (b) False signing of a petition is a Class C violation. (K.S.A. 21-5916)

Sec. 7.11. False Impersonation.

- (a) False impersonation is representing oneself to be a public officer or public employee or a person licensed to practice or engage in any profession or vocation for which a license is required by the laws of the State of Kansas, with knowledge that such representation is false.
- (b) False impersonation is a Class B violation. (K.S.A. 21-5917)

Sec. 7.12. Interference; Conduct, Public Business in Public Building.

- (a) Interference with the conduct of public business in public buildings is:
 - (1) Conduct at or in any public building owned, operated or controlled by the state or any of its political subdivisions so as to knowingly deny to any public official, public employee, or any invitee on such premises, the lawful rights of such official, employee, or invitee to enter, to use the facilities or to leave any such public building;

- (2) Knowingly impeding any public official or employee in the lawful performance of duties or activities through the use of restraint, abduction, coercion, or intimidation or by force and violence or threat thereof;
- (3) Knowingly refusing or failing to leave any such public building upon being requested to do so by the chief administrative officer, or such officer's designee, charged with maintaining order in such public building, if such person is committing, threatens to commit, or incites others to commit, any act which did or would if completed, disrupt, impair, interfere with, or obstruct the lawful missions, processes, procedures or functions being carried on in such public building;
- (4) Knowingly impeding, disrupting or hindering the normal proceedings of any meeting or session conducted by any judicial or legislative body or official at any public building by any act of intrusion into the chamber or other areas designated for the use of the body or official conducting such meeting or session, or by any act designed to intimidate, coerce or hinder any member of such body or any official engaged in the performance of duties at such meeting or session; or
- (5) Knowingly impeding, disrupting or hindering, by any act of intrusion into the chamber or other areas designed for the use of any executive body or official, the normal proceedings of such body or official.

- (b) Interference with the conduct of public business in public buildings is a Class A violation. (K.S.A. 21-5922)

Sec. 7.13. Interference With Police Dogs.

- (a) It shall be unlawful for any person to strike, abuse, tease, harass, or assault any dog being used by the city for the purpose of performing the duties of a police dog regardless of whether the dog is on duty or off.

- (b) It shall be unlawful for any person to interfere with a dog being used by the police department or attempt to interfere with the handler of the dog in such a manner as to inhibit, restrict or deprive the handler of his or her control of the dog.
- (c) Violation of this section is a Class C violation.

Sec. 7.14. Electioneering.

- (a) (1) Electioneering is:
 - (A) knowingly attempting to persuade or influence eligible voters to vote for or against a particular candidate, party or question submitted, including wearing, exhibiting or distributing labels, signs, posters, stickers or other materials that clearly identify a candidate in the election or clearly indicates support or opposition to a question submitted election within any polling place on election day or advance voting site during the time period allowed by law for casting a ballot by advance voting or within a radius of 250 feet from the entrance thereof; or
 - (B) if committed by a candidate:
 - (i) Touching or handling any voter's ballot during the voting process;
 - (ii) distributing ballots or counting ballots;
 - (iii) hindering or obstructing any voter from voting or from entering and leaving the polling place; or
 - (iv) hindering or obstructing any election board worker from performing election duties.
- (2) Electioneering shall not include bumper stickers affixed to a motor vehicle that is used to transport voters to a polling place or to an advance voting site for the purpose of voting.
- (b) The provisions of subsection (a)(1)(B) shall not apply to:
 - (1) The secretary of state or any election official or county election office; or
 - (2) a candidate transmitting or delivering an advance voting ballot in accordance with section 2(b), and amendments thereto.

- (c) As used in this section, “advance voting site” means the central county election office or satellite advance voting sites designated as such pursuant to subsection (c) of K.S.A. 25–1122(c), and amendments thereto, and adult care homes and hospital based care units at the time of an election participating in the voting procedures prescribed in K.S.A. 2020 Supp. 25–2812, and amendments thereto.
- (d) Electioneering is a Class C violation.
(K.S.A. 25- 2430)

Sec. 7.15. Intimidation of a Witness or Victim.

- (a) Intimidation of a witness or victim is preventing or dissuading, or attempting to prevent or dissuade, with an intent to vex, annoy, harm or injure in any way another person or an intent to thwart or interfere in any manner with the orderly administration of justice:
 - (1) Any witness or victim from attending or giving testimony at any civil or criminal trial, proceeding or inquiry authorized by law; or
 - (2) Any witness, victim or person acting on behalf of a victim from:
 - (A) Making any report of the victimization of a victim to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer, judicial officer, the secretary for children and families, the secretary for aging and disability services, or any agent or representative of either secretary, or any person required to make a report pursuant to K.S.A. 38-2223, and amendments thereto;
 - (B) Causing a complaint, indictment or information to be sought and prosecuted or causing a violation of probation, parole or assignment to a community correctional services program to be reported and prosecuted, and assisting in its prosecution;

- (C) Causing a civil action to be filed and prosecuted and assisting in its prosecution; or
 - (D) Arresting or causing or seeking the arrest of any person in connection with the victimization of a victim.
- (b) Intimidation of a witness or victim is a Class B person violation.
- (c) As used in this section
- (1) **Victim** means any individual:
 - (A) Against whom any crime under the laws of this state, any other state or the United States is being, has been or is attempted to be committed; or
 - (B) Who suffers a civil injury or loss; and
 - (2) **Witness** means any individual:
 - (A) Who has knowledge of the existence or nonexistence of facts relating to any civil or criminal trial, proceeding or inquiry authorized by law;
 - (B) Whose declaration under oath is received or has been received as evidence for any purpose;
 - (C) Who has reported any crime or any civil injury or loss to any law enforcement officer, prosecutor, probation officer, parole officer, correctional officer, community correctional services officer or judicial officer;
 - (D) Who has been served with a subpoena issued under the authority of a municipal court or any court or agency of this state, any other state or the United States; or
 - (E) Who is believed by the offender to be an individual described in this subsection.

Sec. 7.16. Obstructing Apprehension or Prosecution.

- (a) Obstructing apprehension or prosecution is knowingly harboring, concealing or aiding any person who has committed or who has been charged with committing a misdemeanor under the laws of this state or an ordinance violation under the code of this city, other than a violation of K.S.A. 22-4903, and amendments thereto, or a misdemeanor under the laws of another state or the United States with intent that such person shall avoid or escape from arrest, trial, conviction or punishment for such offense.
- (b) Obstructing apprehension or prosecution is a Class C Violation. (K.S.A. 21-5913)

Article 7A. Crimes Affecting Public Trust

Sec. 7A.1. Official Misconduct.

- (a) Official misconduct is any of the following acts committed by a public officer or employee in the officer or employee's public capacity or under color of the officer or employee's office or employment:
 - (1) Knowingly using or authorizing the use of any aircraft, as defined by K.S.A. 3-201, and amendments thereto, vehicle, as defined by K.S.A. 8-1485, and amendments thereto, or vessel, as defined by K.S.A. 32-1102, and amendments thereto, under the officer's or employee's control or direction, or in the officer's or employee's custody, exclusively for the private benefit or gain of the officer or employee or another;
 - (2) Knowingly failing to serve civil process when required by law;
 - (3) Using confidential information acquired in the course of and related to the officer's or employee's office or employment for the private benefit or gain of the officer or employee or another or to intentionally cause harm to another;
 - (4) Except as authorized by law, with the intent to reduce or eliminate competition among bidders or prospective bidders on any contract or proposed contract:

- (A) Disclosing confidential information regarding proposals or communications from bidders or prospective bidders on any contract or proposed contract;
 - (B) Accepting any bid or proposal on a contract or proposed contract after the deadline for acceptance of such bid or proposal; or
 - (C) Altering any bid or proposal submitted by a bidder on a contract or proposed contract;
- (5) Except as authorized by law, knowingly destroying, tampering with or concealing evidence of a crime; or
- (6) Knowingly submitting to a governmental entity a claim for expenses which is false or duplicates expenses for which a claim is submitted to such governmental entity, another governmental or private entity.
- (b) (1) Official misconduct as defined in:
- (A) Subsections (a)(1) through (a)(4) is a class A nonperson violation;
 - (B) Subsection (a)(5) is a class A nonperson violation if the evidence is evidence of a crime which is a misdemeanor; and
 - (C) subsection (a)(6) is a class A nonperson violation if the claim is less than \$1,000. If the claim is more than \$1,000 the offense is classified by state law as a felony and will be referred to the appropriate prosecuting authority.
- (2) Upon conviction of official misconduct a public officer or employee shall forfeit such officer or employee's office or employment.
- (c) The provisions of subsection (a)(1) shall not apply to any use of persons or property which:
- (1) At the time of the use, is authorized by law or by formal written policy of the governmental entity; or
 - (2) Constitutes misuse of public funds, as defined in K.S.A. 21-6005, and amendments thereto.
- (d) As used in this section, "confidential" means any information that is not subject to mandatory disclosure pursuant to K.S.A. 45-221, and amendments thereto. (K.S.A 21-6002)

Sec. 7A.2. Compensation for Past Official Acts.

- (a) Compensation for past official acts is intentionally giving or offering to give to any public officer or employee any benefit, reward or consideration for having given, in such official capacity as public officer or employee, a decision, opinion, recommendation or vote favorable to the person giving or offering such benefit, reward or consideration, or for having performed an act of official misconduct.
- (b) Compensation for past official acts is a class B nonperson violation.
- (c) Subsection (a) shall not apply to the following:
 - (1) Gifts or other benefits conferred on account of kinship or other personal, professional or business relationships independent of the official status of the receiver; or
 - (2) Trivial benefits incidental to personal, professional or business contacts and involving no substantial risk of undermining official impartiality. (K.S.A. 21-6003)

Sec. 7A.3. Presenting a False Claim; Permitting a False Claim.

- (a) Presenting a false claim is, with the intent to defraud, presenting a claim or demand which is false in whole or in part, to a public officer or body authorized to audit, allow or pay such claim.
- (b) Permitting a false claim is the auditing, allowing or paying of any claim or demand made upon the state or any subdivision thereof or other governmental instrumentality within the state by a public officer or public employee who knows such claim or demand is false or fraudulent in whole or in part.
- (c)
 - (1) Presenting a false claim or permitting a false claim for less than \$1,000 is a class A nonperson violation. Any claims over \$1,000 are considered felony violations under state law and will be referred to the appropriate prosecuting authority.
 - (2) Upon conviction of permitting a false claim, a public officer or public employee shall forfeit the officer or employee's office or employment. (K.S.A. 21-6004)

Sec. 7A.4. Misuse of Public Funds.

- (a) Misuse of public funds is knowingly using, lending or permitting another to use public money in a manner not authorized by law, by a custodian or other person having control of public money by virtue of such person's official position.
- (b)
 - (1) Misuse of public funds where the aggregate amount of money paid or claimed in violation of this section is a class A nonperson violation if the amount is less than \$1,000. If the amount is more than \$1,000 the offense is considered a felony under state law and will be referred to the appropriate prosecuting authority.
 - (2) Upon conviction of misuse of public funds, the convicted person shall forfeit the person's official position.
- (c) As used in this section, "public money" means any money or negotiable instrument which belongs to the state of Kansas or any political subdivision thereof. (K.S.A. 21-6005)

Article 8. Crimes Involving Violation of Personal Rights.

Sec. 8.1. Denial of Civil Rights.

- (a) Denial of civil rights is intentionally denying to another, on account of the race, color, ancestry, national origin, age, sex, physical handicap or religion of such other the full and equal:
 - (1) The full and equal use and enjoyment of the services, facilities, privileges and advantages of any institution, department or agency of the State of Kansas or any political subdivision or municipality thereof;
 - (2) The full and equal use and enjoyment of the goods, services, facilities, privileges, advantages and accommodations of any establishment which provides lodging to transient guests for hire; of any establishment which is engaged in selling food or beverage to the public for consumption upon the premises; or of any place of recreation, amusement, exhibition or entertainment which is open to members of the public

- (3) The full and equal use and enjoyment of the services, privileges and advantages of any facility for the public transportation of persons or goods;
- (4) The full and equal use and enjoyment of the services, facilities, privileges, and advantages of any establishment which offers personal or professional services to members of the public; or
- (5) The full and equal exercise of the right to vote in any election held pursuant to the laws of Kansas.

(b) Denial of civil rights is a Class A violation. (K.S.A. 21-6102)

Sec. 8.2. Unlawful Disclosure of Tax Information.

- (a) Unlawful disclosure of tax information is recklessly disclosing or using for commercial purposes any information obtained in the business of preparing federal or state income tax returns or in the business of assisting taxpayers in preparing such returns, unless such disclosure is:
 - (1) Consented to by the taxpayer in a separate, written document;
 - (2) Expressly authorized by state or federal law;
 - (3) Necessary to the preparation of the return; or
 - (4) Pursuant to an order of any court of competent jurisdiction.
- (b) Unlawful disclosure of tax information is a class A nonperson violation.
- (c) For the purposes of this section, a person is engaged in the business of preparing federal or state income tax returns or in the business of assisting taxpayers in preparing such returns if the person does either of the following:
 - (1) Advertises or gives publicity to the effect that such person prepares or assists others in the preparation of state or federal income tax returns; or
 - (2) Prepares or assists others in the preparation of state or federal income tax returns for compensation.

- (d) Contacting a taxpayer to obtain the taxpayer's written consent to disclosure does not constitute a violation of this section. (K.S.A. 21-6104)

Sec. 8.3. Unjustifiably Exposing a Convicted or Charged Person.

- (a) Unjustifiably exposing a convicted or charged person is unjustifiably communicating or threatening to communicate to another any oral or written statement that any person has been charged with or convicted of a felony, with intent to interfere with the employment or business of the person so charged or convicted.
- (b) Unjustifiably exposing a convicted or charged person is a Class B nonperson violation.
- (c) This section shall not apply to any person or organization who furnishes information about a person to another person or organization requesting the same. (K.S.A. 21-6105)

Article 9. Offenses Against Public Peace

Sec. 9.1. Disorderly Conduct.

- (a) Disorderly conduct is one or more of the following acts that the person knows or should know will alarm, anger or disturb others or provoke an assault or other breach of the peace:
 - (1) Brawling or fighting;
 - (2) Disturbing an assembly, meeting or procession, not unlawful in its character; or
 - (3) Using fighting words or engaging in noisy conduct tending reasonably to arouse alarm, anger or resentment in others.
- (b) Disorderly conduct is a Class C violation. (K.S.A. 21-6203)

Sec. 9.2. Unlawful Assembly; Remaining at an Unlawful Assembly.

- (a) Unlawful assembly is:
 - (1) The meeting or coming together of not less than five persons with the intent to engage in conduct constituting:
 - (A) Disorderly conduct, as defined by Section 9.1 of this article; or
 - (B) A riot, as defined by Section 9.4 of this article; or
 - (2) When a lawful assembly of not less than five persons, agreeing to engage in conduct constituting disorderly conduct or riot.
- (b) Remaining at an unlawful assembly is intentionally failing to depart from the place of an unlawful assembly after being directed to leave by a law enforcement officer.
- (c) Penalties.
 - (1) Unlawful assembly is a Class B violation.
 - (2) Remaining at an unlawful assembly is a Class A violation. (K.S.A. 21-6202)

Sec. 9.3. Violation of Executive Order under K.S.A. 48-925 Mandating a Curfew or Prohibiting Public Entry.

A knowing violation of an executive order issued pursuant to K.S.A. 48-925, and amendments thereto, that mandates a curfew or prohibits public entry into an area affected by a disaster is a Class A nonperson violation.

Sec. 9.4. Riot.

- (a) Riot is five or more persons acting together and without lawful authority engaging in any:
 - (1) Use of force or violence which produces a breach of the public peace; or
 - (2) Threat to use such force or violence against any person or property if accompanied by power or apparent power of immediate execution.
- (b) Riot is a Class A violation. (K.S.A. 21-6201)

Sec. 9.5. Maintaining or Permitting a Public Nuisance.

- (a) Maintaining a public nuisance is knowingly causing or permitting a condition to exist which injures or endangers the public health, safety or welfare.
- (b) Permitting a public nuisance is knowingly permitting property under the control of the offender to be used to maintain a public nuisance, as defined in Subsection (a).
- (c) Maintaining or permitting a public nuisance is a Class C violation. (K.S.A. 21-6204)

Sec. 9.6. Reserved for Future Use.

Sec. 9.7. Making an Unlawful Request for Emergency Service Assistance.

- (a) Making an unlawful request for emergency service assistance is: Transmitting or communicating false or misleading information in any manner to request emergency service assistance including law enforcement, fire, medical or other emergency service, knowing at the time of such request there is no reasonable ground for believing such assistance is needed.
- (b) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for interference with law enforcement. (Section 7.2)
- (c) Making an unlawful request for emergency service assistance is a Class A violation. (K.S.A. 21-6207)

{Editor's Note: The 2018 Kansas Legislature amended K.S.A. 21-6207 in HB 2581. The amendment makes it a felony if the request for emergency service assistance made by the person includes false information that violent criminal activity or immediate threat to a person's life or safety or the public safety is taking place. The amendment also increased the felony level if bodily harm or great bodily harm results from the response.}

Sec. 9.8. Criminal Desecration.

- (a) Criminal desecration is:
 - (1) Knowingly obtaining or attempting to obtain unauthorized control of a dead body or remains of any human being or the coffin, urn or other article containing a dead body or remains of any human being;
 - (2) Recklessly by means other than by fire or explosive:
 - (A) Damaging, defacing or destroying the flag, ensign or other symbol of the United States or this state in which another has a property interest without the consent of such other person;
 - (B) Damaging, defacing or destroying any public monument or structure;
 - (C) Damaging, defacing or destroying any tomb, monument, memorial, marker, grave, vault, crypt gate, tree, shrub, plant or any other property in a cemetery; or
 - (D) Damaging, defacing or destroying any place of worship.
- (b) (1) Criminal desecration as described in subsections (a)(2)(B), (a)(2)(C) and (a)(2)(D) is a Class A violation if the property is damaged to the extent of less than \$1,000.
- (2) Criminal desecration as described in subsections (a)(1) and (a)(2)(A) is a Class A violation. (K.S.A. 21-6205)

Sec. 9.9. Unlawful Abuse of Toxic Vapors.

- (a) Unlawful abuse of toxic vapors is possessing, buying, using, smelling, or inhaling toxic vapors with the intent of causing a condition of euphoria, excitement, exhilaration, stupefaction, or dulled senses of the nervous system.
- (b) This section shall not apply to the inhalation of anesthesia or other substances for medical or dental purposes.
- (c) In a prosecution for a violation of this section, evidence that a container lists one or more of the

substances which are defined as a toxic vapors in K.S.A. 21-5712(e) as one of its ingredients shall be *prima facie* evidence that the substance in such container contains toxic vapors.

- (d) Unlawful abuse of toxic vapors is a Class B violation. In addition to any sentence or fine imposed, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program, treatment program or both such programs as provided in K.S.A. 8-1008, and amendments thereto. (K.S.A. 21-5712)

Sec. 9.9.1. Unlawful Possession of Marijuana and Tetrahydrocannabinols.

- (a) Except as authorized by the Uniform Controlled Substance Act, K.S.A. 65-4101 *et seq.*, and amendments thereto, it shall be unlawful for any person to possess or have under such person's control marijuana, as designated in K.S.A. 65-4105(d), and amendments thereto, or tetrahydrocannabinols, as designated in K.S.A. 65-4105(h), and amendments thereto.
- (b) Penalty. Violations of subsection (a) is a Class B violation for a first offense and a class A violation if the person has a prior conviction under K.S.A. 65-4162, prior to its repeal, under substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense.
- (c) It shall be an affirmative defense to prosecution under this section arising out of a person's possession of any cannabidiol treatment preparation if the person:
 - (1) Has a debilitating medical condition, as defined in section 1, and amendments thereto, or is the parent or guardian of a minor child who has such debilitating medical condition;
 - (2) Is possessing a cannabidiol treatment preparation, as defined in section 1, and amendments thereto, that is being used to treat such debilitating medical condition; and
 - (3) Has possession of a letter, at all times while the person has possession of the cannabidiol treatment preparation, that:

- (A) Shall be shown to a law enforcement officer on such officer's request;
- (B) Is dated within the preceding 15 months and signed by the physician licensed to practice medicine and surgery in Kansas who diagnosed the debilitating medical condition;
- (C) Is on such physician's letterhead; and
- (D) Identifies the person or the person's minor child as such physician's patient and identifies the patient's debilitating medical condition. (K.S.A. 21-5706)

{Editor's Note: If an individual has two or more prior convictions for violations of section 9.9.1, or for a substantially similar offense under Kansas law or other jurisdiction, violations are considered a felony under state law over which municipal courts have no jurisdiction, as such, violations should be referred to the appropriate prosecuting authority. they cannot be prosecuted in municipal court}.

Sec. 9.9.2. Possession of Drug Paraphernalia and Certain Drug Precursors.

- (a) No person shall use or possess with intent to use any drug paraphernalia, as designated in K.S.A. 21-5701, to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, K.S.A. 65-4101 et seq., and amendments thereto.
- (b) No person shall purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any 30-day period.
- (c) No person shall distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of K.S.A. 21-5706, and amendments thereto.

- (d) Penalty.
 - (1) Violation of subsection (a) is a Class B violation
 - (2) Violation of subsection (b) is a Class A violation
 - (3) Violation of subsection (c) is a Class A violation

- (e) In determining whether an object is drug paraphernalia, the finder of fact shall consider, in addition to all other logically relevant factors, the following:
 - (1) Statements of the owner or person in control of an object concerning its use;
 - (2) Prior convictions, if any, of an owner or person in control of the object under any state or federal law relating to any controlled substance;
 - (3) The proximity of the object to controlled substances;
 - (4) The existence of any residue of controlled substances on the object;
 - (5) Direct or circumstantial evidence of the intent of an owner or person in control of an object, to deliver it to a person the owner or person in control of an object knows, or should reasonably know, intends to use the object to facilitate a violation of the Uniform Controlled Substances Act, K.S.A. 65-4101 et seq., and amendments thereto. The innocence of an owner or person in control of the object as to a direct violation of the Uniform Controlled Substances Act shall not prevent a finding that the object is intended for use as drug paraphernalia;
 - (6) Oral or written instructions provided with the object concerning its use;
 - (7) Descriptive materials accompanying the object which explain or depict its use;
 - (8) National and local advertising concerning the object's use; and
 - (9) The method and manner in which the object is displayed for sale, if applicable.(K.S.A. 21-5709; 21-5710; 21-5711)

Sec. 9.9.3. Unlawful Distribution of Controlled Substances.

- (a) No person shall distribute or possess with intent to distribute a controlled substance or a controlled substance analog designated in K.S.A. 65-4113 to anyone over the age of 18.

- (b) Violation of subsection (a) is a class A violation.
(K.S.A. 21-5705)

Sec. 9.9.4. Unlawful Possession of Controlled Substances.

- (a) No person shall possess any of the controlled substances or controlled substance analogs thereof found in K.S.A. 21-5706(b) and amendments thereto.
- (b) Violation of subsection (a) is a Class A violation.
(K.S.A. 21-5706)

{**Editor's Note:** Violations of K.S.A. 21-5704 subsections (b)(1) through (b)(5) or (b)(7) is a drug severity level 5 felony if that person has a prior conviction under such subsection, under K.S.A. 65-4162, prior to its repeal, under a substantially similar offense from another jurisdiction, or under any city ordinance or county resolution for a substantially similar offense if the substance involved was 3, 4 methylenedioxymethamphetamine (MDMA), marijuana as designated in K.S.A. 65-4105(d), and amendments thereto, or any substance designated in K.S.A. 65-4105(h), and amendments thereto, or an analog thereof. As these violations are considered felonies under state law over which municipal courts have no jurisdiction, they should be referred to the appropriate prosecuting authority}.

Sec. 9.9.5. Unlawful Possession of a Simulated Substance.

- (a) No person shall use or possess with intent to use any simulated controlled substance.
- (b) This is a Class A violation.
(K.S.A. 21-5713)

Sec. 9.9.6. Distribution of a Non-controlled Substance.

- (a) No person shall distribute or possess with the intent to distribute any substance, which is not a controlled substance, to a person who is over the age of eighteen:
 - (1) Upon an express representation that the substance is a controlled substance or that the substance is of such nature or appearance that the recipient will be able to distribute the substance as a controlled substance; or
 - (2) Under circumstances which would give a reasonable person reason to believe that the substance is a controlled substance.

- (b) Violation of subsection (a) is a Class A nonperson violation.

 - (c) If any one of the following factors is established, there shall be a presumption that distribution of a substance was under circumstances which would give a reasonable person reason to believe that a substance is a controlled substance:
 - (1) The substance was packaged in a manner normally used for the illegal distribution of controlled substances;
 - (2) The distribution of the substance included an exchange of or demand for money or other consideration for distribution of the substance and the amount of the consideration was substantially in excess of the reasonable value of the substance; or
 - (3) The physical appearance of the capsule or other material containing the substance is substantially identical to a specific controlled substance.
- (K.S.A. 21-5714)

Sec. 9.10. Harassment by Telecommunications Device.

- (a) Harassment by telecommunication device is the use of:
 - (1) A telecommunications device to:
 - (A) Knowingly make or transmit any comment, request, suggestion, proposal, image or text which is obscene, lewd, lascivious, or indecent;
 - (B) Make or transmit a call, whether or not conversation ensues, with intent to abuse, threaten or harass a person at the receiving end;
 - (C) Make or transmit any comment, request, suggestion, proposal, image or text with intent to abuse, threaten or harass any person at the receiving end;
 - (D) Make or cause a telecommunications device to repeatedly ring or activate with intent to harass any person at the receiving end;

- (E) Knowingly play any recording on a telephone, except recordings such as weather information or sports information when the number thereof is dialed, unless the person or group playing the recording shall be identified and state that it is a recording; or
 - (F) Knowingly permit any telecommunications device under one's control to be used in violation of this paragraph.
- (2) Telefacsimile communication to send or transmit such communication to a court in the State of Kansas for a use other than court business, with no requirement of culpable mental state.
- (b) An offender who violates the provisions of this section may also be prosecuted for, convicted of, and punished for any other offense in sections 11.1 and 11.2.
 - (c) Harassment by a telecommunication device is a Class A violation. (K.S.A. 21-6206)

Sec. 9.11. Unlawful Public Demonstration at a Funeral.

- (a) Engaging in a public demonstration at any public location within 150 feet of any entrance to any cemetery, church, mortuary or other location where a funeral is held or conducted, within one hour prior to the scheduled commencement of a funeral, during a funeral or within two hours following the completion of a funeral;
- (b) Knowingly obstructing, hindering, impeding or blocking another person's entry to or exit from a funeral; or
- (c) Knowingly impeding vehicles which are part of a funeral procession.
- (d) Violation of this section is a Class B violation. Each day on which a violation occurs shall constitute a separate offense. (K.S.A. 21-6106)

Sec. 9.12. Reserved for Future Use.

Sec. 9.13. Unlawful Posting of Political Pictures and Political Advertisements.

- (a) Unlawful posting of political pictures and political advertisements is knowingly putting up, affixing or fastening of either or both, a political picture or a political advertisement to a telegraph, telephone, electric light or power pole.
- (b) Unlawful posting of political pictures and political advertisements is a Class C violation. (K.S.A. 21-5820)

Article 10. Offenses Against Public Safety

Sec. 10.1. Criminal Use of Weapons.

- (a) Criminal use of weapons is knowingly:
 - (1) Selling, manufacturing, purchasing or possessing any bludgeon, sand club, or metal knuckles;
 - (2) Possessing with intent to use the same unlawfully against another, a dagger, dirk, billy, blackjack, slungshot, dangerous knife, straight-edged razor, throwing star, stiletto or any other dangerous or deadly weapon or instrument of like character;
 - (3) Setting a spring gun;
- (b) is a Class A violation;
- (c) Subsections (a)(1) and (a)(2) shall not apply to:
 - (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 - (2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
 - (3) Members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or

- (4) The manufacture of, transportation to, or sale of weapons to a person authorized under subsections (c)(1), (c)(2) and (c)(3) to possess such weapons.(K.S.A. 21-6301)

Sec. 10.1.1. Criminal Carrying of a Weapon.

- (a) Criminal carrying of a weapon is knowingly carrying:
 - (1) Any bludgeon, sandclub, metal knuckles or throwing star;
 - (2) Concealed on one's person, a billy, blackjack, slungshot or any other dangerous or deadly weapon or instrument of like character;
 - (3) On one's person or in any land, water or air vehicle, with intent to use the same unlawfully, a tear gas or smoke bomb or projector or any object containing a noxious liquid, gas or substance; or
- (b) Subsection (a) shall not apply to:
 - (1) Law enforcement officers, or any person summoned by any such officers to assist in making arrests or preserving the peace while actually engaged in assisting such officer;
 - (2) Wardens, superintendents, directors, security personnel and keepers of prisons, penitentiaries, jails and other institutions for the detention of persons accused or convicted of crime, while acting within the scope of their authority;
 - (3) Members of the armed services or reserve forces of the United States or the Kansas national guard while in the performance of their official duty; or
 - (4) The manufacture of, transportation to, or sale of weapons to a person authorized under subsections (b)(1), (b)(2) and (b)(3) to possess such weapons.
- (c) Criminal carrying of a weapon is a Class A violation.
(K.S.A. 21-6302)

Sec. 10.2 : 10.3 Reserved for Future Use.

Sec. 10.4. Failure to Register Explosives.

- (a) Failure to register explosives is, with no requirement of a culpable mental state, the omission by:
 - (1) The seller of any explosive or detonating substance, to keep a register of every sale or other disposition of such explosives made by the seller as required by this section; or
 - (2) any person to whom delivery of any quantity of explosive or other detonating substance is made, to acknowledge the receipt thereof by signing the person's name in the register provided in subsection (c) on the page where the record of such delivery is entered.
- (b) Failure to register explosives as defined in:
 - (1) Subsection (a)(1) is a Class B nonperson violation; and
 - (2) subsection (a)(2) is a Class C violation.
- (c) The register of sales required by subsection (a)(1) shall contain the date of the sale or other disposition, the name, address, age and occupation of the person to whom the explosive is sold or delivered, the kind and amount of explosive delivered, the place at which it is to be used and for what purpose it is to be used. Such register and record of sale or other disposition shall be open for inspection by any law enforcement officer, mine inspector or fire marshal of this state for a period of not less than one year after the sale or other disposition. (K.S.A. 21-6311)

Sec. 10.5. Unlawful Discharge of a Firearm.

- (a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of any city.
- (b) This section shall not apply to the discharge of any firearm within or into the corporate limits of any city if:
 - (1) The firearm is discharged in the lawful defense of one's person, another person or one's property;
 - (2) The firearm is discharged at a private or public shooting range;

- (3) The firearm is discharged to lawfully take wildlife unless prohibited by the department of wildlife, parks and tourism or the governing body of the city;
 - (4) The firearm is discharged by authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas department of wildlife, parks and tourism;
 - (5) The firearm is discharged by special permit of the chief of police or by the sheriff when the city has no police department;
 - (6) The firearm is discharged using blanks; or
 - (7) The firearm is discharged in lawful self-defense or defense of another person against an animal attack.
- (c) Unlawful discharge of firearms is a Class B violation. (K.S.A. 21-6308a)

Sec. 10.6. Air Gun, Air Rifle, Bow and Arrow, Slingshot, BB Gun or Paintball Gun.

- (a) The unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun is the shooting, discharging or operating of any air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun, within the city, except within the confines of a building or other structure from which the projectiles cannot escape.
- (b) Unlawful operation of an air gun, air rifle, bow and arrow, slingshot, BB gun or paint ball gun is a Class C violation.

Sec. 10.7. Seizure of Weapon.

The chief of police of the city or his or her duly authorized representative is hereby empowered to seize and hold any air gun, air rifle, bow and arrow, slingshot or BB gun used in violation of section 10.6 of this article, and is further empowered to seize and hold as evidence pending a hearing before a court of competent jurisdiction any air gun, air rifle, bow and arrow, slingshot or BB gun used in violation of Section 10.6.

Sec. 10.8. Unlawful Aiding, Abetting.

- (a) It shall be unlawful for any person to conspire to or aid and abet in the operation or discharging or causing to be operated or discharged any air gun, air rifle, bow and arrow, BB gun or slingshot except as provided in Section 10.6 within the city, whether individually or in connection with one or more persons or as principal, agent or accessory, and it is further unlawful for every parent or guardian of a minor child who willfully or knowingly permits or directs the operation or discharge of any air gun, air rifle, bow and arrow, BB gun or slingshot by such minor child within the city except as provided in Section 10.6 of this article.
- (b) Violation of this section is a Class C violation.

Sec. 10.9. Carrying Concealed Explosives.

- (a) Carrying concealed explosives is carrying any explosive or detonating substance on the person in a wholly or partly concealed manner.
- (b) Carrying concealed explosives is a Class A violation. (K.S.A. 21-6312)

Sec. 10.10. Endangerment.

- (a) Endangerment is recklessly exposing another person to a danger of great bodily harm or death.
- (b) Endangerment is a Class A violation. (K.S.A. 21-5429)

Sec. 10.11. Creating a Hazard.

- (a) Creating a hazard is recklessly:
 - (1) Storing or abandoning, in any place accessible to children, a container which has a compartment of more than one and one-half cubic feet capacity and a door or lid which locks or fastens automatically when closed and which cannot be easily opened from the inside, and failing to remove the door, lock, lid or fastening device on such container;

- (2) Being the owner or otherwise having possession of property upon which a cistern, well or cesspool is located and failing to cover the same with protective covering of sufficient strength and quality to exclude human beings and domestic animals therefrom; or
- (3) Exposing, abandoning or otherwise leaving any explosive or dangerous substance in a place accessible to children.

- (b) Creating a hazard is a Class B violation. (K.S.A. 21-6318)

Sec. 10.12. Unlawful Failure to Report a Wound.

- (a) Unlawful failure to report a wound is, with no requirement of a culpable mental state, the failure by an attending physician or other person to report such person's treatment of any of the following wounds, to the office of the chief of police of the city or the office of the sheriff of the county in which such treatment took place:
 - (1) Any bullet wound, gunshot wound, powder burn or other injury arising from or caused by the discharge of a firearm; or
 - (2) Any wound which is likely to or may result in death and is apparently inflicted by a knife, ice pick or other sharp or pointed instrument.
- (b) Unlawful failure to report a wound is a Class C violation. (K.S.A. 21-6319)

Sec. 10.13. Barbed Wire.

- (a) It shall be unlawful for any person to construct, set up or maintain any barbed wire or barbed wire fence or enclosure within the city.
- (a) Violation of this section is a Class C violation.

Sec. 10.14. Operation of a Motorboat or Sailboat.

- (a) (1) No person born on or after January 1, 1989, shall operate on public waters of this city any motorboat or sailboat unless the person possesses a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person as provided by K.S.A. 32-1101 *et seq.*

- (2) No owner or person in possession of any motorboat or sailboat shall permit another person, who is subject to the requirements in subsection (a)(1), to operate such motorboat or sailboat unless such other person either:
 - (A) Has been lawfully issued a certificate of completion of an approved boater safety education course of instruction as provided by K.S.A. 32-1101 *et seq.*; or
 - (B) Is legally exempt from the requirements of subsection (a)(1).
 - (3) The requirement in subsection (a)(1), shall not apply to a person 21 years of age or older.
 - (4) The requirement in subsection (a)(1), shall not apply to a person operating a sailboat that does not have a motor and has an overall length of 16 feet, seven inches or less, while such person is enrolled in an instructor-led class.
- (b) The requirement in subsection (a)(1) shall not apply to a person operating a motorboat or sailboat accompanied by and under the direct and audible supervision of a person over 17 years of age who either:
- (1) Possesses a certificate of completion of an approved boater safety education course; or
 - (2) Is legally exempt from the requirements of subsection (a)(1).
- (c) No person who is charged with a violation of subsection (a)(1) shall be convicted of the violation if such person produces in court or in the office of the arresting officer a certificate of completion of an approved boater safety education course of instruction lawfully issued to such person and valid at the time of such person's arrest.
- (d) As used in this section:
- (1) **Owner** means a person, other than a lienholder, having the property in or title to a vessel. The term includes a person entitled to the use or possession of a vessel subject to an interest in another person, reserved or created by agreement and securing payment or performance of an obligation, but the term excludes a lessee under a lease not intended as security. (K.S.A. 32-1102(e))

- (2) **Operate** means to navigate or otherwise use a motorboat or a vessel. (K.S.A. 32-1102(f))
(K.S.A. 32-1139)

Sec. 10.15. Operating a Vessel Under the Influence of Alcohol or Drugs; Penalties.

- (a) No person shall operate or attempt to operate any vessel within this city while:
- (1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in paragraph (1) of subsection (b) of K.S.A. 32-1130, and amendments thereto, is .08 or more;
 - (2) The alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel is .08 or more;
 - (3) The alcohol concentration in the person's blood or breath, at the time or within three hours after the person operated or attempted to operate the vessel is .02 or more and the person is less than 21 years of age;
 - (4) Under the influence of alcohol to a degree that renders the person incapable of safely operating a vessel;
 - (5) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely operating a vessel; or
 - (6) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely operating a vessel.
- (b) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.
- (c) No person shall operate or attempt to operate any vessel within this state for three months after the date of refusal of submitting to a test if such person refuses to submit to a test pursuant to K.S.A. 32-1132, and amendments thereto.
- (d) Except as provided by subsection (e), violation of this section is a violation punishable:

- (1) On the first conviction, by imprisonment of not more than one year or a fine of not less than \$100 nor more than \$500, or both; and
 - (2) On the second or a subsequent conviction, by imprisonment for not less than 90 days nor more than one year and, in the court's discretion, a fine of not less than \$100 nor more than \$500.
- (e) Subsection (d) shall not apply to or affect a person less than 21 years of age who submits to a breath or blood alcohol test requested pursuant to K.S.A. 32-1132 and amendments thereto, and produces a test result of an alcohol concentration of .02 or greater but less than .08. Such person's boating privileges upon the first occurrence shall be suspended for 30 days and upon a second or subsequent occurrence shall be suspended for 90 days.
- (f) In addition to any other penalties prescribed by law or rule and regulation, any person convicted of a violation of this section shall be required to satisfactorily complete a boater safety education course of instruction before such person subsequently operates or attempts to operate any vessel.
- (g) As used in this section, **operate** means to navigate or otherwise use a motorboat or a vessel. (K.S.A. 32-1131)

Sec. 10.16. Throwing Objects.

- (a) It is unlawful for any person to:
- (1) Recklessly throw, push, pitch or otherwise cast any rock, stone or other object, matter or thing onto a street, road, highway, railroad right-of-way, or upon any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock thereon;
 - (2) Violate subsection (a) and damage any vehicle, engine or car or any train, locomotive, railroad car, caboose, rail-mounted work equipment or rolling stock lawfully on the street, highway or railroad right-of-way by the thrown or cast rock, stone or other object.

(b) Penalties.

- (1) Violation of subsection (a) is a Class B nonperson violation.
- (2) Violation of subsection (b) is a Class A nonperson violation. (K.S.A. 21-5819)

Sec. 10.17. Tattooing or Body Piercing; Persons Under Age 18.

- (a) No person shall perform body piercing, cosmetic tattooing or tattooing on or to any person under 18 years of age without the prior written and notarized consent of the parent or court appointed guardian of such person and the person giving such consent must be present during the body piercing, cosmetic tattooing or tattooing procedure. The written permission and a copy of the letters of guardianship when such permission is given by a guardian, shall be retained by the person administering such body piercing, cosmetic tattooing or tattooing for a period of five years.
- (b) Violation of this section is a Class A violation. (K.S.A. 65-1953)

Sec. 10.18. Failure to Place or Maintain a Smoke Detector.

- (a) Every single-family residence shall have at least one smoke detector on every story of the dwelling unit.
- (b) Every structure which:
 - (1) Contains more than one dwelling unit; or
 - (2) Contains at least one dwelling unit and is a mixed-use structure, shall contain at least one smoke detector at the uppermost ceiling of each interior stairwell and on every story in each dwelling unit.
- (c) The owner of a structure shall supply and install all required smoke detectors. The owner of a structure shall test and maintain all smoke detectors except inside rental units, the occupant shall test and maintain all smoke detectors after taking possession of the dwelling unit.

- (d) The smoke detectors required in dwelling units in existence on January 1, 1999, may either be battery-powered or wired into the structure's electrical system, and need not be interconnected. The smoke detectors required in dwelling units constructed after January 1, 1999, shall be wired permanently into the structure's electrical system.
- (e) For purposes of this section, manufactured homes as defined in K.S.A. 58-4202, and amendments thereto, shall be subject to the federal, manufactured home construction and safety standards established pursuant to 42 U.S.C. § 5403 in lieu of the standards set forth herein. Owners and occupants of such manufactured homes shall be subject to the testing and maintenance standards for smoke detectors required under this section.
- (f) Officials responsible for the enforcement of this section shall not enter a dwelling unit solely for the purpose of determining compliance with the provisions of this section except when:
 - (1) Conducting an inspection prior to the issuance of an occupancy permit or building permit;
 - (2) Responding to a report of a fire in a dwelling unit, except in cases of a false alarm; or
 - (3) Conducting, at the request of the owner or occupant, a home safety inspection.
- (g) Failure to place or maintain a smoke detector shall be an unclassified violation. Any fine imposed for a violation of this section shall not exceed \$25.
(K.S.A. 31-162:163)

Sec. 10.19. Sale of Medicines and Drugs Through Vending Machines.

- (a) Any person, firm or corporation who offers for sale, sells or distributes any prescription medicine, prescription-only drug, drug which contains ephedrine alkaloids, drug intended for human use by hypodermic injection or poison through or by means of any vending machine or other mechanical device, or who uses any vending machine in or for the sale or distribution of any prescription medicine, prescription-only drug, drug which contains ephedrine alkaloids, drug intended for human use by hypodermic injection or poison, shall be guilty of illegal sale of medicines and drugs through a vending machine.

- (b) No nonprescription drugs shall be offered for sale or sold through a vending machine in anything other than the manufacturer's original tamper-evident and expiration-dated packet. No more than 12 different nonprescription drug products shall be offered for sale or sold through anyone vending machine. Any vending machine in which nonprescription drugs are offered for sale or sold shall be located so that the drugs stored in such vending machine are stored in accordance with drug manufacturer's requirements. Drugs offered for sale or sold in such vending machine shall not be older than the manufacturer's expiration date. Each vending machine through which nonprescription drugs are offered for sale or sold shall have an obvious and legible statement on the machine that identifies the owner of the machine, a toll-free telephone number at which the consumer may contact the owner of the machine, a statement advising the consumer to check the expiration date of the product before using the product and the telephone number of the state board of pharmacy. As used in this subsection, **nonprescription drug** does not include any prescription medicine, prescription-only drug, drug which contains ephedrine alkaloids, drug intended for human use by hypodermic injection or poison.
- (c) Any violation of this section constitutes an illegal sale of medicines and drugs through a vending machine and is a Class C violation and upon conviction, the violator shall be fined not less than \$25 nor more than \$500. (K.S.A. 65-650)

Sec. 10.20. Unlawfully Obtaining a Prescription-Only Drug.

- (a) Unlawfully obtaining a prescription-only drug is:
- (1) Making, altering or signing of a prescription order by a person other than a practitioner or a mid-level practitioner;
 - (2) Distribution of a prescription order, knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
 - (3) Possession of a prescription order with intent to distribute it and knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
 - (4) Possession of a prescription-only drug knowing it to have been obtained pursuant to a prescription order made, altered or signed by a person other than a practitioner or a mid-level practitioner; or

- (5) Providing false information, with the intent to deceive, to a practitioner or mid-level practitioner for the purpose of obtaining a prescription-only drug.

(b) As used in this section:

- (1) **Pharmacist, practitioner, mid-level practitioner and prescription-only drug** shall have the meanings ascribed thereto by K.S.A. 65-1626 and amendments thereto.
- (2) **Prescription order** means an order transmitted in writing, orally, telephonically or by other means of communication for a prescription-only drug to be filled by a pharmacist. **Prescription order** does not mean a drug dispensed pursuant to such an order.
- (3) **Distribute** means the actual, constructive or attempted transfer from one person to another of some item whether or not there is an agency relationship. **Distribute** includes, but is not limited to, sale, offer for sale or any act that causes some item to be transferred from one person to another. **Distribute** does not include acts of administering, dispensing or prescribing a controlled substance as authorized by the pharmacy act of the state of Kansas, the uniform controlled substances act or otherwise authorized by law.
- (4) **Drug** means:
 - (A) Substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;
 - (B) Substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;
 - (C) Substances, other than food, intended to affect the structure or any function of the body of man or animals; and
 - (D) Substances intended for use as a component of any article specified in paragraph (1), (2) or (3). It does not include devices or their components, parts or accessories. See K.S.A. 65-1626(H)

- (c) The provisions of this section shall not be applicable to prosecutions involving prescription-only drugs which could be brought under K.S.A. 21-5705 or 21-5706 and amendments thereto.
- (d) Unlawfully obtaining a prescription-only drug is a Class A violation for the first offense.
(K.S.A. 21-5708)

{**Editor's Note:** If that person has a prior conviction of under this section, K.S.A. 21-5708, K.S.A. 21-36a08, prior to its transfer, or K.S.A. 21-4214, prior to its repeal, under state law subsequent violations are considered a felony over which municipal courts have no jurisdiction. These violations should be referred to the appropriate prosecuting authority.}

Sec. 10.21. Selling Beverage Containers with Detachable Tabs.

- (a) Selling beverage containers with detachable tabs is knowingly selling or offering for sale at retail in this state any metal beverage container so designed and constructed that a part of the container is detachable in opening the container.
- (b) Selling beverage containers with detachable tabs is a Class C violation.
- (c) As used in this section:
 - (1) **Beverage container** means any sealed can containing beer, cereal malt beverages, mineral waters, soda water and similar soft drinks so designated by the director of alcoholic beverage control, in liquid form and intended for human consumption; and
 - (2) **In this state** means within the exterior limits of the state of Kansas and includes all territory within these limits owned by or ceded to the United States of America.

(K.S.A. 21-6320)

Sec. 10.22. Alcohol Without Liquid Machine.

- (a) It shall be unlawful for any person to knowingly:
 - (1) Use any alcohol without liquid machine to inhale alcohol vapor or otherwise introduce alcohol in any form into the human body; or

(2) Purchase, sell, or offer for sale an alcohol without liquid machine.

(b) Violation of this section is a Class A violation.
(K.S.A. 21-6321)

Sec. 10.23. Trafficking in Counterfeit Drugs.

(a) Trafficking in counterfeit drugs is intentionally manufacturing, distributing, dispensing, selling, or delivering for consumption purposes, or holding or offering for sale, any counterfeit drug.

(b) Trafficking in counterfeit drugs which have a retail value of less than \$500 is a Class A violation. (K.S.A. 65-4167)

Sec. 10.24. Smoking Prohibited.

(a) It shall be unlawful, with no requirement of a culpable mental state, to smoke in an enclosed area or at a public meeting including, but not limited to:

- (1) Public places;
- (2) Taxicabs and limousines;
- (3) Restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;
- (4) Restrooms, lobbies and other common areas in hotels and motels and in at least 80% of the sleeping quarters within a hotel or motel that may be rented to guests;
- (5) Access points of all buildings and facilities not exempted pursuant to subsection (d); and
- (6) Any place of employment.

(b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.

- (c) Notwithstanding any other provision of this section, 10.25 or 10.26, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area.

- (d) The provisions of this section shall not apply to:
 - (1) The outdoor areas of any building or facility beyond the access points of such building or facility;
 - (2) Private homes or residences, except when such home or residence is used as a day care home, as defined in K.S.A. 65-530, and amendments thereto;
 - (3) A hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 20%;
 - (4) The gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;
 - (5) That portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated;
 - (6) That portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;
 - (7) Tobacco shops;
 - (8) A Class A or Class B club defined in K.S.A. 41-2601, and amendments thereto, which (A) held a license pursuant to K.S.A. 41-2606 et seq., and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing, not later than 90 days after the effective date of this act, that it wishes to continue to allow smoking on its premises; and

- (9) A private club in designated areas where minors are prohibited.
- (10) Any benefit cigar dinner or other cigar dinner of a substantially similar nature that:
 - (A) Is conducted specifically and exclusively for charitable purposes by a nonprofit organization which is exempt from federal income taxation pursuant to Section 501(c)(3) of the federal internal revenue code of 1986;
 - (B) Is conducted no more than once per calendar year by such organization; and
 - (C) Has been held during each of the previous three years prior to January 1, 2011; and
- (11) That portion of a medical or clinical research facility constituting a separately ventilated, secure smoking room dedicated and used solely and exclusively for clinical research activities conducted in accordance with regulatory authority of the United States or the state of Kansas, as determined by the director of alcoholic beverage control of the department of revenue. (K.S.A. 21-6110)

Sec. 10.25. Smoking; Posting Premises. The proprietor or other person in charge of the premises of a public place, or other area where smoking is prohibited, shall post or cause to be posted in a conspicuous place signs displaying the international no smoking symbol and clearly stating that smoking is prohibited by state law. (K.S.A. 21-6111)

Sec. 10.26. Smoking Prohibited; Penalties.

- (a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to fail to comply with all or any of the provisions of sections 10.24 through 10.26.
- (b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to allow smoking to occur where prohibited by law. Any such person shall be deemed to allow smoking to occur under this subsection if such person:

- (1) Has knowledge that smoking is occurring; and
 - (2) Recklessly permits smoking under the totality of the circumstances.
- (c) It shall be unlawful for any person, with no requirement of a culpable mental state, to smoke in any area where smoking is prohibited by the provisions of 10.24.
- (d) Any person who violates any provision of sections 10.24 through 10.26, shall be guilty of a cigarette or tobacco infraction punishable by a fine:
- (1) Not exceeding \$100 for the first violation;
 - (2) Not exceeding \$200 for a second violation within a one year period after the first violation; or
 - (3) Not exceeding \$500 for a third or subsequent violation within a one year period after the first violation.

For purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.

- (e) Each individual allowed to smoke by a person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, in violation of subsection (b) shall be considered a separate violation for purposes of determining the number of violations under subsection (d).
- (f) No employer shall discharge, refuse to hire or take any other adverse action against an employee, applicant for employment or customer with the intent to retaliate against that employee, applicant or customer for reporting or attempting to prosecute a violation of any of the provisions of sections 10.24 through 10.26. (K.S.A. .21-6112)

Sec. 10.27. Illegal Operation of an Amusement Ride.

- (a) It shall be unlawful for an owner or operator of an amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity as defined in K.S.A. 44-1601 and amendments thereto, to knowingly operate, or cause to be operated, any amusement ride, antique amusement ride, limited-use amusement ride or registered agritourism activity without a valid permit issued by the State of Kansas.

- (b) Violation of this section is a Class B violation. (K.S.A. 44-1610)

Sec. 10.28. Endangering the Food Supply.

- (a) Endangering the food supply is knowingly:
- (1) Bringing into this state any domestic animal which is infected with any contagious or infectious disease or any animal which has been exposed to any contagious or infectious disease;
 - (2) exposing any animal in this state to any contagious or infectious disease;
 - (3) except as permitted under K.S.A. 2-2112 et seq., and amendments thereto, bringing or releasing into this state any plant pest as defined in K.S.A. 2-2113, and amendments thereto, or exposing any plant to a plant pest; or
 - (4) exposing any raw agricultural commodity, animal feed or processed food to any contaminant or contagious or infectious disease.
- (b) As used in this section:
- (1) "Animal feed" means an article which is intended for use for food for animals other than humans and which is intended for use as a substantial source of nutrients in the diet of the animal, and is not limited to a mixture intended to be the sole ration of the animal;
 - (2) "contagious or infectious disease" means any disease which can be spread from one subject to another by direct or indirect contact or by an intermediate agent, including, but not limited to, anthrax, all species of brucellosis, equine infectious anemia, hog cholera, pseudorabies, psoroptic mange, rabies, tuberculosis, vesicular stomatitis, avian influenza, pullorum, fowl typhoid, psittacosis, viscerotropic velogenic Newcastle disease, foot-and-mouth disease, rinderpest, African swine fever, piroplasmiasis, vesicular exanthema, Johne's disease, scabies, scrapies, bovine leukosis and bovine spongiform encephalopathy;
 - (3) "processed food" means any food other than a raw agricultural commodity and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration or milling; and

- (4) “raw agricultural commodity” means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.
- (c) Endangering the food supply is a Class A violation except if the contagious or infectious disease is food-and-mouth disease in which class it is classified as a felony under state law and will be referred to the appropriate prosecuting authority.
(K.S.A. 21-6317)

Sec. 10.29 Violation of a Public Health Order.

- (a) It shall be unlawful for any person to violate, refuse, or fail to comply with, a written order of the County Health Officer, Board of Health, or Director of Health issued under their respective authorities.
- (b) A violation of this section is a Class C violation.

Article 11. Offenses Against Public Morals

Sec. 11.1. Promoting Obscenity.

- (a) Promoting obscenity is recklessly:
 - (1) Manufacturing, mailing, transmitting, publishing, distributing, presenting, exhibiting, or advertising any obscene material or obscene device;
 - (2) Possessing any obscene material or obscene device with intent to mail, transmit, publish, distribute, present, exhibit or advertise such material or device;
 - (3) Offering or agreeing to manufacture, mail, transmit, publish, distribute, present, exhibit, or advertise any obscene material or obscene device; or
 - (4) Producing, presenting, or directing an obscene performance or participating in a portion thereof which is obscene or which contributes to its obscenity.

- (b) Evidence that materials or devices were promoted to emphasize their prurient appeal shall be relevant in determining the question of the obscenity of such materials or devices. There shall be a rebuttable presumption that a person promoting obscene materials or obscene devices did so knowingly or recklessly if:
- (1) The materials or devices were promoted to emphasize their prurient appeal; or
 - (2) The person is not a wholesaler and promotes the materials or devices in the course of the person's business.
- (c) As used in this section:
- (1) Any material or performance is **obscene** if:
 - (A) The average person applying contemporary community standards would find that the material or performance, taken as a whole, appeals to the prurient interest;
 - (B) The average person applying contemporary community standards would find that the material or performance has patently offensive representations or descriptions of (i) ultimate sexual acts, normal or perverted, actual or simulated, including sexual intercourse or sodomy; or (ii) masturbation, excretory functions, sadomasochistic abuse or lewd exhibition of the genitals; and
 - (C) Taken as a whole, a reasonable person would find that the material or performance lacks serious literary, educational, artistic, political, or scientific value.
 - (2) Material. Any tangible thing which is capable of being used or adapted to arouse interest, whether throughout the medium of reading, observation, sound or other manner.
 - (3) Obscene Device. A device, including a dildo or artificial vagina, designed or marketed as useful primarily for the stimulation of human genital organs, except such devices disseminated or promoted for the purpose of medical or psychological therapy.
 - (4) Performance. Any play, motion picture, dance or other exhibition performed before an audience.

- (5) Wholesaler. A person who distributes or offers for distribution obscene materials or devices only for resale and not to the consumer and who does not manufacture publish or produce such materials or devices.
- (d) It shall be a defense to a prosecution for promoting obscenity and promoting obscenity to minors that the:
- (1) Persons to whom the allegedly obscene material or obscene device was disseminated, or the audience to an allegedly obscene performance, consisted of persons or institutions having scientific, educational or governmental justification for possessing or viewing the same;
 - (2) Defendant is an officer, director, trustee, or employee of a public library and the allegedly obscene material was acquired by such library and was disseminated in accordance with regular library policies approved by its governing body; or
 - (3) Allegedly obscene material or obscene device was purchased, leased, or otherwise acquired by a public, private or parochial school, college, or university, and that such material or device was either sold, leased, distributed, or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incident to an approved course or program of instruction at such school.
- (e) The provisions of this section prescribing a criminal penalty for exhibit of any obscene motion picture shown in a commercial showing to the general public shall not apply to a projectionist, or assistant projectionist, if such projectionist or assistant projectionist has no financial interest in the show or in its place of presentation other than regular employment as a projectionist or assistant projectionist and no personal knowledge of the contents of the motion picture. The provisions of this section shall not exempt any projectionist or assistant projectionist from criminal liability for any act unrelated to projection of motion pictures in commercial showings to the general public.

- (f) Promoting obscenity is a Class A violation on conviction of a first offense. Subsequent violations considered felonies under state law and will be referred to the appropriate prosecuting authority.
- (g) Upon any conviction of promoting obscenity, the court may require, in addition to any fine or imprisonment imposed, that the defendant enter into a reasonable recognizance with good and sufficient surety, in such sum as the court may direct, but not to exceed \$50,000, conditioned that, in the event the defendant is convicted, of a subsequent offense of promoting obscenity within two years after such conviction, the defendant shall forfeit the recognizance. (K.S.A. 21-6401)

Sec. 11.2. Promoting Obscenity to Minors.

- (a) Promoting obscenity to minors is promoting obscenity, as defined in section 11.1, where a recipient of the obscene material or obscene device or a member of the audience of an obscene performance is a child under the age of 18 years.
- (b) Evidence that materials or devices were promoted to emphasize their prurient appeal shall be relevant in determining the question of the obscenity of such materials or devices. There shall be a rebuttable presumption that a person promoting obscene materials or obscene devices did so knowingly or recklessly if:
 - (1) The materials or devices were promoted to emphasize their prurient appeal; or
 - (2) The person is not a wholesaler and promotes the materials or devices in the course of the person's business.
- (c) It shall be a defense to a prosecution for promoting obscenity to minors that the:
 - (1) Persons to whom the allegedly obscene material or obscene device was disseminated, or the audience to an allegedly obscene performance, consisted of persons or institutions having scientific, educational or governmental justification for possessing or viewing the same;

- (2) Defendant is an officer, director, trustee or employee of a public library and the allegedly obscene material was acquired by such library and was disseminated in accordance with regular library policies approved by its governing body; or
 - (3) Allegedly obscene material or obscene device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material or device was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incidental to an approved course or program of instruction at such school.
- (d) Notwithstanding the provisions of K.S.A. 21-5204, and amendments thereto, to the contrary, it shall be an affirmative defense to any prosecution for promoting obscenity to minors that:
- (1) The defendant had reasonable cause to believe that the minor involved was 18 years old or over, and such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more; or
 - (2) An exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose for a bona fide school, museum or library.
- (e) The provisions of this section and the provisions of ordinances of any city prescribing a criminal penalty for exhibit of any obscene motion picture shown in a commercial showing to the general public shall not apply to a projectionist, or assistant projectionist, if such projectionist or assistant projectionist has no financial interest in the show or in its place of presentation other than regular employment as a projectionist or assistant projectionist and no personal knowledge of the contents of the motion picture. The provisions of this section shall not exempt any projectionist or assistant projectionist from criminal liability for any act unrelated to projection of motion pictures in commercial showings to the general public.

- (f) Promoting obscenity to minors is a Class A violation. Subsequent violations considered felonies under state law and will be referred to the appropriate prosecuting authority.
- (g) Upon any conviction of promoting obscenity to minors, the court may require, in addition to any fine or imprisonment imposed, that the defendant enter into a reasonable recognizance with good and sufficient surety, in such sum as the court may direct, but not to exceed \$50,000, conditioned that, in the event the defendant is convicted of a subsequent offense of promoting obscenity to minors within two years after such conviction, the defendant shall forfeit the recognizance. (K.S.A. 21-6401)

Sec. 11.3. Commercialization of Wildlife.

- (a) Commercialization of wildlife is knowingly committing any of the following, except as permitted by statute or rules and regulations:
 - (1) Capturing, killing, or possessing, for profit or commercial purposes, all or any part of any wildlife protected by this section;
 - (2) Selling, bartering, purchasing, or offering to sell, barter or purchase, for profit or commercial purposes, all or any part of any wildlife protected by this section;
 - (3) Shipping, exporting, importing, transporting or carrying; causing to be shipped, exported, imported, transported, or carried; or delivering or receiving for shipping, exporting, importing, transporting, or carrying all or any part of any wildlife protected by this section, for profit or commercial purposes; or
 - (4) Purchasing, for personal use or consumption, all or any part of any wildlife protected by this section.
- (b) The wildlife protected by this section and the minimum value thereof are as follows:
 - (1) Eagles, \$1,000;
 - (2) Deer or antelope, \$1,000;
 - (3) Elk or buffalo, \$1,500;
 - (4) Furbearing animals, except bobcats, \$25;
 - (5) Bobcats, \$200;
 - (6) Wild turkey, \$200;

- (7) Owls, hawks, falcons, kites, harriers, or ospreys, \$500;
 - (8) Game birds, migratory game birds, resident and migratory nongame birds, game animals and nongame animals, \$50 unless a higher amount is specified above;
 - (9) Fish and mussels, the value for which shall be no less than the value listed for the appropriate fish or mussels species in the monetary values of freshwater fish or mussels and fish kill counting guidelines of the American fisheries society, special publication number 30;
 - (10) Turtles, \$25 each for unprocessed turtle or \$16 per pound or fraction of a pound for processed turtle parts;
 - (11) Bullfrogs, \$4, whether dressed or not dressed;
 - (12) Any wildlife classified as threatened or endangered, \$500 unless a higher amount is specified above; and
 - (13) Any other wildlife not listed above, \$25.
- (c) Possession of wildlife, in whole or in part, captured, or killed in violation of law and having an aggregate value of \$1,000 or more, as specified in subsection (b), is prima facie evidence of possession for profit or commercial purposes.
- (d) Commercialization of wildlife having an aggregate value of less than \$1000, as specified in subsection (b), is a Class A violation. (K.S.A. 32-1005)
- (e) In addition to any other penalty provided by law, a court convicting a person of the crime of commercialization of wildlife may:
- (1) Confiscate all equipment used in the commission of the crime and may revoke for a period of up to 10 years all licenses and permits issued to the convicted person by the Kansas department of wildlife, parks and tourism;
 - (2) Order restitution to be paid to the Kansas department of wildlife, parks and tourism for the wildlife taken, such restitution shall be in an amount not less than the aggregate value of the wildlife, as specified in subsection (b).
- (f) The provisions of this section shall apply only to wildlife illegally harvested and possessed by any person having actual knowledge that such wildlife was illegally harvested. (K.S.A. 32-1005)

Sec. 11.4:11.6. Reserved for Future Use.

Sec. 11.7. Material Harmful to Minors.

- (a) No person having custody, control or supervision of any commercial establishment shall knowingly:
 - (1) Display any material or device which is harmful to minors in such a way that minors, as a part of the invited general public, will be exposed to view such material or device;
 - (2) Present or distribute to a minor, or otherwise allow a minor to view, with or without consideration, any material which is harmful to minors; or
 - (3) Present to a minor, or participate in presenting to a minor, with or without consideration, any performance which is harmful to a minor.

- (b) Notwithstanding the provisions of K.S.A. 21-5204, to the contrary, it shall be an affirmative defense to any prosecution under this section that:
 - (1) The allegedly harmful material or device was purchased, leased or otherwise acquired by a public, private or parochial school, college or university, and that such material or device was either sold, leased, distributed or disseminated by a teacher, instructor, professor or other faculty member or administrator of such school as part of or incidental to an approved course or program of instruction at such school.
 - (2) The defendant is an officer, director, trustee or employee of a public library and the allegedly harmful material or device was acquired by a public library and was disseminated in accordance with regular library policies approved by its governing body.
 - (3) An exhibition in a state of nudity is for a bona fide scientific or medical purpose, or for an educational or cultural purpose for a bona fide school, museum or library.
 - (4) With respect to a prosecution for an act described by subsection (a)(1), the allegedly harmful material was kept behind blinder racks.
 - (5) With respect to a prosecution for an act described by subsection (a)(2) or (3), the defendant had reasonable cause to believe that the minor involved was 18 years old or over, and

such minor exhibited to the defendant a draft card, driver's license, birth certificate or other official or apparently official document purporting to establish that such minor was 18 years old or more.

- (6) With respect to a prosecution for an act described by subsection (a)(3), the allegedly harmful performance was viewed by the minor in the presence of such minor's parent or parents or such minor's legal guardian.

(c) As used in this section:

- (1) **Blinder rack** means a device in which material is displayed in such a manner that the lower 2/3 of the material is not exposed to view.
- (2) **Harmful to minors** means that quality of any description, exhibition, presentation or representation, in whatever form, of nudity, sexual conduct, sexual excitement or sadomasochistic abuse when the material or performance, taken as a whole or, with respect to a prosecution for an act described by subsection (a)(1), that portion of the material that was actually exposed to the view of minors, has the following characteristics:
 - (A) The average adult person applying contemporary community standards would find that the material or performance has a predominant tendency to appeal to a prurient interest in sex to minors;
 - (B) The average adult person applying contemporary community standards would find that the material or performance depicts or describes nudity, sexual conduct, sexual excitement or sadomasochistic abuse in a manner that is patently offensive to prevailing standards in the adult community with respect to what is suitable for minors; and
 - (C) A reasonable person would find that the material or performance lacks serious literary, scientific, educational, artistic or political value for minors.
- (3) **Material** means any book, magazine, newspaper, pamphlet, poster, print, picture, figure, image, description, motion picture film, record, recording tape or video tape.

- (4) **Minor** means any unmarried person under 18 years of age.
 - (5) **Nudity** means the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible state of sexual excitement.
 - (6) **Performance** means any motion picture, file, video tape, played record, phonograph, tape recording, preview, trailer, play, show, skit, dance or other exhibition performed or presented to or before an audience of one or more, with or without consideration.
 - (7) **Sadomasochistic abuse** means flagellation or torture by or upon a person clad in undergarments, in a mask or bizarre costume or in the condition of being fettered, bound or otherwise physically restrained on the part of one so clothed.
 - (8) **Sexual conduct** means acts of masturbation, homosexuality, sexual intercourse or physical contact with a person's clothed or unclothed genitals or pubic area or buttocks or with a human female's breast.
 - (9) **Sexual excitement** means the condition of human male or female genitals when in a state of sexual stimulation or arousal.
- (d) The provisions of this section shall not apply to a retail sales clerk, if such clerk has no financial interest in the materials or performance or in the commercial establishment displaying, presenting or distributing such materials or presenting such performance other than regular employment as a retail sales clerk. The provisions of this section shall not exempt any retail sales clerk from criminal liability for any act unrelated to regular employment as a retail sales clerk.
- (e) Violation of subsection (a) is a Class B violation. (K.S.A. 21-6402)

Sec. 11.8. Gambling.

- (a) Definitions of gambling terms used in sections 11.8, 11.9, and 11.10 shall be as follows:
- (1) A **bet** is a bargain in which the parties agree that, dependent upon chance, one stands to win or lose something of value specified in the agreement. A bet does not include:
- (A) Bona fide business transactions which are valid under the laws of contracts including, but not limited to, contracts for the purchase or sale at a future date of securities or other commodities, and agreements to compensation for loss caused by the happening of the chance including, but not limited to, contracts of indemnity or guaranty and life or health and accident insurance;
 - (B) Offers of purses, prizes or premiums to the actual contestants in any bona fide contest for the determination of skill, speed, strength, or endurance or to the bona fide owners of animals or vehicles entered in such a contest;
 - (C) A lottery as defined in this section;
 - (D) Any bingo game by or for participants managed, operated or conducted in accordance with the laws of the state of Kansas by an organization licensed by the state of Kansas to manage, operate or conduct games of bingo;
 - (E) A lottery operated by the state pursuant to the Kansas lottery act;
 - (F) Any system of pari-mutuel wagering managed, operated and conducted in accordance with the Kansas pari-mutuel racing act; or
 - (G) Tribal gaming;
 - (H) Charitable raffles as defined by K.S.A. 75-5173, and amendments thereto; or
 - (I) A fantasy sports league as defined in this section.

(2) A **lottery** is an enterprise wherein for a consideration the participants are given an opportunity to win a prize, the award of which is determined by chance. A lottery does not include:

- (A) A lottery operated by the state pursuant to the Kansas lottery act; or
- (B) Tribal gaming.

(3) **Consideration** means anything which is a commercial or financial advantage to the promoter or a disadvantage to any participant. Mere registration without purchase of goods or services; personal attendance at places or events, without payment of an admission price or fee; listening to or watching radio and television programs; answering the telephone or making a telephone call and acts of like nature are not consideration.

Consideration shall not include sums of money paid by or for:

- (A) Participants in any bingo game managed, operated or conducted in accordance with the laws of the state of Kansas by any bona fide nonprofit religious, charitable, fraternal, educational or veteran organization licensed to manage, operate or conduct bingo games under the laws of the state of Kansas and it shall be conclusively presumed that such sums paid by or for such participants were intended by such participants to be for the benefit of the sponsoring organizations for the use of such sponsoring organizations in furthering the purposes of such sponsoring organizations, as set forth in the appropriate paragraphs of subsection (c) or (d) of section 501 of the internal revenue code of 1986 and as set forth in K.S.A. 79-4701, and amendments thereto;
- (B) Participants in any lottery operated by the state pursuant to the Kansas lottery act;

- (C) Participants in any system of pari-mutuel wagering managed, operated and conducted in accordance with the Kansas pari-mutuel racing act; or
 - (D) A person to participate in tribal gaming.
- (4) **Fantasy sports league** means any fantasy or simulation sports game or contest in which no fantasy or simulation sports team is based on the current membership of an actual team that is a member of an amateur or professional sports organization and that meets the following conditions:
- (A) All prizes and awards offered to winning participants are established and made known to the participants in advance of the game or contest and their value is not determined by the number of participants or the amount of any fees paid by those participants;
 - (B) All winning outcomes reflect the relative knowledge and skill of the participants and are determined predominantly by accumulated statistical results of the performance of individual athletes in multiple real-world sporting events; and
 - (C) No winning outcome is based:
 - (i) On the score, point spread or any performance or performances of any single real-world team or any combination of such teams; or
 - (ii) Solely on any single performance of an individual athlete in any single real-world sporting event.
- (5) (A) **Gambling device** means any:
- (i) So-called slot machine or any other machine, mechanical device, electronic device or other contrivance an essential part of which is a drum or reel with insignia thereon, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;

- (ii) Other machine, mechanical device, electronic device or other contrivance (including, but not limited to, roulette wheels and similar devices) which is equipped with or designed to accommodate the addition of a mechanism that enables accumulated credits to be removed, is equipped with or designed to accommodate a mechanism to record the number of credits removed or is otherwise designed, manufactured or altered primarily for use in connection with gambling, and (i) which when operated may deliver, as the result of chance, any money or property, or (ii) by the operation of which a person may become entitled to receive, as the result of chance, any money or property;
- (iii) Subassembly or essential part intended to be used in connection with any such machine, mechanical device, electronic device or other contrivance, but which is not attached to any such machine, mechanical device, electronic device or other contrivance as a constituent part; or
- (iv) Token, chip, paper, receipt or other document which evidences, purports to evidence or is designed to evidence participation in a lottery or the making of a bet. The fact that the prize is not automatically paid by the device does not affect its character as a gambling device.

(B) **Gambling device** shall not include:

- (i) Any machine, mechanical device, electronic device or other contrivance used or for use by a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission or by the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

- (ii) Any machine, mechanical device, electronic device or other contrivance, such as a coin-operated bowling alley, shuffleboard, marble machine (a so-called pinball machine), or mechanical gun, which is not designed and manufactured primarily for use in connection with gambling, and (i) which when operated does not deliver, as a result of chance, any money, or (ii) by the operation of which a person may not become entitled to receive, as the result of the application of an element of chance, any money;
- (iii) Any so-called claw, crane or digger machine and similar devices which are designed and manufactured primarily for use at carnivals or county or state fairs; or
- (iv) Any machine, mechanical device, electronic device or other contrivance used in tribal gaming.

(6) A **gambling place** is any place, room, building, vehicle, tent or location which is used for any of the following: Making and settling bets; receiving, holding, recording or forwarding bets or offers to bet; conducting lotteries; or playing gambling devices. Evidence that the place has a general reputation as a gambling place or that, at or about the time in question, it was frequently visited by persons known to be commercial gamblers or known as frequenters of gambling places is admissible on the issue of whether it is a gambling place.

(7) **Tribal gaming** has the meaning provided by K.S.A. 74-9802, and amendments thereto.

(b) **Gambling** is:

- (1) Making a bet; or
- (2) Entering or remaining in a gambling place with intent to make a bet, to participate in a lottery, or to play a gambling device.

(c) Gambling is a Class B violation. (K.S.A. 21-6403; K.S.A. 21-6404)

Sec. 11.9. Commercial Gambling.

- (a) Commercial gambling is knowingly:
 - (1) Granting the use or allowing the continued use of a place as a gambling place; or
 - (2) Permitting another to set up a gambling device for use in a place under the offender's control.
- (b) Commercial gambling is a Class B violation. (K.S.A. 21-65406)

Sec. 11.9.1. Illegal Bingo Operation.

- (a) Illegal bingo operation is the knowing management, operation or conduct of games of bingo in violation of the laws of the state of Kansas pertaining to the regulation, licensing and taxing of games of bingo or rules and regulations adopted pursuant thereto.
- (b) Illegal bingo operation is a class A nonperson violation. (K.S.A. 21-6405)

Sec. 11.10. Possession of a Gambling Device.

- (a) It shall be unlawful for any person to possess a gambling device.
- (b) It shall be a defense to a prosecution under this section that:
 - (1) The gambling device is an antique slot machine and that the antique slot machine was not operated for gambling purposes while in the owner's or the defendant's possession. A slot machine shall be deemed an antique slot machine if it was manufactured prior to the year 1950; or
 - (2) The gambling device is possessed or under custody or control of a manufacturer registered under the federal gambling devices act of 1962 (15 U.S.C. § 1171 *et seq.*) or a transporter under contract with such manufacturer with intent to distribute for use:
 - (A) By the Kansas lottery or Kansas lottery retailers as authorized by law and rules and regulations adopted by the Kansas lottery commission;

- (B) By a licensee of the Kansas racing commission as authorized by law and rules and regulations adopted by the commission;
 - (C) In a state other than the state of Kansas; or
 - (D) In tribal gaming.
- (c) Violation of this section is a Class B violation.
(K.S.A. 21-6408)

Sec. 11.11. Cruelty to Animals.

- (a) Cruelty to animals is:
- (1) Knowingly abandoning any animal any place without making provisions for its proper care;
 - (2) Having physical custody of any animal and knowingly failing to provide such food, potable water, protection from the elements, opportunity for exercise and other care as is need for the health or well-being of such kind of animal;
 - (3) Intentionally using a wire, pole, stick, rope or any other object to cause an equine to lose its balance or fall, for the purpose of sport or entertainment; or
 - (4) Intentionally causing any physical injury other than the acts described in subsection (a)(1).
- (b) The provisions of this section shall not apply to:
- (1) Normal or accepted veterinary practices;
 - (2) *Bona fide* experiments carried on by commonly recognized research facilities;
 - (3) Killing, attempting to kill, trapping, catching or taking of any animal in accordance with the provisions of Chapter 32 or Chapter 47 of the Kansas Statutes Annotated, and amendments thereto;
 - (4) Rodeo practices accepted by the rodeo cowboys' association;
 - (5) The humane killing of an animal that is diseased or disabled beyond recovery for any useful purpose, or the humane killing of animals for population control, by the owner thereof or the agent of such owner residing outside of a city or the owner thereof within a city if no animal shelter or licensed veterinarian is within the city,

- or by a licensed veterinarian at the request of the owner thereof, or by any officer or agent of an animal shelter, a local or state health officer or a licensed veterinarian three business days following the receipt of any such animal at such shelter;
- (6) With respect to farm animals, normal or accepted practices of animal husbandry including the normal and accepted practices for the slaughter of such animals for food or by-products and the careful or thrifty management of one's herd or animals, including animal care practices common in the industry or region;
 - (7) The killing of any animal by any person at any time that may be found outside of the owned or rented property of the owner or custodian of such animal and that is found injuring or posing a threat to any person, farm animal or property;
 - (8) An animal control officer trained by a licensed veterinarian in the use of a tranquilizer gun, using such gun with the appropriate dosage for the size of the animal, when such animal is vicious or could not be captured after reasonable attempts using other methods;
 - (9) Laying an equine down for medical or identification purposes;
 - (10) Normal or accepted practices of pest control, as defined in K.S.A. 2-2438a(x), and amendments thereto; or
 - (11) Accepted practices of animal husbandry pursuant to regulations promulgated by the United States department of agriculture for domestic pet animals under the animal welfare act, public law 89-544, as amended and in effect on July 1, 2006.
- (c) If a person is adjudicated guilty of the crime of cruelty to animals, such animal shall not be returned to or remain with such person. Such animal may be turned over to an animal shelter or licensed veterinarian for sale or other disposition.
- (d) On first conviction, cruelty to animals is a Class A violation. Subsequent violations considered felonies under state law and will be referred to the appropriate prosecuting authority. (K.S.A. 21-6412)

Sec. 11.12. Cockfighting.

- (a) Unlawful possession of cockfighting paraphernalia is possession of, with the intent to use in the unlawful conduct of cockfighting, spurs, gaffs, swords, leather training spur covers, or anything worn by a gamecock during a fight to further the killing power of such gamecock.
- (b) Unlawful attendance of cockfighting is entering or remaining on the premises where the unlawful conduct of cockfighting is occurring, whether or not the person knows or has reason to know that cockfighting is occurring on the premises.
- (c) A person who violates the provisions of this section may also be prosecuted for, convicted of, and punished for cruelty to animals.
- (d) Penalties.
 - (1) Unlawful possession of cockfighting paraphernalia is a Class A violation.
 - (2) Unlawful attendance of cockfighting is a Class B violation. (K.S.A. 21-6417)

Sec. 11.13. Unlawful Possession of Dog Fighting Paraphernalia; Unlawful Attendance of Dog Fighting.

- (a) Unlawful possession of dog fighting paraphernalia is possession, with the intent to use in the unlawful conduct of dog fighting, any breaking stick, treadmill, wheel, hot walker, cat mill, cat walker, jenni, or other paraphernalia.
- (b) Unlawful attendance of dog fighting is, entering or remaining on the premises where the unlawful conduct of dog fighting is occurring, whether the person knows or has reason to know that dog fighting is occurring on the premises.
- (c) Penalties.
 - (1) Unlawful possession of dog fighting paraphernalia is a class A nonperson violation.
 - (2) Unlawful attendance of dog fighting is a Class B nonperson violation.

- (d) A person who violates the provisions of this section may also be prosecuted for, convicted of and punished for cruelty to animals.
(K.S.A. 21-6414)

Sec. 11.14. Illegal Animal Ownership.

- (a) Illegal ownership or keeping of an animal is, with no requirement of a culpable mental state, owning, or keeping on one's premises, an animal by a person convicted of unlawful conduct of dog fighting as defined in K.S.A. 21-6414, and amendments thereto, or cruelty to animals as defined in subsection (a)(1) of K.S.A. 21-6412, and amendments thereto, within five years of the date of such conviction.
- (b) Illegal ownership or keeping of an animal is a class B nonperson violation. (K.S.A. 21-6415)

Sec. 11.15. Permitting a Dangerous Animal to be at Large.

- (a) Permitting a dangerous animal to be at large is the act or omission of the owner or custodian of an animal of dangerous or vicious propensities who, knowing of such propensities, permits such animal to go at large or keeps such animal without taking ordinary care to restrain it.
- (b) Permitting a dangerous animal to be at large is a Class B nonperson violation. (K.S.A. 21-6418)

Sec. 11.16. False Membership Claim.

- (a) A false membership claim is knowingly and falsely representing oneself to be a member of a fraternal or veteran's organization.
- (b) False membership claim is a class C violation.
(K.S.A. 21-6410)

Article 12. Violations, Penalties

Sec. 12.1. Classes of Violations and Confinement.

- (a) For the purpose of sentencing, the following classes of violations and the punishment and the terms of confinement authorized for each class are established:
 - (1) Class A, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one year;
 - (2) Class B, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed six months;
 - (3) Class C, the sentence for which shall be a definite term of confinement in the city or county jail which shall be fixed by the court and shall not exceed one month;
 - (4) Unclassified violations, which shall include all offenses declared to be violations without specification as to class, the sentence for which shall be in accordance with the sentence specified in the section that defines the offense; if no penalty is provided in such law, the sentence shall be the same penalty as provided herein for a Class C violation.

- (b) Upon conviction of a violation, a person may be punished by a fine, as provided in Section 12.2 of this article, instead of or in addition to confinement, as provided in this section.

- (c) In addition to or in lieu of any other sentence authorized by law, whenever there is evidence that the act constituting the violation was substantially related to the possession, use or ingestion of cereal malt beverage or alcoholic liquor by such person, the court may order such person to attend and satisfactorily complete an alcohol or drug education or training program certified by the chief judge of the judicial district or licensed by the secretary for aging and disability services. (K.S.A. 21-6602)

Sec. 12.2. Fines.

- (a) A person convicted of a violation may, in addition to or instead of the confinement authorized by law, be ordered to pay a fine which shall be fixed by the court as follows:
 - (1) Class A violation, a sum not exceeding \$2,500.
 - (2) Class B violation, a sum not exceeding \$1,000.
 - (3) Class C violation, a sum not exceeding \$500.
 - (4) Unclassified violation, any sum authorized by the section that defines the offense. If no penalty is provided in such law, the fine shall not exceed the fine provided herein for a Class C violation.

- (b) As an alternative to any of the above fines, the fine imposed may be fixed at any greater sum not exceeding double the pecuniary gain derived from the crime by the offender. (K.S.A. 21-6611)

Article 13. Miscellaneous

Sec. 13.1. Application; Kansas Criminal Code. The provisions of the Kansas Criminal Code (K.S.A. 21-5101:6712, inclusive and amendments thereto), which are in their nature applicable to the jurisdiction of the city and in respect to which no special provision is made by ordinance of the city are applicable to this criminal code.

Sec. 13.2. Severability. If any provision of this code 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.

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**CHANGES IN UNIFORM PUBLIC OFFENSE CODE
FOR THE 37th EDITION**

The following sections were modified in the 37th edition of the UPOC published in 2021.

Section 1.1 Definitions modified
Class A Club
Drinking Establishment

Section 3.2.1 Sexual Battery

Section 5.5 Watercraft

Section 6.2 Intent; Permanently Deprive

New Section 6.7.2 Trespassing on a critical infrastructure facility

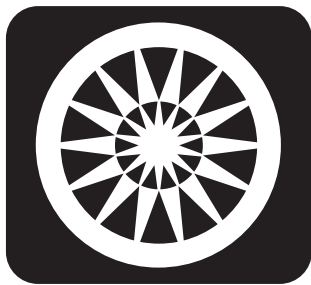
New Section 7.1 Unlawfully tampering with electronic monitoring equipment

New Section 7.5 Distribution of unattributed applications for advance voting ballots

Section 7.14. Electioneering

New Section 9.3 Violation of Executive Order under K.S.A 48-925 mandating a curfew or prohibiting public entry

Section 11.3 Commercialization of Wildlife



THE
LEAGUE
OF KANSAS MUNICIPALITIES



AGENDA ITEM INFORMATION FORM

AGENDA ITEM: Adopting 2021 Standard Traffic Ordinance (STO) Ordinance No. 1828

SUBMITTED BY: Chief Darren McLaughlin

MEETING DATE: August 9, 2021

PROJECT BACKGROUND/DESCRIPTION:

Each year the Kansas League of Municipalities publishes an updated version of the Standard Traffic Ordinance (STO) for Kansas Cities. The 2021 edition is available and should be “incorporated by reference”. Passing and publishing this ordinance will bring our traffic ordinance into compliance with any changes made by the latest Kansas Legislative session.

Article 1 amended definitions: All-Terrain vehicle, Antique, Golf Cart and recreational off-highway vehicle. There are new definitions for: Authorized Utility Vehicle or Telecommunication Vehicle, Funeral Escort, Funeral Lead Vehicle, and Funeral Procession.

Section 10.1 (NEW SECTION) “Funeral Procession; Section 119 Parades and Processions”, new section sets out the duties of both operators of vehicles in the procession and other vehicles and pedestrians. Cities are allowed to require prior notice of a planned funeral procession and make additional requirements that go beyond, but are not in conflict with, the requirements of the act.

Section 119 “Parades and Processions” has been updated to remove the funeral procession provisions.

Section 30.4 “Impounded Motor Vehicle”, this section was amended the requirements for the disposition of a vehicle

Section 31 “Fleeing or Attempting to Elude a Police Officer”, This section has been modified to reflect that certain offenses elevate it to a felony. Sentencing language has also been modified.

Section 40.2 (NEW SECTION) “Passing a Stationary Authorized Utility or Telecommunications Vehicle”, new traffic offense created for failing to move over when approaching an authorized utility or telecommunications vehicle.

Section 106 “Transportation of Alcoholic Beverage”, an editor’s note was added to this section to reflect the changes that were made in alcohol sales. The editor’s notes list the requirements that establishments must follow in order to properly transport alcoholic beverages.

Section 115 “Unlawful Riding on Vehicles; Persons 14 years of age and older”, a clerical error was changed in section (c)1.

Section 126.1 (NEW SECTION) “Display of License Plate”, This section was added to the STO which establishes new rules for the locations of license plates on certain types of vehicles.

CITY COUNCIL GOALS AND OBJECTIVES

FINANCIAL IMPACT

Amount of Request/Contract: _____

Amount Budgeted: _____

Funding Source/Account #: _____

SUPPORTING DOCUMENTS

- Memo
- Ordinance 1828
- 2021 STO

ACTION NEEDED/STAFF RECOMMENDATION

- Waive First Reading and approve ordinance

**FROM THE OFFICE OF CHIEF OF POLICE
MERRIAM, KANSAS**

DATE: 08-02-2021
TO: CHRIS ENGEL
CC:
FROM: CHIEF DARREN MCLAUGHLIN
RE: 2021 STO

There were a few changes, additions and deletions to the 2021 Standard Traffic Ordinance (STO). Below are the listed changes.

Article 1. Added a new definitions for All-Terrain vehicle, Antique, Golf Cart and Recreational Off-highway vehicle. There are new definitions for Authorized Utility Vehicle, or Telecommunication Vehicle, Funeral Escort, Funeral Lead Vehicle and Funeral Procession.

The following are modified definitions:

All-Terrain Vehicle. Any motorized nonhighway vehicle 55 inches or less in width measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of 1,500 pounds or less, and traveling on three or more nonhighway tires. (K.S.A. 8-1402a; K.S.A. 8-126)

Antique. Any vehicle, including an antique military vehicle, more than 35 years old, propelled by a motor using petroleum fuel, steam or electricity, or any combination thereof, regardless of the age or type of the components or equipment installed on the vehicle (K.S.A. 8-166 (a))

Golf Cart. A motor vehicle that does not have fewer than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver. (K.S.A. 8-1495)

Recreational Off-Highway Vehicle. Any motor vehicle not greater than 75 inches in width measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of 3,500 pounds or less, traveling on four or more nonhighway tires. (K.S.A. 8-126(hh))

The following are new definitions:

Authorized Utility or Telecommunication Vehicle. (1) A motor vehicle operated by an authorized person as defined in K.S.A. 66-1710, and amendments thereto, for an electric or natural gas public utility as defined in K.S.A. 66-104, and amendments thereto, or a municipality-owned utility, when such motor vehicle is utilized for repairs that are needed on electric utility or natural gas equipment to restore necessary services or ensure public safety and is making use of visual signals meeting the requirements of K.S.A. 8-1731, and amendments thereto; and (2) a motor vehicle operated by a provider, as defined in K.S.A. 17-1902, and amendments thereto, or a wireless infrastructure provider or a wireless services provider, as defined in K.S.A. 66-2019, and amendments thereto, when such vehicle is utilized for repairs and is making use of visual signals meeting the requirements of K.S.A. 8-1731, and amendments thereto. (2021 SB 67)

Funeral Escort. A person or entity that provides escort services for funeral processions, including law enforcement personnel and agencies and groups designated to escort military funeral processions. (2021 SB 67 New Section 1) *Funeral Lead Vehicle.* Any authorized law enforcement or nonlaw enforcement motor vehicle properly equipped pursuant to Sec. 163, and amendments thereto, or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a funeral lead vehicle. (2021 SB 67 New Section 1) *12 Funeral Procession.* Two or more vehicles accompanying the body of a deceased person, or traveling to the cemetery, church, chapel or other location where the funeral service is to be held, in the daylight hours, including a funeral lead vehicle or a funeral escort. (2021 SB 67 New Section 1)

Section 10.1 Funeral Processions. This is a new section that reflects statutory changes for funeral processions.

Funeral Processions. (a) Notwithstanding any provision of state law, city ordinance or county resolution relating to traffic control devices or right-of-way provisions, pedestrians and operators of all vehicles, except as provided in subsection (b), funeral escorts may reasonably direct vehicle and pedestrian traffic to allow funeral processions to pass through intersections and disregard traffic control devices. When the funeral lead vehicle is directed by a funeral escort to lawfully enter an intersection, the remaining vehicles in the funeral procession may follow such funeral lead vehicle through the intersection regardless of any traffic control devices or right-of-way provisions prescribed by state law, city ordinance or county resolution. (b) Funeral processions shall have the right-of-way at intersections regardless of traffic control devices, subject to the following conditions and exceptions: (1) Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching authorized emergency vehicle, and amendments thereto, using an audible signal meeting the requirements of Sec. 174, and amendments thereto, or a visual signal meeting the requirements of Sec. 160, and amendments thereto; (2) operators of vehicles in a funeral procession shall yield the right-of-way when directed by a police officer; (3) operators of vehicles in a funeral procession shall exercise due care when participating in a funeral procession and avoid colliding with any other vehicle or pedestrian in accordance Sec. 66, and amendments

thereto; and (4) (4) an operator of a vehicle in a funeral procession shall not have the right-of-way at an intersection, if the vehicle is more than 300 feet behind the immediately preceding vehicle in the funeral procession. (2021 SB 67 New Sec. 2) (c) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe. 31 (d) In accordance with Sec. 47, and amendments thereto, any state law, city ordinance or county resolution stating that motor vehicles shall be operated to allow sufficient space, enabling any other vehicle to enter and occupy such space without danger, shall not be applicable to funeral processions. (e) Each vehicle that is a part of a funeral procession shall have such vehicle's headlights, either high beam or low beam, and tail lights lighted and may also use flashing hazard lights if the vehicle is so equipped. (f) No funeral procession shall occupy, march or proceed along any highway until the city police department has been notified by the person or persons in charge thereof and until the chief shall have made provision for such purpose together with a law enforcement or non-law enforcement funeral escort if he or she deems such escort necessary. (K.S.A. 8-2002(a)(3)) (2021 SB 67 New Sec. 2-4).

Section 119 Parades and Processions. This section was modified by removing funeral processions.

Sec. 119. Parades and Processions. No parade of persons or vehicles, excepting the military forces of the United States, the military forces of the State of Kansas, or the forces of the city police and fire departments, shall occupy, march or proceed along any highway until the chief of police shall have been notified by the person or persons in charge thereof and until the chief shall have made provision for such purpose together with a police escort if he or she deems such escort necessary. (K.S.A. 8-2002(a)(3))

Section 30.4 Impounded Vehicles. The ordinance was not modified, however there was an addition to the editors notes that explains there were changes to the statutes that outline the requirements to be met to dispose of an impounded vehicle.

{Editor's Note: The requirements for the disposition of such vehicle in K.S.A. 8-1103 through K.S.A. 8-1108 were amended in 2021 SB 36.}

Section 31 Fleeing or Attempting to Elude a Police Officer. This section was modified to reflect that certain offense elevate the offense to a felony status. Sentencing language was also modified. (The changes have been highlighted.)

a) (1) Any driver of a motor vehicle who knowingly fails or refuses to bring such driver's vehicle to a stop for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop shall be guilty as provided by subsection (c). (2) Any driver of a motor vehicle who knowingly otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c). (3) It shall be an affirmative defense to any prosecution under subsection (a)(1) that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle. (b) The signal given by the police officer may be by hand, voice, emergency light, or

siren: (1) If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or (2) If the officer giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given. 58 (c) When the person being sentenced for violating subsection (a), the person, shall be imprisoned for not more than six months or fined not to exceed \$1,000, or both when the person being sentenced has no prior convictions for a violation of subsection (a) or K.S.A. 8-1568(b). Every person convicted of violating this section shall be punished by imprisonment not to exceed one year or fined not to exceed \$2,500 or both when the person has one prior conviction for a violation of subsection (a) or K.S.A. 8-1568(b). (d) (1) For the purpose of this section conviction means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section it is irrelevant whether an offense occurred before or after conviction for a previous offense. (2) Appropriately marked official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle. (K.S.A. 8-1568)

Section 40.2 Passing a Stationary Authorized Utility or Telecommunications Vehicle. This is a new section that now forces drivers to slow down or move over when passing an authorized utility or telecommunications vehicle while parked along a highway. Similar to the ordinances that require motorist to move over for emergency vehicles and tow truck drivers.

a) The driver of a vehicle shall not overtake and pass another vehicle when approaching within 100 feet of a stationary authorized utility or telecommunications vehicle. (b) The driver of a vehicle shall yield the right-of-way to any authorized utility or telecommunications vehicle or pedestrian actually engaged in work on the highway whenever such vehicle displays flashing lights meeting the requirements of K.S.A. 8-1731, and amendments thereto. (c) The driver of a motor vehicle, upon approaching a stationary authorized utility or telecommunications vehicle that is obviously and actually engaged in work upon a highway, when such authorized utility or telecommunications vehicle is displaying flashing lights meeting the requirements of K.S.A. 8-1731, and amendments thereto, shall do either of the following: (1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road and weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized public utility or telecommunications vehicle; or (2) if the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type described in paragraph (1) but it is not possible to change

lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road and weather and traffic conditions. (d) This section shall not operate to relieve the driver of an authorized utility or telecommunications vehicle from the duty to drive with due regard for the safety of all persons using the highway. (2021 SB 67).

Section 106. Transportation of Alcoholic Beverages. There was no change to this section, but an additional editor’s note was included to remind officers of the law changes that were made in alcohol sale and the types of containers those new changes allow to be transported in a motor vehicle.

{Editor’s Note: K.S.A. 8-1599 was not amended in 2021 HB 2137 when amendments were made in Section 32 to K.S.A. 41- 2653 to allow the removal by patrons of alcoholic liquor or cereal malt beverages from clubs or drinking establishments. Any opened containers must be securely resealed by licensee or the licensee’s employee and placed in a tamper-proof, transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened. Section 32 also allows the removal of one or more containers of beer, domestic beer and cereal malt beverages that are sold on the licensed premises to consumers and served in refillable and sealable containers for consumption off the licensed premises if such containers: (1) Contain between 32 and 64 fluid ounces; (2) have a label affixed that clearly indicates the licensee’s name and the type of alcoholic beverage contained in such container; and (3) are not sold or removed from the premises after 11:00 p.m.}

Section 115 Unlawful Riding on Vehicles: Persons 14 years of age and older. There was no change to the ordinance. There was only a correction of a clerical error in section (c)1.

(c) This section shall not apply to: (1) An employee under the age of 14 years engaged in the necessary discharge of the employee’s duty within truck bodies in space intended for merchandise or cargo; or

Section 126.1.1 Display of License Plate. This is a new section that allows new locations for the display of a license plate for certain types of vehicles.

(a) The license plate assigned to the vehicle shall be attached to the rear of the vehicle and shall be displayed during the current registration year or years. Except as otherwise provided in subsection (b), a Kansas registered vehicle shall not have a license plate attached to the front of the vehicle, (b) The following classes of vehicles shall attach a license plate in the location or locations specifically stated: (1) The license plate issued for a truck tractor shall be attached to the front of the truck tractor; (2) a model year license plate issued for an antique vehicle, in accordance with K.S.A. 8–172, and amendments thereto, may be attached to the front of the antique vehicle; (3) a personalized license plate issued to a passenger vehicle or truck pursuant to K.S.A. 8–132(c), and amendments thereto, may be attached to the front of the passenger vehicle or truck; (4) the license plate issued for a motor vehicle used as a concrete mixer truck may be attached to either the front or rear of the vehicle; and (5) the license plate issued for a

motor vehicle used as a dump truck with a gross weight of 26,000 pounds or more shall be attached to the front of the vehicle. The provisions of this paragraph shall not apply to such vehicle if such vehicle is registered as a farm truck. (c) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned, to prevent the plate from swinging, and at a height not less than 12 inches from the ground, measuring from the bottom of such plate,. The license plate shall be fastened in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible. (d) During any period in which the construction of license plates has been suspended pursuant to the provisions of K.S.A. 8-132, and amendments thereto, the plate, tag, token, marker or sign assigned to such vehicle shall be attached to and displayed on such vehicle in such place, position, manner and condition as shall be prescribed by the director of vehicles. 113 (e) A law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (b)(5). The provisions of this subsection shall expire and have no effect on and after January 1, 2022. (K.S.A. 8-133).

Section 179 Spilling Loads on Highway. This section was modified to create an exception for trucks, trailers or semitrailers when hauling agricultural forage commodities intrastate from the place of production to a market or place of storage or from a place of storage to a place of use. The bill states this exemption does not apply to trucks trailers or semitrailers hauling hay bales or other packaged bundled forage commodities. Continuing law requires securing a load on a vehicle so as to prevent any of the load from dropping, shifting, leaking or otherwise escaping. (The changes have been highlighted)

a) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that: (1) This section shall not prohibit the necessary spreading of any substance in highway maintenance or construction operations; and (2) (A) Subsections (a) and (c) shall not apply to: (i) trailers or semitrailers when hauling livestock if such trailers or semitrailers are properly equipped with a cleanout trap and such trap is operated in a closed position unless material is intentionally spilled when the trap is in a closed position; or (ii) trucks, trailers or semitrailers when hauling agricultural forage commodities intrastate from the place of production to a market or place of storage or from a place of storage to a place of use. The provisions of this clause shall not apply to trucks, trailers or semitrailers hauling: 151 (a) Hay bales; or (b) other packaged or bundled forage commodities. (B) Paragraph (2)(A)(i) shall not apply to trailers or semitrailers used for hauling livestock when livestock are not being hauled in such trailers or semitrailers. (b) All trailers or semitrailers used for hauling livestock shall be cleaned out periodically. (c) No person shall operate on any highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. (K.S.A. 8-1906)

Section 201.1 Failure to comply with a Traffic Citation. This section was modified to allow a person who is assessed a fine or court costs for a traffic citation to petition the court for a waiver of payment of the fine or costs at any time if the amount due will impose a manifest hardship on the person or the person's immediate family. The following section was added.

201.1 (2)(C)e)(2) A person who is assessed a fine or court costs for a traffic citation may petition the court that assessed the fine or costs at any time to waive payment of the fine or costs, or any portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person or the person's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

Chief Darren McLaughlin

ORDINANCE NO. 1828

AN ORDINANCE AMENDING CHAPTER 68, ARTICLE II OF THE CODE OF ORDINANCES OF THE CITY OF MERRIAM, KANSAS CONCERNING STANDARD TRAFFIC REGULATIONS; AMENDING SECTION 68-19 BY INCORPORATING BY REFERENCE THE “2021 STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES,” 48th EDITION WITH AMENDMENTS THERETO; AND REPEALING THE SECTION HEREBY AMENDED.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MERRIAM, KANSAS:

Section 1. That section 68-19 of the Code of Ordinances, City of Merriam, Kansas, is hereby amended to read as follows:

Sec. 68-19. Incorporating the standard traffic ordinance.

(a) There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Merriam, Kansas, that certain standard traffic ordinance known as the “2021 Standard Traffic Ordinance for Kansas Cities,” 48th edition, (“STO”) prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed by this Ordinance or by Chapter 68 of the Code of Ordinances, City of Merriam, Kansas.

(b) At least one copy of the STO shall be marked or stamped “Official Copy as Incorporated by Ordinance No.1828” with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of the incorporating ordinance, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours.

Section 2. Severability. If any part or parts of this Ordinance shall be held to be invalid, such invalidity shall not affect the validity of the remaining parts of this Ordinance. The Governing Body hereby declares that it would have passed the remaining parts of this Ordinance if it would have known that such part or parts thereof would be declared invalid.

Section 3. Savings Clause. Neither the adoption of this Ordinance, nor the future repeal or amendment of any section or part or portion thereof, nor the repeal of Ordinance No. 1803, shall in any manner affect the prosecution for violation of this Ordinance or a violation of Ordinance 1803, nor be construed as a waiver of any license, fee or penalty at said effective date and unpaid under either Ordinance, nor be construed as affecting any of the provisions of these 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 shall continue in full force and effect.

Section 4. Penalties for violation of this Ordinance or the Standard Traffic Ordinance incorporated herein shall be as set forth in Section 68-21 of the Code of Ordinances, City of Merriam, Kansas.

Section 5. Repeal. That section 68-19 of the Code of Ordinances, City of Merriam, Kansas, as it existed before the above amendment is hereby repealed.

Section 6. Existing Sections. Those sections of Chapter 68, Article II of the Code of Ordinances, City of Merriam, Kansas not heretofore repealed shall remain in full force and effect.

Section 7. Effective Date. This Ordinance shall be in full force and effect from and after its passage, approval, and publication in the official City newspaper, all as provided by law.

PASSED by the Governing Body this _____ day of _____, 2021.

APPROVED AND SIGNED by the Mayor this _____ day of _____, 2021.

Ken Sissom, Mayor

ATTEST:

Juliana Pinnick, City Clerk

APPROVED AS TO FORM:

Ryan B. Denk, City Attorney

Ordinance Incorporated by Reference
Under the Provisions of K.S.A. 12-3009 through
12-3012, and K.S.A. 12-3301 and 12-3302

by Ordinance No. _____

City of _____, Kansas

48th Edition

Standard Traffic Ordinance
For Kansas Cities

Published in 2021
Edited By Amanda Stanley
General Counsel

STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES

The *Standard Traffic Ordinance* for Kansas Cities has been published by the League of Kansas Municipalities since 1960. It is designed to provide a comprehensive traffic code for Kansas cities. It does not take effect in a city until the governing body has passed and published an ordinance incorporating it by reference under the authority of and by the procedure prescribed by K.S.A. 12-3009 through 12-3012 and K.S.A. 12-3301 and 12-3302. All citations refer to the Kansas Statutes in effect 7/1/21 unless otherwise noted.

It is not necessary to publish the *Standard Traffic Ordinance* in a newspaper if it is properly incorporated by reference. It is only necessary to publish the incorporating ordinance. The incorporating ordinance may delete articles or sections that the governing body considers unnecessary for the city. The incorporating ordinance may also change sections, but where there is a statutory citation at the end of any section, care should be exercised not to change the language in such a manner as to conflict with the language of the statute (K.S.A. 8-2001).

The *Standard Traffic Ordinance*, in large part, parallels the state traffic act. Additional provisions for local regulations, if any, may be included in the incorporating ordinance. Previous ordinances relating to traffic in conflict with provisions of this standard traffic ordinance and ordinances incorporating earlier editions of the standard traffic ordinance should be repealed by the incorporating ordinance.

There must be at least one official copy of this standard ordinance on file with the city clerk. Enforcing officers should have copies. The blanks on the first page should be filled in on all copies.

There are several blank pages at the end of this book. Newspaper clippings of the incorporating ordinance and subsequent ordinances on traffic may be pasted on these pages. Extra copies of the newspaper should be procured, or reprints arranged for so that copies may be pasted in all copies of the standard ordinance.

A listing of changes made to the Standard Traffic Ordinance for 2021 can be found on page 205 of this edition.

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STANDARD TRAFFIC ORDINANCE

FOR

KANSAS CITIES

48th Edition

Article 1. Definitions

Section 1. Definitions. The following words and phrases when used in this ordinance shall, for the purpose of this ordinance and other traffic ordinances, have the meanings respectively ascribed to them in this section except when the context otherwise requires. (K.S.A. 8-1401)

Alcoholic Beverage. Any alcoholic liquor, as defined by K.S.A. 41-102 and amendments thereto, or any cereal malt beverage, as defined by K.S.A. 41-2701 and amendments thereto. (K.S.A. 8-1599(a))

Alcohol Concentration. The number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath. (K.S.A. 8-1013(a))

Alley. A street or highway intended to provide access to the rear or side of lots or buildings in urban districts and not intended for the purpose of through vehicular traffic. (K.S.A. 8-1402)

All-Terrain Vehicle. Any motorized nonhighway vehicle 55 inches or less in width measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of 1,500 pounds or less, and traveling on three or more nonhighway tires. (K.S.A. 8-1402a; K.S.A. 8-126)

Antique. Any vehicle, including an antique military vehicle, more than 35 years old, propelled by a motor using petroleum fuel, steam or electricity, or any combination thereof, regardless of the age or type of the components or equipment installed on the vehicle (K.S.A. 8-166 (a))

Arterial Street. Any U.S. or state numbered route, controlled access highway or other major radial or circumferential street or highway designated by local authorities within their respective jurisdictions as part of a major arterial system of streets or highways. (K.S.A. 8-1403)

Authorized Emergency Vehicle. Such fire department vehicles or police bicycles or police vehicles which are publicly owned; motor vehicles operated by ambulance services permitted by the emergency medical services board under the provisions of K.S.A. 65-6101 *et seq.*, and amendments thereto; wreckers, tow trucks or car carriers, as defined by K.S.A. 66-1329, and amendments thereto, and having a certificate of public service from the state corporation commission; and such other publicly or privately owned vehicles which are designated as emergency vehicles pursuant to K.S.A. 8-2010, and amendments thereto. (K.S.A. 8-1404)

Authorized Utility or Telecommunication Vehicle. (1) A motor vehicle operated by an authorized person as defined in K.S.A. 66-1710, and amendments thereto, for an electric or natural gas public utility as defined in K.S.A. 66-104, and amendments thereto, or a municipality-owned utility, when such motor vehicle is utilized for repairs that are needed on electric utility or natural gas equipment to restore necessary services or ensure public safety and is making use of visual signals meeting the requirements of K.S.A. 8-1731, and amendments thereto; and (2) a motor vehicle operated by a provider, as defined in K.S.A. 17-1902, and amendments thereto, or a wireless infrastructure provide or a wireless services provider, as defined in K.S.A. 66-2019, and amendments thereto, when such vehicle is utilized for repairs and is making use of visual signals meeting the requirements of K.S.A. 8-1731, and amendments thereto. (2021 SB 67)

Autocycle. A three-wheel motorcycle that has a steering wheel and seating that does not require the operator to straddle or sit astride it. (K.S.A. 8-1497)

Bicycle. Every device propelled by human power upon which any person may ride, having two tandem wheels, either of which is more than 14 inches in diameter. (K.S.A. 8-1405)

Bus. Every motor vehicle designed for carrying more than 10 passengers and used for the transportation of persons; and every motor vehicle, other than a taxicab, designed and used for the transportation of persons for compensation. (K.S.A. 8-1406)

Business District. 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, railroad stations and public buildings which occupy at least 300 feet of frontage on one side or 300 feet collectively on both sides of the highway. (K.S.A. 8-1407)

Chief of Police. The chief of police of the city, or any member of the police department of the city designated by the chief of police to act in his or her place.

Church Bus. Every bus owned by a religious organization and operated for the transportation of persons to or from services or activities of such religious organization. As used in this section, **religious organization** means any organization, church, body of communicants or group, gathered in common membership for mutual edification in piety, worship and religious observances, or a society of individuals united for religious purposes at a definite place. (K.S.A. 8-1730a(a))

City or This City. A city incorporating this ordinance by reference and whose name is stated in the incorporating ordinance.

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 26,001 or more pounds or such lesser rating, as determined by rules and regulations adopted by the secretary, but shall not be more restrictive than the federal regulation;
- (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.
(K.S.A. 8-2,128(f))

Controlled-Access Highway. Every highway, street or roadway in respect to which owners or occupants of abutting lands and other persons have no legal right of access to or from the same, except at such points only and in such manner as may be determined by the public authority having jurisdiction over such highway, street or roadway.

Crosswalk.

- (a) That part of a roadway at an intersection included within the connections of the lateral lines of sidewalks on opposite sides of the highway measured from the curbs or, in the absence of curbs, from the edges of the traversable roadway; or

(b) Any portion of a roadway at an intersection or elsewhere distinctly indicated for pedestrian crossing by lines or other markings on the surface.

(K.S.A. 8-1411)

Daycare Program. Those which provide day service for development in self-help, social, recreational, and work skills for people with intellectual and other disabilities, giving priority to providing services for young people with severe intellectual and other disabilities.

Daycare Program Bus. Every bus used primarily to carry out functions of a day care program or used by a childcare facility licensed by the Kansas Department of Health and Environment who provides transportation for children six through 18 years of age. (K.S.A. 8-1730a(b))

Department or Motor Vehicle Department or Vehicle Department. The division of vehicles of the department of revenue, acting directly or through its duly authorized officers and agents. When acting on behalf of the department of revenue pursuant to this act, a county treasurer shall be deemed to be an agent of the state of Kansas. (K.S.A. 8-126(e))

Digital Network. Any online-enabled application, software, website or system offered or utilized by a transportation network company that enables the prearrangement of rides with transportation network company drivers. (K.S.A. 8-2702(a))

Director. The director of vehicles. (K.S.A. 8-1412)

Divided Highway. A highway divided into two or more roadways by leaving an intervening space or by a physical barrier or by a clearly indicated dividing section so constructed as to impede vehicular traffic. (K.S.A. 8-1414)

Division. The division of vehicles of the department of revenue. (K.S.A. 8-1413)

Drag Race. The operation of two or more vehicles from a point side by side at accelerating speeds in a competitive attempt to out-distance each other, or the operation of one or more vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such vehicle or vehicles within a certain distance or time limit. (K.S.A. 8-1565(b))

Drawbar. A bar across the rear of a motor vehicle, or a device securely attached to the motor vehicle, which maintains a fixed position and to which a tow bar may be coupled. (K.S.A. 8-1414a)

Driveaway-Towaway Operations. Any operation in which any motor vehicle, trailer or semitrailer, singly or in combination, new or used, constitutes the commodity being transported, when one set or more of wheels of any such vehicle are on the roadway during the course of transportation, whether or not any such vehicle furnishes the motive power. (K.S.A. 8-1415)

Driver. Every person who drives or is in actual physical control of a vehicle. (K.S.A. 8-1416)

Driver's License. Any license to operate a motor vehicle issued under the laws of this state. (K.S.A. 8-1417)

Electric-Assisted Bicycle. A bicycle with two or three wheels, a saddle, fully operative pedals for human propulsion, and an electric motor. The electric-assisted bicycle's electric motor must have a power output of no more than 1,000 watts, be incapable of propelling the device at a speed of more than 20 miles per hour on level ground and incapable of further increasing the speed of the device when human power alone is used to propel the device beyond 20 miles per hour. (K.S.A. 8-1489)

Electric-Assisted Scooter. Every self-propelled vehicle that has at least two wheels in contact with the ground, an electric motor, handlebars, a brake and a deck that is designed to be stood upon when riding. (K.S.A.8-126(g))

Electronic Certificate of Title. Any electronic record of ownership, including any lien or liens that may be recorded, retained by the division in accordance with K.S.A. 8-135d, and amendments thereto. (K.S.A. 8-126(j))

Electric Personal Assistive Mobility Device. A self-balancing two nontandem wheeled device, designed to transport only one person, with an electric propulsion system that limits the maximum speed of the device to 15 miles per hour or less. (K.S.A. 8-1491)

Electric Vehicle. A vehicle that is powered by an electric motor drawing current from rechargeable storage batteries or other portable electric energy storage devices, provided the recharge energy must be drawn from a source off the vehicle, such as, but not limited to:

- (a) Residential electric service;
 - (b) An electric vehicle charging station, also called an EV charging station, an electric recharging point, a charging point, EVSE (Electric Vehicle Supply Equipment) or a public charging station.
- (K.S.A. 8-126(i))

Essential Parts. All integral and body parts of a vehicle of a type required to be registered hereunder, the removal, alteration or substitution of which would tend to conceal the identity of the vehicle or substantially alter its appearance, model, type or mode of operation. (K.S.A. 8-1418)

Exhibition of Speed or Acceleration. Those acts which cause or create unnecessary rapid acceleration, unnecessary tire squeal, skid, smoke, or slide upon acceleration or stopping including the casting of tread, gravel, dirt or other road surface materials from the tires; acts that simulate a temporary race; acts that cause the vehicle to unnecessarily turn abruptly, sway or lose traction with the road surface.

Farm Tractor. Every motor vehicle designed and used primarily as a farm implement for drawing plows, mowing machines and other implements of husbandry, and such term shall include every self-propelled implement of husbandry. (K.S.A. 8-1420)

Farm Trailer. Every trailer and semitrailer as those terms are defined in this section, designed and used primarily as a farm vehicle. (K.S.A. 8-126(m))

Funeral Escort. A person or entity that provides escort services for funeral processions, including law enforcement personnel and agencies and groups designated to escort military funeral processions. (2021 SB 67 New Section 1)

Funeral Lead Vehicle. Any authorized law enforcement or nonlaw enforcement motor vehicle properly equipped pursuant to Sec. 163, and amendments thereto, or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a funeral lead vehicle. (2021 SB 67 New Section 1)

Funeral Procession. Two or more vehicles accompanying the body of a deceased person, or traveling to the cemetery, church, chapel or other location where the funeral service is to be held, in the daylight hours, including a funeral lead vehicle or a funeral escort. (2021 SB 67 New Section 1)

Golf Cart. A motor vehicle that does not have fewer than three wheels in contact with the ground, an unladen weight of not more than 1,800 pounds, is designed to be and is operated at not more than 25 miles per hour and is designed to carry not more than four persons including the driver. (K.S.A. 8-1495)

Governing Body. In commission and commission-manager cities, the mayor shall be considered part of the city governing body in all matters. In mayor-council, modified mayor-council and mayor-council-manager cities, the mayor shall be considered part of the city governing body for the purpose of voting on the passage of a charter ordinance. Whether the mayor is considered part of the governing body for purposes of voting on any other matter shall otherwise be established by ordinance of the city passed by a 2/3 majority of the council. All existing ordinances and charter ordinances relating to the mayor being considered part of the city governing body shall remain in effect until amended or repealed by such city. (K.S.A. 12-104)

Gross Weight. The weight of a vehicle without load plus the weight of any load thereon. (K.S.A. 8-1423)

Habitual Violator. Defined as in K.S.A. 8-285.

Highway. Every way or place of whatever nature open to the use of the public as a matter of right for the purpose of vehicular travel. The term **highway** shall not be deemed to include a roadway or driveway upon grounds owned by private owners, colleges, universities or other institutions. See also **Street or Highway**. (K.S.A. 8-126(p); K.S.A. 8-1424)

House Trailer.

- (a) A trailer or semitrailer which is designed, constructed and equipped as a dwelling place, living abode or sleeping place, either permanently or temporarily, and is equipped for use as a conveyance on streets and highways; or

- (b) A trailer or a semitrailer whose chassis and exterior shell is designed and constructed for use as a house trailer, as defined in paragraph (a), but which is used instead permanently or temporarily for the advertising, sales, display or promotion of merchandise or services, or for any other commercial purpose except the transportation of property for hire or the transportation of property for distribution by a private carrier.
- (c) **House Trailer** does not include a manufactured home or a mobile home, as such terms are defined in K.S.A. 58-4202.
(K.S.A. 8-1425)

Identifying Numbers. The numbers, and letters, if any, on a vehicle designated by the division for the purpose of identifying the vehicle. (K.S.A. 8-1426)

Ignition Interlock Device. A device which uses a breath analysis mechanism to prevent a person from operating a motor vehicle if such person has consumed an alcoholic beverage. (K.S.A. 8-1013(d))

Implement of Husbandry. Every vehicle designed or adapted and used exclusively for agricultural operations and only incidentally moved or operated upon the highways. Such term shall include, but not be limited to, a fertilizer spreader or nurse tank used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership. For the purpose of this section or for the purpose of the act of which this section is a part, "implement of husbandry" shall not include

- (a) A truck mounted with a fertilizer spreader used or manufactured principally to spread animal dung;
- (b) a mixer-feed truck owned and used by a feedlot, as defined by K.S.A. 47-1501, and amendments thereto, and specially designed and used exclusively for dispensing feed to livestock in such feedlot; or
- (c) a truck permanently mounted with a spreader used exclusively for dispensing or spreading water, dust or liquid fertilizers or agricultural chemicals, as defined in K.S.A. 2-2202, and amendments thereto, regardless of ownership.
(K.S.A. 8-1427)

Intersection.

- (a) The area embraced within the prolongation or connection of the lateral curb lines, or, if none, then the lateral boundary lines of the roadways of two highways which join one another at, or approximately at, right angles, or the area within which vehicles traveling upon different highways joining at any other angle may come in conflict; or
- (b) Where a highway includes two roadways 30 feet or more apart, then every crossing of each roadway of such divided highway by an intersecting highway shall be regarded as a separate intersection. In the event such intersecting highway also includes two roadways 30 feet or more apart, then every crossing of two roadways of such highways shall be regarded as a separate intersection.

The junction of an alley with a street or highway shall not constitute an intersection. (K.S.A. 8-1428)

Interstate System. The national system of interstate and defense highways. (K.S.A. 8-1428a)

Laned Roadway. A roadway which is divided into two or more clearly marked lanes for vehicular traffic. (K.S.A. 8-1429)

License or License to Operate a Motor Vehicle. Any driver's license or any other license or permit to operate a motor vehicle issued under, or granted by, the laws of this state, including:

- (a) Any temporary license, or instruction permit;
 - (b) The privilege of any person to drive a motor vehicle whether or not such person holds a valid license; and
 - (c) Any nonresident's operating privilege.
- (K.S.A. 8-1430)

Lien Holder. A person holding a security interest in a vehicle. (K.S.A. 8-1431)

Light Transmission. The ratio of the amount of total light to pass through a product or material including any safety glazing material to the amount of the total light falling on the product or material and the glazing. (K.S.A. 8-1749b(b))

Light Weight Roadable Vehicle. A multipurpose motor vehicle that is allowed to be driven on public roadways and is required to be registered with, and flown under the direction of, the federal aviation administration. (K.S.A. 8-1496)

Local Authorities. The Kansas turnpike authority and every city, county and other local board or body having authority to adopt ordinances or regulations relating to vehicular traffic under the constitution and laws of this state. (K.S.A. 8-1432)

Low-Speed Vehicle. Any four-wheeled electric vehicle whose top speed is greater than 20 miles per hour but not greater than 25 miles per hour and is manufactured in compliance with the national highway and traffic safety administration standards for low-speed vehicles in 49 C.F.R. 571.500. (K.S.A. 8-1488)

Luminous Reflectants. The ratio of the amount of total light that is reflected outward by the product or material to the amount of the total light falling on the product or material. (K.S.A. 8-1749b(c))

Mail. To deposit in the United States mail properly addressed and with postage prepaid. (K.S.A. 8-1433)

Manufacturer. Every person engaged in the business of constructing or assembling vehicles of a type required to be registered in this state. (K.S.A. 8-1434)

Metal Tire. Every tire, the surface of which in contact with the highway, is wholly or partly of metal or other hard non-resilient material. (K.S.A. 8-1435)

Micro Utility Truck. Any motor vehicle which is not less than 48 inches in width, has an overall length, including the bumper, of not more than 160 inches, has an unladen weight, including fuel and fluids, of more than 1,500 pounds, can exceed 40 miles per hour as originally manufactured and is manufactured with a metal cab. **Micro utility truck** does not include a work-site utility vehicle. (K.S.A. 8-1494)

Motor Home. Every motor vehicle designed to provide temporary living quarters for recreational, camping or travel use. (K.S.A. 8-1436)

Motor Vehicle. Every vehicle, other than a motorized bicycle or a motorized wheelchair, that is self-propelled. (K.S.A. 8-1437; K.S.A. 8-126(v))

Motorcycle. Every motor vehicle, including autocycles, having a seat or saddle for the use of the rider and designed to travel on not more than three wheels in contact with the ground, but excluding a tractor. (K.S.A. 8-1438)

Motor-Driven Cycle. Every motorcycle, including every motor scooter, with a motor which produces not to exceed five brake horsepower, and every bicycle with motor attached, except a motorized bicycle or an electric-assisted bicycle. (K.S.A. 8-1439)

Motorized Bicycle. Every device having two tandem wheels or three wheels which may be propelled by either human power or helper motor, or by both, and which has: (a) a motor which produces not more than 3.5 brake horsepower; (b) a cylinder capacity of not more than 130 cubic centimeters; (c) an automatic transmission; and (d) the capability of a maximum design speed of no more than 30 miles per hour except a low power cycle. (K.S.A. 8-1439a)

Motorized Skateboard. A self-propelled device which has a motor or engine, a deck on which a person may ride and at least two wheels in contact with the ground.

Motorized Wheelchair. Any self-propelled vehicle designed specifically for use by a physically disabled person and such vehicle is incapable of a speed in excess of 15 miles per hour. (K.S.A. 8-1439c)

Narrow Width Lane. A lane that is too narrow for a bicycle and a vehicle to travel safely side-by-side within the lane. (K.S.A. 8-1590)

Nonreflective. A product or material designed to absorb light rather than to reflect it. (K.S.A. 8-1749b(d))

Nonresident. Every person who is not a resident of this state. (K.S.A. 8-1440)

Nonresident's Operating Privilege. The privilege conferred upon a nonresident by the laws of this state pertaining to the operation by such person of a motor vehicle, or the use of a vehicle owned by such person, in this state. (K.S.A. 8-1441)

Official Time Standard. Whenever certain hours are specified, they shall mean standard time or daylight-saving time as may be in current use in this city.

Official Traffic-Control Devices. All signs, signals, markings, and devices, not inconsistent with this ordinance, placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic. (K.S.A. 8-1442)

Official Traffic-Control Signal. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed.

Oil Well Servicing, Oil Well Clean-out or Oil Well Drilling Machinery or Equipment. A vehicle constructed as a machine used exclusively for servicing, cleaning-out or drilling an oil well and consisting in general of a mast, an engine for power, a draw works and a chassis permanently constructed or assembled for one or more of those purposes. The passenger capacity of the cab of a vehicle shall not be considered in determining whether such vehicle is oil well servicing, oil well clean-out or oil well drilling machinery or equipment. (K.S.A. 8-126(cc))

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, as amended.

Other Competent Evidence. Includes: (a) alcohol concentration tests obtained from samples taken three hours or more after the operation or attempted operation of a vehicle; and (b) readings obtained from a partial alcohol concentration test on a breath testing machine. (K.S.A. 8-1013(f))

Owner. A person, other than a lienholder, having the property in or title to a vehicle; and such term includes a person entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. (K.S.A. 8-1443)

Park or Parking. The standing of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in loading or unloading property or passengers. (K.S.A. 8-1444)

Passenger Car. Every motor vehicle, except motorcycles and motor-driven cycles, designed for carrying ten (10) passengers or less and used for the transportation of persons. A motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying 10 passengers or fewer, including vans, but does not include a motorcycle or a motor-driven cycle. (K.S.A. 8-1445; 8-2502)

Pedestrian.

- (a) Any person afoot;
 - (b) Any person in a wheelchair, either manually or mechanically propelled, or other low powered, mechanically propelled vehicle designed specifically for use by a physically disabled person; or
 - (c) Any person using an electric personal assistive mobility device.
- (K.S.A. 8-1446)

Person. Every natural person, firm, partnership, association or corporation. (K.S.A. 8-1447)

Person with a Disability. Any individual who:

- (a) Has a severe visual impairment;
- (b) Cannot walk 100 feet without stopping to rest;
- (c) Cannot walk without the use of or assistance from, a brace, cane, crutch, another person, prosthetic device, wheelchair or other assistive device;
- (d) Is restricted by lung disease to such an extent that the person's forced (respiratory) expiratory volume for one second, when measured by spirometry, is less than one liter or the arterial oxygen tension is less than 60 mm/hg on room air at rest;
- (e) Uses portable oxygen;
- (f) Has a cardiac condition to the extent that the person's functional limitations are classified in severity as class III or class IV according to standards set by the American heart association; or

- (g) Is severely limited in such person's ability to walk at least 100 feet due to an arthritic, neurological or orthopedic condition.

Pneumatic Tire. Every tire in which compressed air is designed to support the load. (K.S.A. 8-1448)

Pole Trailer. Every vehicle without motive power designed to be drawn by another vehicle and attached to the towing vehicle by means of a reach or pole, or by being boomed or otherwise secured to the towing vehicle, and ordinarily used for transporting long or irregular shaped loads such as poles, pipes or structural members capable, generally, of sustaining themselves as beams between the supporting connections. (K.S.A. 8-1449)

Police Officer. Every law enforcement officer, as defined in K.S.A. 25-5111, authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. (K.S.A. 8-1450)

Private Road or Driveway. Every way or place in private ownership and used for vehicular travel by the owner and those having express or implied permission from the owner, but not by other persons. (K.S.A. 8-1451)

Racing. The use of one or more vehicles in an attempt to out-gain, out-distance or prevent another vehicle from passing, to arrive at a given destination ahead of another vehicle or vehicles, or to test the physical stamina or endurance of drivers over long distance driving routes. (K.S.A. 8-1565(c))

Railroad. A carrier of persons or property upon cars operated upon stationary rails. (K.S.A. 8-1452)

Railroad Sign or Signal. Any sign, signal or device erected by authority of a public body or official or by a railroad and intended to give notice of the presence of railroad tracks or the approach of a railroad train. (K.S.A. 8-1453)

Railroad Train. A steam engine, electric or other motor, with or without cars coupled thereto, operated upon rails. (K.S.A. 8-1454)

Recreational Off-Highway Vehicle. Any motor vehicle not greater than 75 inches in width measured from the outside of one tire rim to the outside of the other tire rim, having a dry weight of 3,500 pounds or less, traveling on four or more nonhighway tires. (K.S.A. 8-126(hh))

Recreational Vehicle. A vehicular-type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use and which has its own motive power or is mounted on or drawn by another vehicle, and which has a body width not exceeding eight feet and a body length not exceeding 40 feet; but such term shall not include a unit which has no electrical system which operates above 12 volts and has no provisions for plumbing, heating and any other component or feature for which a standard is adopted by the state uniform standards code for mobile homes and recreational vehicles. (K.S.A. 75-1212)

Registration. The registration certificate or certificates and registration plates issued under the laws of this state pertaining to the registration of vehicles. (K.S.A. 8-1455)

Residence District. The territory contiguous to and including a highway not comprising a business district when the property on such highway for a distance of 300 feet or more is improved in the main, with residences or residences and buildings in use for business. (K.S.A. 8-1456)

Revocation of Driver's License. The termination by formal action of the division of a person's license or privilege to operate a motor vehicle on the highways, which termination shall not be subject to renewal or restoration except that an application for a new license may be presented and acted upon by the division after the expiration of the applicable period of time prescribed in K.S.A. 8-256 and any amendments thereto. (K.S.A. 8-1457)

Right-of-Way. The right of one vehicle or pedestrian to proceed in a lawful manner in preference to another vehicle or pedestrian approaching under such circumstances of direction, speed and proximity as to give rise to danger of collision unless one grants precedence to the other. (K.S.A. 8-1458)

Road Construction Zone. The portions of a highway which are identified by posted or moving signs as being a construction or maintenance work area. The zone starts at the first sign identifying the zone and continues until a posted or moving sign indicates that the road construction zone has ended. (K.S.A. 8-1458a)

Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of the berm or shoulder. In the event a highway includes two or more separate roadways the term **roadway** as used herein shall refer to any such roadway separately but not to all such roadways collectively. (K.S.A. 8-1459)

Safety Hitch. A chain, cable, or other material of sufficient weight which will prevent the towed vehicle from breaking loose in the event the tow bar or drawbar fails or becomes disconnected. (K.S.A. 8-1459a)

Safety Zone. The area or space officially set apart within a roadway for the exclusive use of pedestrians and which is protected or is so marked or indicated by adequate signs as to be plainly visible at all times while set apart as a safety zone. (K.S.A. 8-1460)

Samples. Includes breath supplied directly for testing, which breath is not preserved. (K.S.A. 8-1013(g))

School Bus. Every motor vehicle defined and designated as a school bus in K.S.A. 72- 6486(g)(1), formerly cited as K.S.A. 72- 8301(g). (K.S.A. 8-1461)

School Crossing Guard. Any person 18 years of age and older or any person under 18 years of age who is being directly supervised by a person at least 18 years of age, acting with or without compensation and who is authorized under K.S.A. 8-15,104, and amendments thereto, to supervise, direct, monitor, or otherwise assist school children at a street or intersection in the vicinity of a school crosswalk or bus stop. (K.S.A. 8-1492)

Secretary. The Secretary of Transportation.

Security Agreement. A written agreement which reserves or creates a security interest. (K.S.A. 8-1462)

Security Interest. An interest in a vehicle reserved or created by agreement and which secures payment or performance of an obligation. The term includes the interest of a lessor under a lease intended as security. A security interest is "perfected" when it is valid against third parties generally, subject only to specific statutory exceptions. (K.S.A. 8-1463)

Self-propelled Farm Implement. Every farm implement designed for specific use applications with its motive power unit permanently incorporated in its structural design. (K.S.A. 8-126(jj))

Semitrailer. Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that some part of its weight and that of its load rests upon or is carried by another vehicle. (K.S.A. 8-1464) .

Sidewalk. That portion of a street between the curb lines, or the lateral lines of a roadway, and the adjacent property lines intended for the use of pedestrians. (K.S.A. 8-1465)

Solid Rubber Tire. Every tire of rubber or other resilient material which does not depend upon compressed air for the support of the load. (K.S.A. 8-1466)

Special Mobile Equipment. Every vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including but not limited to: Ditch digging apparatus, well boring apparatus and road construction and maintenance machinery such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earth moving carry-alls and scrapers, power shovels and drag lines, and self-propelled cranes and earth moving equipment. The term does not include house trailers, dump trucks, truck mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached. (K.S.A. 8-1467)

Specially Constructed Vehicle. Every vehicle of a type required to be registered in this state, not originally constructed under a distinctive name, make, model or type by a generally recognized manufacturer of vehicles and not materially altered from its original construction. (K.S.A. 8-1468)

Stand or Standing. The halting of a vehicle, whether occupied or not, otherwise than temporarily for the purpose of and while actually engaged in receiving or discharging passengers. (K.S.A. 8-1469)

State. The State of Kansas.

Stop. When required means complete cessation from movement. (K.S.A. 8-1471)

Stop or Stopping. When prohibited means any halting, even momentarily, of a vehicle, whether occupied or not, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic-control sign or signal. (K.S.A. 8-1472)

Street or Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word “highway” or the word “street” is used in this ordinance, it shall mean street, avenue, boulevard, thoroughfare, trafficway, alley and other public way for vehicular travel by whatever name unless the context clearly indicates otherwise. (K.S.A. 8-1473)

Sun Screening Devices. A film material or device that is designed to be used in conjunction with motor vehicle safety glazing materials for reducing the effects of the sun. (K.S.A. 8-1749b(a))

Suspension of a Driver’s License. The temporary withdrawal by formal action of the division of a person’s license or privilege to operate a motor vehicle on the highways. (K.S.A. 8-1474)

Through Highway. Every highway or portion thereof on which vehicular traffic is given preferential right-of-way, and at the entrances to which vehicular traffic from intersecting highways is required by law to yield the right-of-way to vehicles on such highway in obedience to either a stop sign, yield sign or other traffic-control device, when such signs or devices are erected as provided in this ordinance. (K.S.A. 8-1475)

Tow Bar. A rigid piece of material which is structurally adequate to hold any weight vehicle towed and which is properly and securely mounted to the towed vehicle without excessive slack but with sufficient play to allow for universal action of the connection and which is equipped with a suitable locking device to prevent accidental separation of the towing vehicle and the towed vehicle. (K.S.A. 8-1476a)

Toxic Vapors. The following substances or products containing such substances:

- (a) Alcohols, including methyl, isopropyl, propyl, or butyl;
- (b) aliphatic acetates, including ethyl, methyl, propyl, or methyl cellosolve acetate;
- (c) acetone;
- (d) benzene;
- (e) carbon tetrachloride;
- (f) cyclohexane;
- (g) freons, including freon 11, freon 12 and other halogenated hydrocarbons;
- (h) hexane;
- (i) methyl ethyl ketone;
- (j) methyl isobutyl ketone;
- (k) naphtha;
- (l) perchlorethylene;
- (m) toluene;
- (n) trichloroethane; or
- (o) xylene.

(K.S.A. 21-5712)

Traffic. Pedestrians, ridden or herded animals, vehicles and other conveyances either singly or together while using any highway for purposes of travel. (K.S.A. 8-1477)

Traffic-Control Signal. Any device, whether manually, electrically or mechanically operated, by which traffic is alternately directed to stop and permitted to proceed. (K.S.A. 8-1478)

Traffic Control Signal Preemption Device. Any device, instrument, or mechanism designed, intended, or used to interfere with the operation or cycle of a traffic-control signal. (K.S.A. 21-6324(d))

Traffic Infraction. A violation of any of the statutory provisions listed in subsection (c) of K.S.A. 8-2118 as amended.

Trailer. Every vehicle with or without motive power, other than a pole trailer, designed for carrying persons or property and for being drawn by a motor vehicle, and so constructed that no part of its weight rests upon the towing vehicle. (K.S.A. 8-1479)

Transportation Network Company. A corporation, partnership, sole proprietorship or other entity operating in Kansas that uses a digital network to connect transportation network company riders to transportation network company drivers who provide prearranged rides. A transportation network company shall not be deemed to control, direct or manage the personal vehicles or transportation network company drivers that connect to its digital network, except where agreed to by written contract. (K.S.A. 8-2702(e))

Transportation Network Company Driver. An individual who:

- (1) Receives connections to potential passengers and related services from a transportation network company in exchange for payment of a fee to the transportation network company; and
- (2) Uses a personal vehicle to provide services for riders matched through a digital network controlled by a transportation network company and receives, in exchange for providing the passenger a ride, compensation that exceeds the individual's cost to provide the ride.

(K.S.A. 8-2702(f))

Travel Trailer. Every vehicle without motive power designed to be towed by a motor vehicle constructed primarily for recreational purposes. (K.S.A. 8-1490)

Truck. Every motor vehicle designed, used or maintained primarily for the transportation of property. (K.S.A. 8-1481)

Truck-Camper. Any structure designed, used or maintained primarily to be loaded on or affixed to a motor vehicle to provide a mobile dwelling, sleeping place, office or commercial space. (K.S.A. 8-1482)

Truck Tractor. Every motor vehicle designed and used primarily for drawing other vehicles, and not so constructed as to carry a load other than a part of the weight of the vehicle or load so drawn. (K.S.A. 8-1483)

Urban District. The territory contiguous to and including any street which is built up with structures devoted to business, industry or dwelling houses, situated at intervals of less than 100 feet for a distance of a quarter of a mile or more. (K.S.A. 8-1484)

Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a public highway, excepting electric personal assistive mobility devices or devices moved by human power or used exclusively upon stationary rails or tracks. (K.S.A. 8-1485)

Waste Collection Vehicle. A vehicle specifically designed and equipped and used exclusively for garbage, refuse, recycling or solid waste collection or disposal operations. (K.S.A. 8-15,112(b))

Wide-Base Single Tires. All tires having a section width, as specified by the manufacturer, of 14 inches or more. (K.S.A. 8-1742b(a))

Wireless Communication Device. Any wireless electronic communication device that provides for voice or data communication between two or more parties, including, but not limited to, a mobile or cellular telephone, a text messaging device, a personal digital assistant that sends or receives messages, an audio-video player that sends or receives messages or a laptop computer. **Wireless communication device** does not include a device which is voice-operated and which allows the user to send or receive a text based communication without the use of either hand, except to activate or deactivate a feature or function. (K.S.A. 8-15,111(a)(1))

Work-Site Utility Vehicle. Any motor vehicle which is not less than 48 inches in width, has an unladen weight, including fuel and fluids, of more than 800 pounds and is equipped with four or more nonhighway tires, a steering wheel and bench or bucket-type seating allowing at least two people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials.

Work-site utility vehicle does not include a micro utility truck. (K.S.A. 8-1493)

Wrecker or Tow Truck. Any motor vehicle equipped with booms, winches or similar equipment specifically designed for recovery or towing of vehicles.

Write, Send or Read a Written Communication. Using a wireless communication device to manually type, send or read a written communication, including, but not limited to, a text message, instant message or electronic mail. (K.S.A. 8-15,111(a)(2))

Article 2. Scope of Ordinance

Sec. 2. Provisions of Ordinance Refer to Vehicles Upon the Streets and Highways; Exceptions. The provisions of this ordinance relating to the operation of vehicles refer exclusively to the operation of vehicles upon streets and highways within this city except:

- (a) Where a different place is specifically referred to in a given section; and
- (b) The provisions of Sections 29 to 31, inclusive, of this ordinance, and the provisions of Article 10 of Chapter 8 of the Kansas Statutes Annotated, and amendments thereto, shall apply upon streets and highways and elsewhere throughout the city. (K.S.A. 8-1501)

Sec. 3. Emergency, Temporary and Experimental Regulations. The chief of police or city traffic engineer is hereby empowered to make regulations necessary to make effective the provisions of this and other traffic ordinances of the city, to establish no parking zones on special occasions to expedite traffic or for safety purposes, signs being properly posted, to make and enforce temporary or experimental regulations to cover emergencies or special conditions or to determine the advisability of permanent regulations for recommendation to the governing body, and test traffic-control devices under actual conditions of traffic. No temporary or experimental regulation shall remain in force for more than 90 days. (K.S.A. 8-2001; 8-2002, as amended)

Sec. 4. Authority of Police. Police officers of the city shall at all times be empowered to enforce the provisions of this and other traffic ordinances of this city and temporary and emergency rules and regulations of the chief of police, and may at any time direct and control traffic in person or by visible or audible signals: provided, that in the event of fire, temporary traffic congestion or other emergency, or to expedite the flow of traffic or to safeguard pedestrians, officers may direct traffic as conditions require notwithstanding the provisions of this ordinance and other traffic ordinances. (K.S.A. 8-2001; 8-2002)

Article 3. Obedience to and
Effect of Traffic Laws

Sec. 5. Required Obedience to Traffic Laws. It is unlawful for any person to do any act forbidden or fail to perform any act required in this ordinance.

Sec. 6. Obedience to Authorized Persons Directing Traffic. No person shall willfully fail or refuse to comply with any lawful order or direction of any police officer or fireman of this city invested by law with authority to direct, control or regulate traffic. (K.S.A. 8-1503)

Sec. 6.1. Road Construction Zone. It shall be unlawful for any person to fail, neglect or refuse to comply with restrictions or traffic regulations in a road construction zone or fail to comply with traffic orders or traffic directions by a flagman in a road construction zone. (K.S.A 8-1531a)

Sec. 7. Persons Riding Animals or Driving Animal-Drawn Vehicles. Every person riding an animal or driving any animal-drawn vehicle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except those provisions of this ordinance which by their very nature can have no application. (K.S.A. 8-1504)

Sec. 8. Persons Working on Highways; Exceptions. Unless specifically made applicable, the provisions of this ordinance, except those contained in Sections 29 to 31, inclusive, of this ordinance, shall not apply to persons, motor vehicles and equipment while actually engaged in work upon a highway, but shall apply to such persons and vehicles when traveling to or from such work. (K.S.A. 8-1505)

Sec. 9. Public Officers and Employees to Obey Ordinance; Exceptions. The provisions of this ordinance applicable to the drivers of vehicles upon the highways shall apply to the drivers of all vehicles owned or operated by the United States, this state or any county, city or any other political subdivision of the state, subject to such specific exceptions as are set forth in this ordinance. (K.S.A. 8-2103)

Sec. 10. Authorized Emergency Vehicles.

- (a) The driver of an authorized emergency vehicle, when responding to an emergency call or when in the pursuit of an actual or suspected violator of the law, or when responding to but not upon returning from a fire alarm, may exercise the privileges set forth in this section, but subject to the conditions herein stated.

- (b) The driver of an authorized emergency vehicle may:
 - (1) Park or stand, irrespective of the provisions of this ordinance.
 - (2) Proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation.
 - (3) Exceed the maximum speed limits so long as such driver does not endanger life or property.
 - (4) Disregard regulations governing direction of movement or turning in specified directions.
 - (5) Proceed through toll booths on roads or bridges without stopping for payment of tolls, but only after slowing down as may be necessary for safe operation and the picking up or returning of toll cards.

- (c) The exemptions herein granted to an authorized emergency vehicle shall apply only when such vehicle is making use of an audible signal meeting the requirements of Section 174 and visual signals meeting the requirements of Section 160 of this ordinance, except that an authorized emergency vehicle operated as a police vehicle need not be equipped with or display a red light visible from in front of the vehicle.

- (d) The foregoing provisions shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons, nor shall such provisions protect the driver from the consequences of reckless disregard for the safety of others. (K.S.A. 8-1506)

Ref.: Sec. 61.

Sec. 10.1 Funeral Processions.

- (a) Notwithstanding any provision of state law, city ordinance or county resolution relating to traffic control devices or right of-way provisions, pedestrians and operators of all vehicles, except as provided in subsection (b), funeral escorts may reasonably direct vehicle and pedestrian traffic to allow funeral processions to pass through intersections and disregard traffic control devices. When the funeral lead vehicle is directed by a funeral escort to lawfully enter an intersection, the remaining vehicles in the funeral procession may follow such funeral lead vehicle through the intersection regardless of any traffic control devices or right-of-way provisions prescribed by state law, city ordinance or county resolution.
- (b) Funeral processions shall have the right-of-way at intersections regardless of traffic control devices, subject to the following conditions and exceptions:
 - (1) Operators of vehicles in a funeral procession shall yield the right of-way to an approaching authorized emergency vehicle, and amendments thereto, using an audible signal meeting the requirements of Sec. 174, and amendments thereto, or a visual signal meeting the requirements of Sec. 160, and amendments thereto;
 - (2) operators of vehicles in a funeral procession shall yield the right of-way when directed by a police officer;
 - (3) operators of vehicles in a funeral procession shall exercise due care when participating in a funeral procession and avoid colliding with any other vehicle or pedestrian in accordance Sec. 66, and amendments thereto; and
 - (4) (4) an operator of a vehicle in a funeral procession shall not have the right-of-way at an intersection, if the vehicle is more than 300 feet behind the immediately preceding vehicle in the funeral procession. (2021 SB 67 New Sec. 2)
- (c) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.

- (d) In accordance with Sec. 47, and amendments thereto, any state law, city ordinance or county resolution stating that motor vehicles shall be operated to allow sufficient space, enabling any other vehicle to enter and occupy such space without danger, shall not be applicable to funeral processions.
- (e) Each vehicle that is a part of a funeral procession shall have such vehicle's headlights, either high beam or low beam, and tail lights lighted and may also use flashing hazard lights if the vehicle is so equipped.
- (f) No funeral procession shall occupy, march or proceed along any highway until the city police department has been notified by the person or persons in charge thereof and until the chief shall have made provision for such purpose together with a law enforcement or non-law enforcement funeral escort if he or she deems such escort necessary. (K.S.A. 8-2002(a)(3)) (2021 SB 67 New Sec. 2-4).

Article 4. Traffic Signs, Signals and Markings

Sec. 11. Manual and Specifications for Traffic Control Devices. All traffic control devices shall conform to the state manual and specifications. (K.S.A. 8-2005)

Sec. 12. Obedience to and Required Traffic-Control Devices; Presumption of Legality.

- (a) The driver of any vehicle shall obey the instructions of any official traffic-control device applicable thereto, placed in accordance with the provisions of this ordinance, unless otherwise directed by a police officer, subject to the exceptions granted the driver of an authorized emergency vehicle in this ordinance.
- (b) No provision of this ordinance for which official traffic-control devices are required shall be enforced against an alleged violator if, at the time and place of the alleged violation, an official device is not in proper position and sufficiently legible to be seen by an ordinarily observant person. Whenever a particular section does not state that official traffic-control devices are required, such section shall be effective even though no devices are erected or in place.

- (c) Whenever official traffic-control devices are placed in position approximately conforming to the requirements of this ordinance, such devices shall be presumed to have been so placed by the official act or direction of lawful authority, unless the contrary shall be established by competent evidence.
- (d) Any official traffic-control device placed pursuant to the provisions of this ordinance and purporting to conform to the lawful requirements pertaining to such devices shall be presumed to comply with the requirements of this ordinance, unless the contrary shall be established by competent evidence. (K.S.A. 8-1507)

Sec. 13. Traffic-Control Signal Legend. Whenever traffic is controlled by traffic-control signals exhibiting different colored lights, or colored lighted arrows, successively one at a time or in combination, only the colors green, red and yellow shall be used, except for special pedestrian signals carrying a word legend, and said lights shall indicate and apply to drivers of vehicles and pedestrians as follows:

(a) **Green Indication.**

- (1) Vehicular traffic facing a circular green signal may proceed straight through or turn right or left, unless a sign at such place prohibits either such turn; but vehicular traffic, including vehicles turning right or left, shall yield the right-of-way to other vehicles and to pedestrians lawfully within the intersection or an adjacent crosswalk at the time such signal is exhibited.
- (2) Vehicular traffic facing a green arrow signal, shown alone or in combination with another indication, may enter the intersection cautiously only to make the movement indicated by such arrow, or such other movement as is permitted by other indications shown at the same time. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
- (3) Unless otherwise provided by a pedestrian-control signal, as provided in Section 14, pedestrians facing any green signal, except when the sole green signal is a turn arrow, may proceed across the roadway within any marked or unmarked crosswalk.

(b) Steady Yellow Indication.

- (1) Vehicular traffic facing a steady circular yellow or yellow arrow signal is thereby warned that the related green movement is being terminated or that a red indication will be exhibited immediately thereafter when vehicular traffic shall not enter the intersection.
- (2) Pedestrians facing a steady circular yellow or yellow arrow signal, unless otherwise directed by a pedestrian-control signal as provided in Section 14, are thereby advised that there is insufficient time to cross the roadway before a red indication is shown and no pedestrian shall then start to cross the roadway.

(c) Steady Red Indication.

- (1) Vehicular traffic facing a steady circular red or red arrow signal alone shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection or if none, then before entering the intersection, and shall remain standing until an indication to proceed is shown, except as provided in paragraphs (2), (3), and (4) of this subsection. Any turn provided for in paragraphs (2), (3), and (4) shall be governed by the applicable provisions of Section 49 of this ordinance.
- (2) Unless a sign is in place prohibiting a turn, vehicular traffic facing a steady red signal may cautiously enter the intersection to make a right turn after stopping as required by paragraph (1) of this subsection. After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
- (3) Unless a sign is in place prohibiting a turn, vehicular traffic upon a roadway restricted to one-way traffic facing a steady red signal at the intersection of such roadway with another roadway restricted to one-way traffic which is proceeding to the left of such vehicular traffic, may cautiously enter the

intersection to make a left turn after stopping as required by paragraph (1) of this subsection. After stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time such driver is moving across or within the intersection or junction of roadways. Such vehicular traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.

- (4) The driver of a motorcycle or person riding a bicycle facing any steady red signal, which fails to change to a green light within a reasonable period of time because of a signal malfunction or because the signal has failed to detect the arrival of the motorcycle or bicycle because of its size or weight, shall have the right to proceed subject to the rules stated herein. After stopping, the driver or rider shall yield the right-of-way to any vehicle in or near the intersection or approaching on a roadway so closely as to constitute an immediate hazard during the time such driver or rider is moving across or within the intersection or junction of roadways. Such motorcycle or bicycle traffic shall yield the right-of-way to pedestrians lawfully within an adjacent crosswalk and to other traffic lawfully using the intersection.
- (5) Unless otherwise directed by a pedestrian-control signal as provided in Section 14, pedestrians facing a steady circular red or red arrow signal alone shall not enter the roadway.

- (d) In the event an official traffic-control signal is erected and maintained at a place other than an intersection, the provisions of this section shall be applicable except as to those provisions which by their nature can have no application. Any stop required shall be made at a sign or marking on the pavement indicating where the stop shall be made, but in the absence of any such sign or marking the stop shall be made at the signal.

(K.S.A. 8-1508)

Sec. 13.1. Traffic Control Signal Preemption Devices.

- (a) Except as provided in subsection (c), it shall be unlawful for any person to knowingly possess a traffic control signal preemption device.
- (b) A person convicted of violating subsection (a) shall be guilty of a code violation and subject to a fine of not more than \$1,000 or by imprisonment for not more than six months or by both such fine and imprisonment. (K.S.A. 21-6324)
- (c) The provisions of this section shall not apply to the operator, passenger, or owner of any of the following authorized emergency vehicles, in the course of such person's emergency duties:
 - (1) Publicly owned fire department vehicles;
 - (2) Publicly owned police vehicles; or
 - (3) Motor vehicles operated by ambulance services permitted by the emergency medical services board.

(K.S.A. 21-6324)

Sec. 14. Pedestrian-Control Signals. Whenever special pedestrian-control signals exhibiting the words "walk" or "don't walk" or symbols of "walking person" or "upraised palm" are in place, such signals shall indicate as follows:

- (a) **Flashing or Steady Walk or Walking Person.** Pedestrians facing such signal may proceed across the roadway in the direction of the signal and shall be given the right-of-way by the drivers of all vehicles.
- (b) **Flashing or Steady Don't Walk or Upraised Palm.** No pedestrian shall start to cross the roadway in the direction of such signal, but any pedestrian who has partially completed his crossing on the "walk" or "walking person" signal shall proceed to a sidewalk or safety island while the "don't walk" or "upraised palm" signal is showing. (K.S.A. 8-1509)

Sec. 15. Flashing Signals.

- (a) Whenever an illuminated flashing red or yellow light is used in a traffic signal or with a traffic sign it shall require obedience by vehicular traffic as follows:
 - (1) **Flashing Red (Stop Signal).** When a red lens is illuminated with rapid intermittent flashes, drivers of vehicles shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it, and the right to proceed shall be subject to the rules applicable after making a stop at a stop sign.
 - (2) **Flashing Yellow (Caution Signal).** When a yellow lens is illuminated with rapid intermittent flashes, drivers of vehicles may proceed through the intersection or past such signal only with caution.
 - (b) This section shall not apply at railroad grade crossings. Conduct of drivers of vehicles approaching railroad grade crossing shall be governed by the rules as set forth in Section 76 of this ordinance.
- (K.S.A. 8-1510)

Sec. 16. Lane-Direction-Control Signals. When lane-direction-control signals are placed over the individual lanes of a street or highway, such signals indicate and apply to drivers of vehicles as follows:

- (a) **Green Indication.** Vehicular traffic may travel in any lane over which a green signal is shown.
- (b) **Steady Yellow Indication.** Vehicular traffic is thereby warned that a lane control change is being made.
- (c) **Steady Red Indication.** Vehicular traffic shall not enter or travel in any lane over which a red signal is shown.
- (d) **Flashing Yellow Indication.** Vehicular traffic may use the lane only for the purpose of approaching and making a left turn. (K.S.A. 8-1511)

Sec. 17. Display of Unauthorized Signs, Signals or Markings.

- (a) No person shall place, maintain or display upon or in view of any highway any unauthorized sign, signal, marking or device which purports to be or is an imitation of or resembles an official traffic-control device or railroad sign or signal, or which attempts to direct the movement of traffic, or which hides from view or interferes with the effectiveness of any official traffic-control device or any railroad sign or signal.
- (b) No person shall place or maintain, nor shall any public authority permit upon any highway any official traffic control device bearing thereon any commercial advertising, except for business signs included as part of official motorist service panels or roadside area information panels approved by the secretary of transportation.
- (c) This section shall not be deemed to prohibit the erection upon private property adjacent to highways of signs giving useful directional information and of a type that cannot be mistaken for official signs.
- (d) Every such prohibited sign, signal or marking is hereby declared to be a public nuisance and the governing body is hereby empowered to remove the same or cause it to be removed without notice. (K.S.A. 8-1512)

Sec. 18. Interference with Official Traffic-Control Devices or Railroad Signs or Signals. No person, without lawful authority, shall attempt to or in fact alter, deface, injure, knock down, or remove any official traffic-control device or any railroad sign or signal or any inscription, shield, or insignia thereon, or any other part thereof. (K.S.A. 8-1513)

Sec. 19. Designation of Crosswalks and Safety Zones. The chief of police, subject to the approval of the governing body, may designate and maintain by appropriate devices, marks or lines on the surface of the roadway, crosswalks at intersections where in his/her opinion there is particular danger to pedestrians crossing the roadway and at such other places as may be deemed necessary. The chief of police may also, subject to such approval, establish and mark safety zones of such kind and character and at such places as may be deemed necessary for the protection of pedestrians. (K.S.A. 8-2001 and K.S.A. 8-2006)

Ref.: Driving Through Safety Zones, see Sec. 70.

Sec. 20. Play Streets.

- (a) The chief of police shall have authority to declare any street or part thereof a play street and to place appropriate signs or devices in the roadway indicating and helping to protect the same.
- (b) Whenever authorized signs are erected indicating any street or part thereof as a play street, no person shall drive a vehicle upon any such street or portion thereof except drivers of vehicles having business or whose residences are within such closed area, and then any such driver shall exercise the greatest care in driving upon any such street or portion thereof.

(K.S.A. 8-2002(a)(14))

Sec. 21. Traffic Lanes. The chief of police is hereby authorized to mark traffic lanes upon the roadway of any street or highway where a regular alignment of traffic is deemed necessary.

**Article 5. Accidents and Accident
Reports; Duties**

Sec. 22. Provisions of Article Apply Throughout City. The provisions of this article shall apply upon streets and highways and elsewhere throughout the city. (K.S.A. 8-1601)

Ref.: Sec. 2.

Sec. 23. Accident Involving Death or Personal Injuries; Duties of Drivers, Reports; Penalties.

- (a) The driver of any vehicle involved in an accident resulting in injury to, great bodily harm to or death of any person or damage to any attended vehicle or property shall immediately stop such vehicle at the scene of such accident, or as close thereto as possible, but shall then immediately return to and in every event shall remain at the scene of the accident until the driver has fulfilled the requirements of Section 25.
- (b) A person who violates subsection (a) when an accident results in:

- (1) Total property damages of less than \$1,000 shall be punished as provided in Section 201.
- (2) Any person who violates this section which results in injury to any person or property damages in excess of \$1,000 shall be punished by imprisonment for not more than one year or by a fine of not more than \$2,500, or by both such fine and imprisonment.

(c) The driver shall comply with the provisions of section 26.1

(K.S.A. 8-1602)

Sec. 24. Reserved for Future Use.

Sec. 25. Duty of Driver to Give Certain Information after Accident; Failure to Provide Proof of Liability Insurance or Financial Security; Duty to Render Aid after Accident; Proof of Liability Insurance or Financial Security by Electronic Means, Restrictions.

- (a) (1) The driver of any vehicle involved in an accident resulting in injury to or death of any person or damage to any attended vehicle or other property shall give such driver's name, address, and the registration number of the vehicle such driver is driving, and upon request shall exhibit such driver's license or permit to drive, the name of the company with which there is in effect a policy of motor vehicle liability insurance covering the vehicle involved in the accident and the policy number of such policy to any person injured in such accident or to the driver or occupant of or person attending any vehicle or other property damaged in such accident, and shall give such information and upon request exhibit such license or permit and the name of the insurer and policy number to any police officer at the scene of the accident or who is investigating the accident.
- (2) Such driver, insofar as possible, shall immediately make efforts to determine whether any person involved in such accident was injured or killed, and shall render to any person injured in such accident reasonable assistance, including the carrying, or the making of arrangements for the carrying of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that such treatment is necessary or if such carrying is requested by the injured person.

- (b) If no police officer is present, the driver of any vehicle involved in such accident, or any occupant of such vehicle 18 years of age or older, shall immediately report such accident, by the quickest available means of communication, to the nearest office of a duly authorized police authority if:
- (1) There is apparently property damage of \$1,000 or more;
 - (2) Any person involved in the accident is injured or killed; or
 - (3) The persons specified in subsection (a) are not present or in condition to receive such information.
- (c) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with failing to provide the name of such person's insurance company and policy number as required in subsection (a), shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance. Such evidence also may be produced by displaying on a cellular phone or other type of portable electronic device evidence of financial security required by this subsection. Any person to whom such evidence of financial security is displayed shall view only such evidence of financial security. Such person shall be prohibited from viewing any other content or information stored on such cellular phone or other portable electronic devices. (K.S.A. 8-1604)

Sec. 26. Duty Upon Striking Unattended Vehicle or Other Property.

- (a) The driver of any vehicle which collides with or is involved in an accident with any vehicle or other property which is unattended, resulting in any damage to such other vehicle or property, shall immediately stop and shall then and there either locate and notify the operator or owner of such vehicle or other property of such driver's name, address and the registration number of the vehicle such driver was driving, or shall attach securely in a conspicuous place in or on such vehicle or other property a written notice giving such driver's name, address, and the registration number of the vehicle such driver was driving, and without unnecessary delay shall notify the nearest office of a authorized police authority.
- (b) The driver under subsection (a), if possible, shall comply with the provisions of section 26.1. (K.S.A. 8-1605)

Sec. 26.1. Removal of Vehicle from Roadway After Accident.

- (a) Except in the case of an accident involving death or apparent injury of any person, or the transportation of hazardous material, the owner or driver of a vehicle which obstructs the regular flow of traffic on any interstate highway, U.S. highway, or any multi-lane or divided roadway, shall make every reasonable effort to move the vehicle from the roadway, if, moving the vehicle may be done safely, does not require towing and may be operated under its own power without further damage to the vehicle or the roadway and without endangering other vehicles or persons upon the roadway.
- (b) Except in the case of an accident involving death or apparent injury of any person or the transportation of hazardous material, authorized employees or agents of the Kansas department of transportation, Kansas highway patrol, or other law enforcement agency without the consent of the driver or owner of the vehicle or property, may require, assist in or cause the removal from the roadway any vehicle, debris or any other property which is obstructing the regular flow of traffic, creating or aggravating an emergency situation or otherwise endangering public safety.

- (c) No state, county, or municipal agency nor their authorized employees or agents shall be held liable for any damages resulting from the reasonable exercise of authority granted under this section.
- (d) Notwithstanding the provisions of this section, a driver is required to comply with the applicable provisions of K.S.A. 8-1601 *et seq.*, and amendments thereto. (K.S.A. 8-15,107)

Sec. 27. Reserved for Future Use.

Sec. 28. False Reports. A person shall not give information in oral or written reports, as required in this ordinance, knowing or having reason to believe that such information is false. (K.S.A. 8-1608)

Article 6. Serious Traffic Offenses

Sec. 29. Reckless Driving; Penalties.

- (a) Any person who drives any vehicle in willful or wanton disregard for the safety of persons or property is guilty of reckless driving.
- (b) Except as provided in K.S.A. 8-2,142, violation of this section is a misdemeanor. Upon a first conviction of a violation of this section a person shall be sentenced to not less than five days nor more than 90 days' imprisonment or fined not less than \$25 nor more than \$500, or by both such fine and imprisonment. On a second or subsequent conviction of a violation of this section, a person shall be sentenced to not less than 10 days nor more than six months' imprisonment or fined not less than \$50 nor more than \$500 or both such fine and imprisonment. (K.S.A. 8-1566)

Sec. 30. Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.

- (a) Driving under the influence is operating or attempting to operate any vehicle within this city while:
 - (1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence, as defined in Section 1 of this ordinance, is .08 or more;
 - (2) The alcohol concentration in the person's blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is .08 or more;
 - (3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;
 - (4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or
 - (5) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.

- (b) (1) Driving under the influence is:
 - (A) An ordinance violation. On a first conviction of a violation of this section, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;

(B) On a second conviction of a violation of this section the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of 120 hours;

(2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.

- (c) Any person 18 years of age or older convicted of violating this section who had one or more children under the age of 18 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.
- (d) If a person is charged with a violation of subsection (a)(4) or (a)(5), the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.
- (e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (g) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division including any finding regarding the alcohol concentration in the offender's blood or breath. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

- (h) For the purpose of determining whether a conviction is a first or second conviction in sentencing under this section:
- (1) Convictions for a violation of this section, K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;
 - (2) Any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:
 - (A) Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto, or section 30.1 of this ordinance;
 - (B) Operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
 - (C) Involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)(3) or (a)(5), and amendments thereto;
 - (D) Aggravated battery as described in K.S.A. 21-5413(b)(3) or (b)(4), and amendments thereto; and
 - (E) Aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

- (3) **Conviction** includes:
- (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an offense described in subsection (h)(2); and
 - (B) Conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (h)(1) or (h)(2);
- (4) Multiple convictions of any crime described in subsection (h)(1) or (h)(2) arising from the same arrest shall only be counted as one conviction;
- (5) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and
- (6) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, only once during the person's lifetime.
- (i) For the purposes of determining whether an offense is comparable, the following shall be considered:
- (1) The name of the out-of-jurisdiction offense;
 - (2) The elements of the out-of-jurisdiction offense;
 - (3) Whether the out-of-jurisdiction offense prohibits similar conduct prohibited by the closest approximate Kansas offense.
- (j) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
- (k) Upon conviction of a person of a violation of this section, the court may order the convicted person to pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
- (l) Upon the filing of a complaint, citation, or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

- (1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and
 - (2) Kansas bureau of investigation central repository all criminal history record information concerning such person.
- (m) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq.*, or K.S.A. 22-2906 *et seq.*, and amendments thereto, shall not constitute plea bargaining.
- (n) The alternatives set out in subsection (a) may be pleaded in the alternative, and the city may, but shall not be required to, elect one or more of such alternatives prior to submission of the case to the fact finder.
- (o) As used in this section:
- (1) **Imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.
 - (2) **Drug** includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto. (K.S.A. 8-1567)

Ref.: For persons under 21 years of age, see also K.S.A. 8-1567a.

{Editor's Note: Since 2007 the Kansas Legislature has acted to give municipal courts jurisdiction over the felony level offences of Third, Fourth, and Subsequent Driving Under the Influence (DUI), K.S.A. 8-1567(l)(1) and (l)(3). However, K.S.A. 8-1567(m)(2) appears to remove this authority from municipal courts. Because of this apparent conflict, and concerns about sentencing issues and cost, the Editor has determined that Third, Fourth, and Subsequent Driving Under the Influence (DUI) would not be included in this Code. Should a city wish to implement these provisions concerning prosecuting felony level DUI in municipal court, a separate ordinance will need to be adopted.}

Sec. 30.1. Driving Commercial Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs; Penalties.

- (a) Driving a commercial motor vehicle under the influence is operating or attempting to operate any commercial motor vehicle, as defined in Section 1, within this city while:
 - (1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, is .04 or more;
 - (2) The alcohol concentration in the person's blood or breath, as measured within three hours of the time of driving a commercial motor vehicle, is .04 or more; or
 - (3) Committing a violation of subsection (a) of Section 30 of this ordinance, or the ordinance of a city or resolution of a county which prohibits any of the acts prohibited thereunder or is otherwise comparable.

- (b) (1) Driving a commercial motor vehicle under the influence is:
 - (A) An ordinance violation. On a first conviction, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion, 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation, suspension or reduction of sentence or parole or other release;
 - (B) On a second conviction, the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection

may be served in a work release program only after such person has served 48 consecutive hours imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours; and

- (2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A) or (b)(1)(B), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.
- (c) Any person 18 years of age or older convicted of a violation of this section who had one or more children under the age of 18 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment shall be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the

maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

- (d) If a person is charged with a violation of Section 30(a)(4) or (a)(5), as incorporated in this section, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.
- (e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (g) The court shall electronically report every conviction of a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the:
 - (1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and
 - (2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

- (h) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall:
 - (1) Disqualify the person from driving a commercial motor vehicle under K.S.A. 8-2,142, and amendments thereto; and (2) suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
- (i) The court is authorized to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
- (j) Upon the filing of a complaint, citation or notice to appear alleging a violation of this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:
 - (A) Division of vehicles a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and
 - (B) Kansas bureau of investigation central repository all criminal history record information concerning such person.
- (k) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section.
- (l) The alternatives set out in subsection (a) may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.
- (m) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:
 - (1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county that prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after

July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;

(2) Any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:

- (A) This section or K.S.A. 8-2,144, and amendments thereto;
- (B) Operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
- (C) Involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)(3) or (a)(5), and amendments thereto;
- (D) Aggravated battery as described in K.S.A. 21-5413(b)(3) or (b)(4), and amendments thereto; and
- (E) Aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) **Conviction** includes:

- (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (m)(2);
 - (B) Conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (m)(1) or (m)(2);
- (4) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and
- (5) Multiple convictions of any crime described in subsection (m)(1) or (m)(2) arising from the same arrest shall only be counted as one conviction.

- (n) For the purposes of determining whether an offense is comparable, the following shall be considered:
 - (1) The name of the out-of-jurisdiction offense;
 - (2) The elements of the out-of-jurisdiction offense;
 - (3) Whether the out-of-jurisdiction offense prohibits similar conduct prohibited by the closest approximate Kansas offense.

- (o) For the purpose of this section:
 - (1) **Imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and
 - (2) **Drug** includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto. (K.S.A. 8-2,144)

Sec. 30.2. Preliminary Breath Test.

- (a) A law enforcement officer may request a person who is operating or attempting to operate a motor vehicle within this state to submit to a preliminary screening test of the person's breath or oral fluid, or both, if the officer has reasonable suspicion to believe that the person has been operating or attempting to operate a vehicle while under the influence of alcohol or drugs or both alcohol and drugs.

- (b) If the person submits to the test, the results shall be used for the purpose of assisting law enforcement officers in determining whether an arrest should be made and whether to request the tests authorized by K.S.A. 8-1001 and amendments thereto. A law enforcement officer may arrest a person based in whole or in part upon the results of a preliminary screening test. Such results shall not be admissible in any civil or criminal action concerning the operation of or attempted operation of a vehicle except to aid the court or hearing officer in determining a challenge to the validity of the arrest or the validity of the request to submit to a test pursuant to K.S.A. 8-1001 and amendments thereto. Following the preliminary screening test, additional tests may be requested pursuant to K.S.A. 8-1001 and amendments thereto.

- (c) Any preliminary screening of a person's breath shall be conducted with a device approved pursuant to K.S.A. 65-1,107, and amendments thereto. Any preliminary screening of a person's oral fluid shall be conducted in accordance with rules and regulations, if any, approved pursuant to K.S.A. 75-712h, and amendments thereto.

(K.S.A. 8-1012)

Sec. 30.2.1. Reserved for Future Use.

{Editor's Note: K.S.A. 8-1025 was found to be unconstitutional by the Kansas Supreme Court so the Editor has deleted the offense of Refusal to Submit to Alcohol or Drug Test.}

Sec. 30.3. Ignition Interlock Devices; Tampering.

- (a) No person shall:
 - (1) Tamper with an ignition interlock device, circumvent it or render it inaccurate or inoperative;
 - (2) Request or solicit another to blow into an ignition interlock device, or start a motor vehicle equipped with such device, providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device;
 - (3) Blow into an ignition interlock device, or start a motor vehicle equipped with such device, providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device; or
 - (4) Operate a vehicle not equipped with an ignition interlock device while such person's driving privileges have been restricted to driving a motor vehicle equipped with such device.
- (b) Violation of this section 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.
- (c) In addition to any other penalties provided by law:
 - (1) (A) On a first conviction of a violation of subsection (a)(1) or (a)(2), the division shall extend the ignition interlock restriction period on the person's driving privileges for an additional 90 days; and

- (B) On a second or subsequent conviction of a violation of subsection (a)(1) or (a)(2), the division shall restart the original ignition interlock restriction period on the person's driving privileges; and
- (2) On a conviction of a violation of subsection (a)(4), the division shall restart the original ignition interlock restriction period on the person's driving privileges.

(K.S.A. 8-1017)

{Editor's Note: K.S.A.8-1015(e) seems to provide an exception to K.S.A. 8-1017(a)(4) as replicated in STO section 30.3 (a) (4) with regard to driving an employer's vehicle. However, there are also exceptions to this exception. Please see K.S.A. 8-1015 for further guidance.}

Sec. 30.4. Impounded Motor Vehicle; Disposition; When.

If the owner of a motor vehicle which has been impounded pursuant to Section 30 or Section 105, refuses to pay any towing, impoundment, storage, or other fees relating to the impoundment or immobilization of such vehicle or fails to take possession of such vehicle within 30 days following the date of the expiration of the impoundment period, such vehicle shall be deemed abandoned and the vehicle may be disposed of by the person having possession of such vehicle. If the person having possession of such vehicle is a public agency, disposition of such vehicle shall be in compliance with the procedures for notice and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto. If the person having possession of such vehicle is not a public agency, disposition of such vehicle shall be in compliance with K.S.A. 8-1103 through 8-1108, and amendments thereto. (K.S.A. 8-1021)

{Editor's Note: The requirements for the disposition of such vehicle in K.S.A. 8-1103 through K.S.A. 8-1108 were amended in 2021 SB 36.}

Sec. 30.5. Commercial Driver's Licenses; Diversion Agreements Not Allowed.

- (a) A driver or a holder of a commercial driver's license may not enter into a diversion agreement in lieu of further criminal proceedings that would prevent such person'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 person's record, whether the person was convicted for an offense committed in the state where the person is licensed or another state.

- (b) For purposes of subsection (a), a person shall be considered a holder of a commercial driver's license if the person was a holder of a commercial driver's license at the time the person was arrested or was issued a citation and shall remain a holder of a commercial driver's license even if the person surrenders the commercial driver's license after the arrest or citation. (K.S.A. 8-2,150)

Sec. 31. Fleeing or Attempting to Elude a Police Officer.

- (a) (1) Any driver of a motor vehicle who knowingly fails or refuses to bring such driver's vehicle to a stop for a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop shall be guilty as provided by subsection (c).
- (2) Any driver of a motor vehicle who knowingly otherwise flees or attempts to elude a pursuing police vehicle or police bicycle, when given visual or audible signal to bring the vehicle to a stop, shall be guilty as provided by subsection (c).
- (3) It shall be an affirmative defense to any prosecution under subsection (a)(1) that the driver's conduct in violation of such paragraph was caused by such driver's reasonable belief that the vehicle or bicycle pursuing such driver's vehicle is not a police vehicle or police bicycle.
- (b) The signal given by the police officer may be by hand, voice, emergency light, or siren:
- (1) If the officer giving such signal is within or upon an official police vehicle or police bicycle at the time the signal is given, the vehicle or bicycle shall be appropriately marked showing it to be an official police vehicle or police bicycle; or
- (2) If the office giving such signal is not utilizing an official police vehicle or police bicycle at the time the signal is given, the officer shall be in uniform, prominently displaying such officer's badge of office at the time the signal is given.

- (c) When the person being sentenced for violating subsection (a), the person, shall be imprisoned for not more than six months or fined not to exceed \$1,000, or both when the person being sentenced has no prior convictions for a violation of subsection (a) or K.S.A. 8-1568(b). Every person convicted of violating this section shall be punished by imprisonment not to exceed one year or fined not to exceed \$2,500 or both when the person has one prior conviction for a violation of subsection (a) or K.S.A. 8-1568(b).
- (d) (1) For the purpose of this section **conviction** means a final conviction without regard whether sentence was suspended or probation granted after such conviction. Forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, shall be equivalent to a conviction. For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section it is irrelevant whether an offense occurred before or after conviction for a previous offense.
- (2) **Appropriately marked** official police vehicle or police bicycle shall include, but not be limited to, any police vehicle or bicycle equipped with functional emergency lights or siren or both and which the emergency lights or siren or both have been activated for the purpose of signaling a driver to stop a motor vehicle. (K.S.A. 8-1568)

Article 7. Speed Regulations

Sec. 32. Speed Limitations; Basic Rule. No person shall drive a vehicle at a speed greater than is reasonable and prudent under the conditions and having regard to the actual hazards then existing. Consistent with the foregoing, every person shall drive at a safe and appropriate speed when approaching and crossing an intersection or railroad grade crossing, when approaching and going around a curve, when approaching a hill crest, when traveling upon any narrow or winding roadway, and when special hazards exist with respect to pedestrians or other traffic or by reason of weather or highway conditions. (K.S.A. 8-1557)

Sec. 33. Maximum Speed Limits.

- (a) Except as provided in subsection (b) 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 authorized by law shall be maximum lawful speeds, and no person shall operate a vehicle at a speed in excess of such maximum limits:
 - (1) In any urban district, 30 miles per hour;
 - (2) On any separated multilane highway, as designated and posted by the secretary of transportation, 75 miles per hour;
 - (3) On any county or township highway, 55 miles per hour; and
 - (4) On all other highways, 65 miles per hour.

- (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 K.S.A. 8-1560, and amendments thereto. (K.S.A. 8-1558)

Sec. 33.1. Special Speed Limitations Applicable to Certain Vehicles and Portions of Highways; Powers of Secretary and Local Authorities; Violations, Evidence of Safe Speed.

- (a) No person shall drive a vehicle which is towing a house trailer at a speed greater than a maximum of fifty-five (55) miles per hour.

- (b) No person shall drive any vehicle equipped with solid rubber tires at a speed greater than a maximum of ten (10) miles per hour.

- (c) No person shall drive a vehicle over any bridge or other elevated structure constituting a part of a highway at a speed which is greater than the maximum speed which can be maintained with safety to such bridge or structure, when such structure is signposted as provided in this section.
 - (d) The secretary of transportation and local authorities on highways under their respective jurisdictions may conduct an investigation of any bridge or other elevated structure constituting a part of a highway, and if it shall thereupon find that such structure cannot with safety to itself withstand vehicles traveling at the speed otherwise permissible under this article, the secretary or local authority shall determine and declare the maximum speed of vehicles which such structure can safely withstand, and shall cause or permit suitable signs stating such maximum speed to be erected and maintained not less than one hundred (100) feet before each end of such structure.
 - (e) Upon the trial of any person charged with a violation of this section, proof of said determination of the maximum speed by said secretary and the existence of said signs shall constitute conclusive evidence of the maximum speed which can be maintained with safety to such bridge or structure.
- (K.S.A. 8-1563)

Sec. 34. Minimum Speed Regulation.

- (a) No person shall drive a motor vehicle at such a slow speed as to impede the normal and reasonable movement of traffic except when reduced speed is necessary for safe operation or in compliance with law.
- (b) Whenever the governing body determines on the basis of an engineering and traffic investigation that slow speeds on any highway or part of a highway consistently impede the normal and reasonable movement of traffic, the governing body may determine and declare a minimum speed limit below which no person shall drive a vehicle except when necessary for safe operation or in compliance with law, and that limit shall be effective when posted upon appropriate fixed or variable signs.
(K.S.A. 8-1561)

Sec. 35. Special Speed Limitation on Motor-Driven Cycle. No person shall operate any motor-driven cycle at any time mentioned in Section 144 at a speed greater than 35 miles per hour unless such motor-driven cycle is equipped with a head lamp or lamps which are adequate to reveal a person or vehicle at a distance of 300 feet ahead. (K.S.A. 8-1562)

Ref.: Sec. 182.

Sec. 36. Charging Speed Violations. In every charge of violation of any speed regulation in this article, except charges of violations of Section 32, the complaint, also the summons or notice to appear, shall specify the speed at which the defendant is alleged to have driven, also the speed limit applicable within the district or at the location. (K.S.A. 8-1564)

Sec. 37. Racing on Highways. No person shall drive any vehicle in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, exhibition of speed or acceleration, or for the purpose of making a speed record, and no person shall in any manner participate in any such race, competition, contest, test or exhibition. (K.S.A. 8-1565)

Ref.: Power to change speed limits generally and regulate speed in parks and school zones. (K.S.A. 8-1560, and K.S.A. 8-2002)

Article 8. Driving on Right Side of Roadway;
Overtaking and Passing; Use of Roadway

Sec. 38. Driving on Right Side of Roadway; Exceptions.

- (a) Upon all roadways of sufficient width a vehicle shall be driven upon the right half of the roadway, except as follows:
 - (1) When overtaking and passing another vehicle proceeding in the same direction under the rules governing such movements;
 - (2) When an obstruction exists making it necessary to drive to the left of center of the highway, except that any person so doing shall yield the right-of-way to all vehicles traveling in the proper direction upon the unobstructed portion of the highway within such distance as to constitute an immediate hazard;

- (3) Upon a roadway divided into three marked lanes for traffic under the rules applicable thereon; or
 - (4) Upon a roadway restricted to one-way traffic.
- (b) Upon all roadways any vehicle proceeding at less than the normal speed of traffic at the time and place and under the conditions then existing shall be driven in the right-hand lane then available for traffic, or as close as practicable to the right-hand curb or edge of the roadway, except when overtaking and passing another vehicle proceeding in the same direction, or when preparing for a left turn at an intersection or into a private road or driveway.
- (c) Upon any roadway having four or more lanes for moving traffic and providing for two-way movement of traffic, no vehicle shall be driven to the left of the center line of the roadway, except when authorized by official traffic-control devices, designating certain lanes to the left of the center of the roadway for use by traffic not otherwise permitted to use such lanes, or except as permitted under subsection (a)(2) hereof. However, this subsection shall not be construed as prohibiting the crossing of the center line in making a left turn into or from an alley, private road or driveway. (K.S.A. 8-1514)

Ref.: Sec. 46.

Sec. 38.1. Driving in Defiles or Canyons. The driver of a motor vehicle traveling through defiles or canyons or on highways with steep grades shall hold such motor vehicle under control and as near the right-hand edge of the roadway as reasonably possible and, except when driving entirely to the right of the center of the roadway, shall give audible warning with the horn of such motor vehicle upon approaching any curve where the view is obstructed within a distance of two hundred (200) feet along the highway. (K.S.A. 8-1579)

Sec. 39. Passing Vehicles Proceeding in Opposite Directions. Drivers of vehicles proceeding in opposite directions shall pass each other to the right, and upon roadways having width for not more than one line of traffic in each direction, each driver shall give to the other at least one-half of the main traveled portion of the roadway as nearly as possible. (K.S.A. 8-1515)

Sec. 40. Overtaking a Vehicle or Bicycle on the Left. The following rules shall govern the overtaking and passing of vehicles and bicycles proceeding in the same direction, subject to those limitations, exceptions and special rules hereinafter stated:

- (a) The driver of a vehicle overtaking another vehicle proceeding in the same direction shall pass to the left thereof at a safe distance and shall not again drive to the right side of the roadway until safely clear of the overtaken vehicle.
- (b) Except when overtaking and passing on the right is permitted, the driver of an overtaken vehicle shall give way to the right in favor of the overtaking vehicle on audible signal and shall not increase the speed of his or her vehicle until completely passed by the overtaking vehicle.
- (c)
 - (1) The driver of a vehicle overtaking a bicycle proceeding in the same direction shall pass to the left thereof at a distance of not less than three feet and shall not again drive to the right side of the roadway until safely clear of the overtaken bicycle.
 - (2) The driver of a vehicle may pass a bicycle proceeding in the same direction in a no-passing zone with the duty to execute the pass only when it is safe to do so. (K.S.A. 8-1516)

Ref.: For limitation see Sec. 42.

Sec. 40.1 Passing a Stationary Waste Collection Vehicle.

- (a) The driver of a motor vehicle, upon approaching a stationary waste collection vehicle obviously and actually engaged in waste collection and displaying vehicular hazard warning signal lamps as required by Section 174(f), shall do either of the following:
 - (1) If the driver of the motor vehicle is traveling on a highway that consist of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary waste collection vehicle; or

- (2) If the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road, weather and traffic conditions.
- (b) This section shall not operate to relieve the driver of a waste collection vehicle from the duty to drive with due regard for the safety of all persons using the highway.
- (c) Prior to July 1, 2019, a law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (a). Violations after July 1, 2019 shall be subject to penalties as established pursuant to Section 201. (K.S.A. 8-15,112)

Sec. 40.2 Passing a Stationary Authorized Utility or Telecommunications Vehicle

- (a) The driver of a vehicle shall not overtake and pass another vehicle when approaching within 100 feet of a stationary authorized utility or telecommunications vehicle.
- (b) The driver of a vehicle shall yield the right-of-way to any authorized utility or telecommunications vehicle or pedestrian actually engaged in work on the highway whenever such vehicle displays flashing lights meeting the requirements of K.S.A. 8-1731, and amendments thereto.
- (c) The driver of a motor vehicle, upon approaching a stationary authorized utility or telecommunications vehicle that is obviously and actually engaged in work upon a highway, when such authorized utility or telecommunications vehicle is displaying flashing lights meeting the requirements of K.S.A. 8-1731, and amendments thereto, shall do either of the following:
 - (1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with

due regard to the road and weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized public utility or telecommunications vehicle; or

- (2) if the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type described in paragraph (1) but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road and weather and traffic conditions.

- (d) This section shall not operate to relieve the driver of an authorized utility or telecommunications vehicle from the duty to drive with due regard for the safety of all persons using the highway. (2021 SB 67).

Sec. 41. When Passing on the Right is Permitted.

- (a) The driver of a vehicle may overtake and pass upon the right of another vehicle only under the following conditions:
 - (1) When the vehicle overtaken is making or about to make a left turn; or
 - (2) Upon a roadway with unobstructed pavement of sufficient width for two or more lines of vehicles moving lawfully in the direction being traveled by the overtaking vehicle.
 - (3) A transit bus authorized under and being operated in accordance with the provisions of K.S.A. 75-5091, and amendments thereto.
- (b) The driver of a vehicle may overtake and pass another vehicle upon the right only under conditions permitting such movement in safety. Such movement shall not be made by driving off the roadway, except as authorized under K.S.A. 75-5091, and amendments thereto. (K.S.A. 8-1517)

Sec. 42. Limitations on Overtaking on the Left. Except as otherwise provided in this article no vehicle shall be driven to the left of the center of the roadway in overtaking and passing another vehicle proceeding in the same direction unless such left side is clearly visible and is free of oncoming traffic for a sufficient distance ahead to permit such overtaking and passing to be completely made without interfering with the operation of any vehicle approaching from the opposite direction or any vehicle overtaken. In every event the overtaking vehicle must return to an authorized lane of travel as soon as practicable and, in the event the passing movement involves the use of a lane authorized for vehicles approaching from the opposite direction, before coming within 200 feet of any approaching vehicle. (K.S.A. 8-1518)

Ref.: Sec. 40.

Sec. 43. Further Limitations on Driving on Left of Center of Roadway.

- (a) No vehicle shall be driven to the left side of the roadway under the following conditions:
 - (1) When approaching or upon the crest of a grade or a curve in the highway where the driver's view is obstructed within such distance as to create a hazard in the event another vehicle might approach from the opposite direction;
 - (2) When approaching within 100 feet of or traversing any intersection or railroad grade crossing, except that this section shall not apply to any intersection on a state or county maintained highway located outside city limits unless such intersection is marked by an official department of transportation or county road department traffic control device or pavement marking or both indicating that passing is prohibited and such marking is placed at least 100 feet before the intersection; or
 - (3) When the view is obstructed upon approaching within 100 feet of any bridge, viaduct or tunnel.
- (b) The foregoing limitations shall not apply upon a one-way roadway nor under the conditions described in subsection (a)(2) of Section 38, nor to the driver of a vehicle turning left into or from an alley, private road or driveway. (K.S.A. 8-1519)

Sec. 44. No-Passing Zones.

- (a) Whenever signs or markings are in place to define a no-passing zone and clearly visible to an ordinarily observant person no driver shall at any time drive on the left side of the roadway within such no-passing zone or on the left side of any pavement striping designed to mark such no-passing zone throughout its length.
- (b) This section shall not apply under the conditions described in subsection (a)(2) of Section 38, nor to the driver of a vehicle turning left into or from an alley, private road or driveway. (K.S.A. 8-1520)

Sec. 45. One-Way Roadways and Rotary Traffic Islands.

- (a) When official traffic control devices indicate that vehicular traffic shall proceed in one direction upon any highway, roadway, part of a roadway or specific lanes a vehicle shall be driven only in the direction designated at all or such times as shall be indicated by such device.
- (b) A vehicle passing around a rotary traffic island shall be driven only to the right of such island. (K.S.A. 8-1521)

Sec. 46. Driving on Roadways Laned for Traffic. Whenever any roadway has been divided into two or more clearly marked lanes for traffic, the following rules in addition to all others consistent herewith shall apply:

- (a) A vehicle shall be driven as nearly as practicable entirely within a single lane and shall not be moved from such lane until the driver has first ascertained that such movement can be made with safety.
- (b) Upon a roadway which is divided into three lanes and provides for two-way movement of traffic, a vehicle shall not be driven in the center lane except when overtaking and passing another vehicle traveling in the same direction when such center lane is clear of traffic within a safe distance, or in preparation for making a left turn or where such center lane is at the time allocated exclusively to traffic moving in the same direction that the vehicle is proceeding and such allocation is designated by official traffic-control devices.

- (c) Official traffic-control devices may be erected directing specified traffic to use a designated lane or designating those lanes to be used by traffic moving in a particular direction regardless of the center of the roadway and drivers of vehicles shall obey the directions of every such device.
- (d) Official traffic-control devices may be installed prohibiting the changing of lanes on sections of roadway and drivers of vehicles shall obey the direction of every such device. (K.S.A. 8-1522)

Ref.: Sec. 38.

Sec. 47. Following Too Closely.

- (a) The driver of a motor vehicle shall not follow another vehicle more closely than is reasonable and prudent, having due regard for the speed of such vehicle and the traffic upon and the condition of the highway.
- (b) The driver of any truck or motor vehicle drawing another vehicle when traveling upon a roadway outside of a business or residence district and which is following another truck or motor vehicle drawing another vehicle shall leave sufficient space, whenever conditions permit, so that an overtaking vehicle may enter and occupy such space without danger, except that this shall not prevent a truck or motor vehicle drawing another vehicle from overtaking and passing any vehicle or combination of vehicles.
- (c) Motor vehicles being driven upon any roadway outside of a business or residence district in a caravan or motorcade, whether or not towing other vehicles, shall be so operated as to allow sufficient space between each such vehicle or combination of vehicles so as to enable any other vehicle to enter and occupy such space without danger. This provision shall not apply to funeral processions. (K.S.A. 8-1523)

Sec. 48. Driving on Divided Highways; Left and U Turns; Controlled-Access Highways. No person shall:

- (a) Drive a vehicle over, upon or across any intervening space, physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic between roadways on divided highways;

- (b) Make a left turn or a semicircular or “U” turn on the interstate system;
- (c) Make a left turn or a semicircular or “U” turn over, across or within any intervening space, physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic between roadways on a divided highway, except this subsection (c) does not prohibit making a left turn or a semicircular or “U” turn through an opening provided and surfaced for the purpose of public use for such turning movements;
- (d) Make a left turn or a semicircular or “U” turn on a divided highway wherever such turn is specifically prohibited by a sign or signs placed by the authority having jurisdiction over that highway;
- (e) Drive any vehicle on a divided highway except on the proper roadway provided for that purpose and in the proper direction and to the right of the intervening space, physical barrier or a clearly indicated dividing section so constructed as to impede vehicular traffic between roadways unless directed or permitted to use another roadway by official traffic-control devices or police officers;
- (f) Drive any vehicle onto or from any controlled-access highway except at such entrances and exists as are established by the authority having jurisdiction over such highway;
- (g) Use controlled-access highway right of way for parking vehicles or mobile equipment, or stacking of materials or equipment, for the purpose of servicing adjacent property; or
- (h) Stop, stand or park vehicles on the right of way of controlled-access highway except for:
 - (1) Stopping of disabled vehicles;
 - (2) Stopping to give aid in an emergency;
 - (3) Stopping in compliance with directions of a police officer or other emergency or safety official;
 - (4) Stopping due to illness or incapacity of driver; or
 - (5) Parking in designated parking or rest areas.

(K.S.A. 8-1524)

Ref.: Secs. 50, 51.

Article 9. Turning and Starting and Signals
On Stopping and Turning

Sec. 49. Turning.

- (a) The driver of a vehicle intending to turn shall do so as follows:
 - (1) **Right Turns.** Both the approach for a right turn and a right turn shall be made as close as practicable to the right-hand curb or edge of the roadway.
 - (2) **Left Turns.** The driver of a vehicle intending to turn left shall approach the turn in the extreme left-hand lane lawfully available to traffic moving in the direction of travel of such vehicle. Whenever practicable a left turn at an intersection shall be made to the left of the center of the intersection, and any left turn shall be made so as to leave the intersection or other location in the extreme left-hand lane lawfully available to traffic moving in the same direction as such vehicle on the roadway being entered.

- (b) **Two-way left turn lanes.** Where a special lane for making left turns by drivers proceeding in opposite directions has been indicated by official traffic control devices:
 - (1) A left turn shall not be made from any other lane;
 - (2) A vehicle shall not be driven in the lane except when preparing for or making a left turn from or into the roadway or when preparing for or making a U-turn when otherwise permitted by law.

- (c) When official traffic-control devices are placed within or adjacent to intersections requiring and directing that a different course from that specified in this section be traveled by vehicles turning at an intersection, no driver of a vehicle shall turn a vehicle at an intersection other than as directed and required by such devices. (K.S.A. 8-1545)

Sec. 50. Right, Left and U Turns at Intersections: Obedience To.

- (a) The chief of police is hereby authorized to determine those intersections at which drivers of vehicles shall not make a right, left or U turn, and shall place or cause to be placed proper signs at such intersections. The making of such turns may be prohibited between certain hours of any day and permitted at other hours, in which event the same shall be plainly indicated on the signs or the signs may be removed when such turns are permitted.
- (b) Whenever authorized signs are erected or temporarily displayed on a movable standard indicating that no right or left or U turn is permitted, no driver of a vehicle shall disobey the directions of any such sign.

(K.S.A. 8-2202)

Ref.: Secs. 48, 51.

Sec. 51. U Turns; Where Prohibited. The driver of any vehicle shall not turn such vehicle so as to proceed in the opposite direction upon any street in a business district, when posted, nor upon any other street unless such movement can be made in safety without interfering with other traffic. (K.S.A. 8-1546)

Ref.: Secs. 48, 50.

Sec. 52. Turning on Curve or Crest of Grade Prohibited. No vehicle shall be turned so as to proceed in the opposite direction upon any curve, or upon the approach to, or near the crest of a grade, where such vehicle cannot be seen by the driver of any other vehicle approaching from either direction within 500 feet. (K.S.A. 8-1546)

Sec. 53. Starting Parked Vehicle. No person shall start a vehicle which is stopped, standing or parked unless and until such movement can be made with reasonable safety. (K.S.A. 8-1547)

Sec. 54. Turning Movements and Required Signals.

- (a) No person shall turn a vehicle or move right or left upon a roadway unless and until such movement can be made with reasonable safety, nor without giving an appropriate signal in the manner hereinafter provided.

- (b) A signal of intention to turn or move right or left when required shall be given continuously during not less than the last 100 feet traveled by vehicle before turning.
- (c) No person shall stop or suddenly decrease the speed of a vehicle without first giving an appropriate signal, in the manner provided herein, to the driver of any vehicle immediately to the rear when there is opportunity to give such signal.
- (d) The signals required on vehicles by subsection (b) of Section 149 shall not be flashed on one side only on a disabled vehicle, flashed as a courtesy or “do pass” signal to operators of other vehicles approaching from the rear, nor be flashed on one side only of a parked vehicle except as may be necessary for compliance with this section. (K.S.A. 8-1548)

Sec. 55. Signals by Hand and Arm or Signal Lamps. The driver of any motor vehicle or combination of vehicles which is required to be equipped with electric turn signal lamps by Section 149 shall give any required notice of intention to turn by means of electric turn signals meeting the requirements of subsection (b) of Section 161. The driver of any other motor vehicle or combination of vehicles shall give such notice by means of hand and arm signals, as provided in Section 56, or by such electric turn signals. (K.S.A. 8-1549)

Sec. 56. Methods of Giving Signals. All signals herein required to be given by hand and arm shall be given from the left side of the vehicle in the following manner and such signals shall indicate as follows:

- (a) Left turn — hand and arm extended horizontally.
 - (b) Right turn — hand and arm extended upward.
 - (c) Stop or decrease of speed — hand and arm extended downward.
- (K.S.A. 8-1550)

Article 10. Right-of-Way

Sec. 57. Vehicles Approaching or Entering Intersection.

- (a) When two vehicles approach or enter an intersection from different highways at approximately the same time, the driver of the vehicle on the left shall yield the right-of-way to the vehicle on the right.
- (b) The right-of-way rule declared in subsection (a) is modified at through highways and otherwise as hereinafter stated in this ordinance. (K.S.A. 8-1526)

Sec. 58. Vehicle Turning Left. The driver of a vehicle intending to turn to the left within an intersection or into any alley, private road or driveway shall yield the right-of-way to any vehicle approaching from the opposite direction which is within the intersection or so close thereto as to constitute an immediate hazard. (K.S.A. 8-1527)

Sec. 59. Stop Signs and Yield Signs.

- (a) Preferential right-of-way may be indicated by stop signs or yield signs.
- (b) Except when directed to proceed by a police officer, every driver of a vehicle approaching a stop sign shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After having stopped, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways. Such driver shall yield the right-of-way to pedestrians within an adjacent crosswalk.
- (c) The driver of a vehicle approaching a yield sign shall in obedience to such sign slow down to a speed reasonable for the existing conditions and, if required for safety to stop, shall stop at a clearly marked stop line, but if none, before entering the crosswalk on the near side of the intersection, or, if none, then at the point nearest

the intersecting roadway where the driver has a view of approaching traffic on the intersecting roadway before entering it. After slowing or stopping, the driver shall yield the right-of-way to any vehicle in the intersection or approaching on another roadway so closely as to constitute an immediate hazard during the time when such driver is moving across or within the intersection or junction of roadways. Such driver shall yield the right-of-way to pedestrians within an adjacent crosswalk. If a driver is involved in a collision with a vehicle in the intersection or junction of roadways or with a pedestrian in an adjacent crosswalk, after driving past a yield sign without stopping, such collision shall be deemed prima facie evidence of the driver's failure to yield the right-of-way. (K.S.A. 8-1528)

Sec. 60. Vehicle Entering Roadway. The driver of a vehicle about to enter or cross a roadway from any place other than another roadway shall yield the right-of-way to all vehicles approaching on the roadway to be entered or crossed. (K.S.A. 8-1529)

Ref.: Sec. 80.

Sec. 61. Operation of Vehicles on Approach of Authorized Emergency Vehicles.

- (a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of Section 174(d) and visual signals meeting the requirements of Section 160 of this ordinance or of a police vehicle properly and lawfully making use of an audible signal only, the driver of every other vehicle shall do the following unless otherwise directed by a police officer:
 - (1) Yield the right-of-way;
 - (2) Immediately drive to a position parallel to and as close as possible to the right-hand edge or curb of the roadway clear of any intersection; and
 - (3) Stop and remain in such position until the authorized emergency vehicle has passed.

- (b) The driver of a motor vehicle upon approaching a stationary authorized emergency vehicle, when the authorized emergency vehicle is making use of visual signals meeting the requirements of Section 160, or subsection (d) of Section 162, shall do either of the following:
 - (1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized emergency vehicle; or
 - (2) If the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road, weather and traffic conditions.
- (c) This section shall not operate to relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway. (K.S.A. 8-1530)

Ref.: Sec. 10.

Sec. 61.1. Passing When Near Stationary Authorized Emergency Vehicle. The driver of a vehicle shall not overtake and pass another vehicle when approaching within 100 feet of:

- (a) A stationary authorized emergency vehicle on a highway that consists of two lanes carrying traffic in opposite directions, when the authorized emergency vehicle is making use of visual signals meeting the requirements of Section 160, or subsection (d) of Section 162; or
- (b) A stationary authorized vehicle which is obviously and actually engaged in work on a highway that consists of two lanes carrying traffic in opposite directions, when such vehicle displays flashing lights meeting the requirements of Section 172. (K.S.A. 8-1520a)

Sec. 62. Highway Construction and Maintenance.

- (a) The driver of a vehicle shall yield the right-of-way to any authorized vehicle or pedestrian actually engaged in work upon a highway within any road construction zone, indicated by official traffic-control devices.
- (b) The driver of a vehicle shall yield the right-of-way to any authorized vehicle which is obviously and actually engaged in work upon a highway whenever such vehicle displays flashing lights meeting the requirements of Section 172.
- (c) The driver of a motor vehicle upon approaching a stationary authorized vehicle which is obviously and actually engaged in work upon a highway, when such authorized vehicle is displaying flashing lights meeting the requirements of Section 172, shall do either of the following:
 - (1) If the driver of the motor vehicle is traveling on a highway that consists of at least two lanes that carry traffic in the same direction of travel as that of the driver's motor vehicle, the driver shall proceed with due caution and, if possible and with due regard to the road, weather, and traffic conditions, shall change lanes into a lane that is not adjacent to that of the stationary authorized vehicle; or
 - (2) If the driver is not traveling on a highway of a type described in paragraph (1), or if the driver is traveling on a highway of that type but it is not possible to change lanes or if to do so would be unsafe, the driver shall proceed with due caution, reduce the speed of the motor vehicle and maintain a safe speed for the road, weather, and traffic conditions.
- (d) This section shall not operate to relieve the driver of an authorized vehicle from the duty to drive with due regard for the safety of all persons using the highway. (K.S.A. 8-1531)

Article 11. Pedestrians

Sec. 63. Pedestrians; Obedience to Traffic-Control Devices and Traffic Regulations.

- (a) A pedestrian shall obey the instructions of any official traffic-control device specifically applicable to such person, unless otherwise directed by a police officer.
- (b) Pedestrians shall be subject to traffic and pedestrian-control signals as provided in Sections 13 and 14.
- (c) At all other places pedestrians shall be accorded the privileges and shall be subject to the restrictions stated in this ordinance. (K.S.A. 8-1532)

Sec. 64. Pedestrians' Right-of-Way in Crosswalks; Control Signals.

- (a) When traffic-control signals are not in place or not in operation the driver of a vehicle shall yield the right-of-way, slowing down or stopping if need be to so yield, to a pedestrian entering or crossing the roadway within a crosswalk.
- (b) No pedestrian shall suddenly leave a curb or other place of safety and walk or run into the path of a vehicle which is so close as to constitute an immediate hazard.
- (c) Subsection (a) of this section shall not apply under the conditions stated in subsection (b) of Section 65.
- (d) Whenever any vehicle is stopped at a marked crosswalk or at any unmarked crosswalk at an intersection to permit a pedestrian to cross the roadway, the driver of any other vehicle approaching from the rear shall not overtake and pass such stopped vehicle. (K.S.A. 8-1533)

Sec. 64.1. School Crossing Guard; Disobeying. No person shall willfully fail or refuse to comply with any lawful order or direction of any uniformed school crossing guard invested by law with authority to direct, control, or regulate traffic. (K.S.A. 8-15,103)

Sec. 65. Crossing at Other Than Crosswalks; Jaywalking.

- (a) Every pedestrian crossing a roadway at any point other than within a marked crosswalk or within an unmarked crosswalk at an intersection shall yield the right-of-way to all vehicles upon the roadway.
- (b) Any pedestrian crossing a roadway at a point where a pedestrian tunnel or overhead pedestrian crossing has been provided shall yield the right-of-way to all vehicles upon the roadway.
- (c) Between adjacent intersections at which traffic-control signals are in operation pedestrians shall not cross at any place except in a marked crosswalk.
- (d) No pedestrian shall cross a roadway intersection diagonally unless authorized by official traffic-control devices; and, when authorized to cross diagonally, pedestrians shall cross only in accordance with the official traffic-control devices pertaining to such crossing movements. (K.S.A. 8-1534)

Sec. 66. Drivers to Exercise Due Care. Notwithstanding other provisions of this article, every driver of a vehicle shall exercise due care to avoid colliding with any pedestrian, and shall give warning by sounding the horn when necessary, and shall exercise proper precaution upon observing any child or any obviously confused or incapacitated person. (K.S.A. 81535)

Sec. 67. Pedestrians to Use Right Half of Crosswalks. Pedestrians shall move, whenever practicable upon the right half of crosswalks. (K.S.A. 8-1536)

Sec. 68. Pedestrians on Highways.

- (a) Where a sidewalk is provided and its use is practicable it shall be unlawful for any pedestrian to walk along and upon an adjacent roadway.
- (b) Where a sidewalk is not available, any pedestrian walking along and upon a highway shall walk only on a shoulder, as far as practicable from the edge of the roadway.

- (c) Where neither a sidewalk nor a shoulder is available, any pedestrian walking along and upon a highway shall walk as near as practicable to an outside edge of the roadway, and, if on a two-way roadway, shall walk only on the left side of the roadway.
- (d) Except as otherwise provided in this article, any pedestrian upon a roadway shall yield the right-of-way to all vehicles upon the roadway. (K.S.A. 8-1537)

Sec. 69. Pedestrians Soliciting Rides or Business.

- (a) No person shall stand upon or along a street or highway for the purpose of soliciting a ride.
- (b) No person shall stand on a highway for the purpose of soliciting employment, business or contributions from the occupant of any vehicle.
- (c) No person shall stand on or in proximity to a street or highway for the purpose of soliciting the watching or guarding of any vehicle while parked or about to be parked on a street or highway.
- (d) The soliciting of contributions under subsection (b) shall not be prohibited if such person or organization has first obtained a permit authorizing such soliciting from the city. (K.S.A. 8-1538)

Sec. 70. Driving Through Safety Zone Prohibited. No vehicle shall at any time be driven through or within a safety zone. (K.S.A. 8-1539)

Sec. 71. Pedestrians Right-of-Way on Sidewalks. The driver of a vehicle shall yield the right-of-way to any pedestrian on a sidewalk. (K.S.A. 8-1540)

Sec. 72. Pedestrians Yield to Authorized Emergency Vehicles.

- (a) Upon the immediate approach of an authorized emergency vehicle making use of an audible signal meeting the requirements of subsection (d) of Section 174 and visual signals meeting the requirements of Section 160 of this ordinance, or of a police vehicle properly and lawfully making use of an audible signal only, every pedestrian shall yield the right-of-way to the authorized emergency vehicle.

- (b) This section shall not relieve the driver of an authorized emergency vehicle from the duty to drive with due regard for the safety of all persons using the highway nor from the duty to exercise due care to avoid colliding with any pedestrian. (K.S.A. 8-1541)

Sec. 73. Blind Pedestrian Right-of-Way. The driver of a vehicle shall yield the right-of-way to any blind pedestrian carrying a clearly visible white cane or accompanied by a guide dog. (K.S.A. 8-1542)

Sec. 74. Pedestrian Under Influence of Alcohol or Drugs. A pedestrian who is under the influence of alcohol or any drug to a degree which renders such pedestrian a hazard shall not walk or be upon a highway except on a sidewalk. (K.S.A. 8-1543)

Sec. 75. Bridge or Railroad Signals.

- (a) No pedestrian shall enter or remain upon any bridge or approach thereto beyond the bridge signal, gate or barrier after a bridge operation signal indication has been given.
- (b) No pedestrian shall pass through, around, over or under any crossing gate or barrier at a railroad grade crossing or bridge while such gate or barrier is closed or is being opened or closed. (K.S.A. 8-1544)

Article 12. Special Stops Required

Sec. 76. Obedience to Signal Indicating Approach of Train.

- (a) Whenever any person driving a vehicle approaches a railroad grade crossing under any of the circumstances stated in this section, the driver of such vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad, and shall not proceed until such driver can do so safely. The foregoing requirements shall apply when:
 - (1) A clearly visible electric or mechanical signal device gives warning of the immediate approach of a railroad train or other on-track equipment;

- (2) A crossing gate is lowered or when a human flagman gives or continues to give a signal of the approach or passage of a railroad train or other on-track equipment;
- (3) A railroad train or other on-track equipment approaching within approximately 1,500 feet of the highway crossing emits a signal audible from such distance and such railroad train or other on-track equipment, by reason of its speed or nearness to such crossing, is an immediate hazard; or
- (4) An approaching railroad train or other on-track equipment is plainly visible and is in hazardous proximity to such crossing.

- (b) No person shall drive any vehicle through, around or under any crossing gate or barrier at a railroad crossing while such gate or barrier is closed or is being opened or closed. (K.S.A. 8-1551)

Sec. 77. All Vehicles Must Stop at Certain Railroad Grade Crossings. When the Secretary of Transportation, or governing body of this city with the approval of the commission, has designated a particularly dangerous highway-grade crossing of a railroad and erected a stop sign thereat, the driver of any vehicle shall stop within 50 feet but not less than 15 feet from the nearest rail of such railroad and shall proceed only upon exercising due care. (K.S.A. 8-1552)

Sec. 78. Certain Vehicles Must Stop at All Railroad Grade Crossings.

- (a) Except as provided in subsection (b), the driver of any vehicle described in rules and regulations issued by the Secretary of Transportation in conjunction with the State Corporation Commission, before crossing at grade any track or tracks of a railroad, shall stop such vehicle within 50 feet but not less than 15 feet from the nearest rail of such railroad and while so stopped shall listen and look in both directions along such track for any approaching train, and for signals indicating the approach of a train, and shall not proceed until such driver can do so safely. After stopping as required and upon proceeding when it is safe to do so, the driver of any vehicle shall cross only in such gear of the vehicle that there will be no necessity for manually changing gears while traversing such crossings and the driver shall not manually shift gears while crossing the track or tracks.

- (b) This section shall not apply at:
- (1) Any railroad grade crossing at which traffic is controlled by a police officer or human flagman;
 - (2) Any railroad grade crossing at which traffic is controlled by a functioning highway traffic signal transmitting a green indication which, under local law, permits a vehicle to proceed across the railroad tracks without slowing or stopping;
 - (3) Any abandoned railroad grade crossing which is marked with a sign indicating that the rail line is abandoned;
 - (4) Any industrial or spur line railroad grade crossing marked with a sign reading "Exempt." Such exempt signs shall be erected only by or with the consent of the appropriate state or local authority;
 - (5) A railroad grade crossing used exclusively for industrial switching purposes, within a business district. (K.S.A. 8-1553)

Sec. 79. Moving Heavy Equipment at Railroad Grade Crossing.

- (a) No person shall operate or move any crawler type tractor, steam shovel, derrick, roller or any equipment or structure having a normal operating speed of 10 or less miles per hour, or a vertical body or load clearance of less than one-half ($\frac{1}{2}$) inch per foot of the distance between any two adjacent axles or in any event of less than nine inches, measured above the level surface of a roadway, upon or across any tracks at a railroad grade crossing without first complying with this section.
- (b) Notice of any such intended crossing shall be given to a station agent of such railroad and a reasonable time be given to such railroad to provide proper protection at such crossing.
- (c) Before making any such crossing, the person operating or moving any such vehicle or equipment shall first stop the same not less than 15 feet nor more than 50 feet from the nearest rail of such railroad, and while so stopped, shall listen and look in both directions along such track for any approaching train and for signals indicating the approach of a train, and shall not proceed until the crossing can be made safely.

- (d) No such crossing shall be made when warning is given by automatic signal or crossing gates or flagman or otherwise of the immediate approach of a railroad train or car. If a flagman is provided by the railroad, movement over the crossing shall be under of the flagman. (K.S.A. 8-1554)

Sec. 80. Emerging from Alley or Private Driveway or Building. The driver of a vehicle emerging from an alley, building, private road or driveway within a business or residence district shall stop such vehicle immediately prior to driving onto a sidewalk or onto the sidewalk area extending across such alley, building entrance, road or driveway, or in the event there is no sidewalk area, shall stop at the point nearest the street to be entered where the driver has a view of approaching traffic thereon. (K.S.A. 8-1555)

Ref.: Sec. 60.

Sec. 81. Overtaking and Passing School Bus.

- (a) The driver of a vehicle meeting or overtaking from either direction any school bus stopped on the highway shall stop before reaching such school bus when there is in operation on the school bus the flashing red lights specified in subsection (a) of Section 170, and the driver shall not proceed until such school bus resumes motion or the flashing red lights and the stop signal arm are no longer actuated.
- (b) Every school bus shall be equipped with red visual signals meeting the requirements of subsection (a) of Section 170 of this ordinance, which may be actuated by the driver of the school bus whenever but only whenever such vehicle is stopped on the highway for the purpose of receiving or discharging school children. A school bus driver shall not actuate the special visual signals:
 - (1) At intersections or other places where traffic is controlled by traffic-control signals or police officers or;
 - (2) In designated school bus loading areas where the bus is entirely off the roadway.

- (c) Every school bus shall bear upon the front and rear thereof plainly visible signs containing the words "School Bus" in letters not less than eight inches in height. When a school bus is being operated upon a highway for purposes other than the actual transportation of children either to or from school or to or from interschool or intraschool functions or activities, or for maintenance, repair or storage purposes, all markings thereon indicating "school bus" shall be covered or concealed.
- (d) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a school bus which is on a different roadway or when upon a controlled-access highway and the school bus is stopped in a loading zone which is a part of or adjacent to such highway, and where pedestrians are not permitted to cross the roadway.
- (e) On a first conviction of a violation of subsection (a), the person shall be fined \$315. For a second conviction of a violation of subsection (a) within five years the person shall be fined \$750. For a third or subsequent violation of subsection (a) within five years the person shall be fined \$1,000.
- (f) The provisions of this section shall be subject to the provisions contained in K.S.A. 8-2009a, and amendments thereto. (K.S.A. 8-1556)

Sec. 82. Overtaking and Passing Church Bus or Day Care Program Bus.

- (a) The driver of a vehicle meeting or overtaking from either direction any church bus or day care program bus stopped on the highway shall stop before reaching such church bus or day care program bus when there is in operation on said church bus or day care program bus the flashing red lights specified in subsection (a) of Sec. 170, and said driver shall not proceed until such church bus or day care program bus resumes motion or said driver is signaled by the church bus or day care program bus driver to proceed or the flashing red lights and stop signal arm, if any, are no longer actuated.

- (b) If a church bus or day care program bus is equipped with visual signals permitted by subsection (c) of Sec. 171, such signals may be actuated by the driver of said church bus or day care program bus only when such vehicle is stopped on the highway for the purpose of receiving or discharging passengers. A church bus or day care program bus driver shall not actuate said special visual signals:
 - (1) At intersections or other places where traffic is controlled by traffic-control signals or police officers; or
 - (2) In designated loading areas where the bus is entirely off the roadway.
- (c) The driver of a vehicle upon a highway with separate roadways need not stop upon meeting or passing a church bus or day care program bus which is on a separate roadway or when upon a controlled-access highway and the church bus or day care program bus is stopped in a loading zone which is part of or adjacent to such highway and where pedestrians are not permitted to cross the roadway. (K.S.A. 8-1556a)

Article 13. Stopping, Standing and Parking

Sec. 83. Stopping, Standing or Parking Outside Business or Residence Districts.

- (a) Outside a business or residence district, no person shall stop, park or leave standing any vehicle, whether attended or unattended, upon the roadway when it is practicable to stop, park or so leave such vehicle off the roadway, but in every event an unobstructed width of the highway opposite a standing vehicle shall be left for the free passage of other vehicles and a clear view of such stopped vehicle shall be available from a distance of 200 feet in each direction upon such highway.
- (b) This section, Section 85 and Section 86 shall not apply to the driver of any vehicle which is disabled in such manner and to such extent that it is impossible to avoid stopping and temporarily leaving the vehicle in such position. (K.S.A. 8-1569)

Sec. 84. Officers Authorized to Remove Vehicles.

- (a) Whenever any police officer finds a vehicle in violation of any of the provisions of Section 83, such officer is hereby authorized to move such vehicle, or require the driver or other person in charge of the vehicle to move the same, to a position off the roadway.
- (b) Any police officer is hereby authorized to remove or cause to be removed to a place of safety any unattended vehicle illegally left standing upon any highway, bridge, causeway or in any tunnel in such position, or under such circumstances as to obstruct the normal movement of traffic.
- (c) Any police officer is hereby authorized to remove or cause to be removed to the nearest garage or other place of safety any vehicle found upon a highway when:
 - (1) Report has been made that such vehicle has been stolen or taken without the consent of its owner;
 - (2) The person or persons in charge of such vehicle are unable to provide for its custody or removal; or
 - (3) When the person driving or in control of such vehicle is arrested for an alleged offense for which the officer is required by law to take the person arrested before the municipal judge without unnecessary delay. (K.S.A. 8-1570)

Sec. 85. Stopping, Standing or Parking Prohibited in Specified Places. Except when necessary to avoid conflict with other traffic, or in compliance with law or the directions of a police officer or official traffic-control device, no person shall:

- (a) Stop, stand or park a vehicle:
 - (1) On the roadway side of any vehicle stopped or parked at the edge or curb of a street;
 - (2) On a sidewalk;
 - (3) Within an intersection;
 - (4) On a crosswalk;
 - (5) Between a safety zone and the adjacent curb or within 30 feet of points on the curb immediately opposite the ends of a safety zone, unless a different length is indicated by signs or markings;

- (6) Alongside or opposite any street excavation or obstruction when stopping, standing or parking would obstruct traffic;
 - (7) Upon any bridge or other elevated structure upon a highway or within a highway tunnel;
 - (8) On any railroad tracks;
 - (9) On any controlled-access highway;
 - (10) In the area between roadways of a divided highway, including crossovers; or
 - (11) At any place where official signs prohibit stopping.
- (b) Stand or park a vehicle, whether occupied or not except momentarily to pick up or discharge a passenger or passengers:
- (1) In front of a public or private driveway;
 - (2) Within 15 feet of a fire hydrant;
 - (3) Within 20 feet of a crosswalk at an intersection;
 - (4) Within 30 feet upon the approach to any flashing signal, stop sign, yield sign or traffic-control signal located at the side of a roadway;
 - (5) Within 20 feet of the driveway entrance to any fire station and on the side of a street opposite the entrance to any fire station within 75 feet of said entrance, when properly sign-posted; or
 - (6) At any place when official signs prohibit standing.
- (c) Park a vehicle, whether occupied or not, except temporarily for the purpose of, and while actually engaged in, loading or unloading property or passengers:
- (1) Within 50 feet of the nearest rail of a railroad crossing;
 - (2) At any place where official signs prohibit parking.
- (d) Move a vehicle not lawfully under his or her control into any such prohibited area or away from a curb such a distance as is unlawful.
- (e) Stand or park a vehicle in areas designated as fire lanes upon public or private property. (K.S.A. 8-1571)

Sec. 86. Stopping or Parking on Roadways.

- (a) Except where angle parking is permitted by ordinance, every vehicle stopped or parked upon a two-way roadway shall be so stopped or parked with the right-hand wheels parallel to and within 12 inches of the right-hand curb or as close as practicable to the right-hand edge of the right-hand shoulder.
- (b) Except when otherwise provided by ordinance, every vehicle stopped or parked upon a one-way road way shall be so stopped or parked parallel to the curb or edge of the roadway, in the direction of authorized traffic movement, with its right-hand wheels within 12 inches of the right-hand curb or as close as practicable to the right edge of the right-hand shoulder or with its left-hand wheels within 12 inches of the left-hand curb or as close as practicable to the left edge of the left-hand shoulder.
- (c) The governing body may by ordinance permit angle parking on any roadway, except that angle parking shall not be permitted on any federal-aid or state highway unless the secretary of transportation has determined that the roadway is of sufficient width to permit angle parking without interfering with the free movement of traffic. (K.S.A. 8-1572)

Sec. 87. Accessible Parking.

- (a) No person shall stop, stand or park any vehicle in a parking space, whether on public or private property, which is clearly marked as being reserved for the use of persons with a disability or persons responsible for the transportation of persons with a disability unless such vehicle bears a special license plate, permanent placard or temporary placard issued pursuant to K.S.A. 8-161 or K.S.A. 8-1,125, and amendments thereto, and is being operated by or used for the transportation of a person with a disability or disabled veteran. In addition to the temporary placard, a person issued such temporary placard shall carry the state or county receipt showing the name of the person who is issued such temporary placard. If a parking space on private property is clearly marked as being reserved for the use of a specified person with a disability it shall be unlawful for any other person to park in such space.

- (b) When a motor vehicle which bears a special license plate or placard issued pursuant to K.S.A. 8-1,125, and amendments thereto, is being operated by or used for the transportation of a person with a disability, such motor vehicle:
- (1) May be parked in any parking space, whether on public or private property, which is clearly marked as being reserved for the use of persons with a disability or persons responsible for the transportation of a person with a disability, except a parking space on private property which is clearly marked as being reserved for the use of a specified person with a disability;
 - (2) May be parked for a period of time not to exceed 24 hours in any parking zone which is restricted as to the length of parking time permitted, except where stopping, standing or parking is prohibited to all vehicles, where parking is reserved for special types of vehicles or where parking would clearly present a traffic hazard; and
 - (3) Shall be exempt from any parking meter fees of the state or any city, county or other political subdivision.
- (c) Official identification devices issued to persons with a disability by any other state, district, or territory subject to the laws of the United States, or any foreign jurisdiction, shall be recognized as acceptable identification in the state of Kansas. Motor vehicles bearing a valid device from such a jurisdiction shall be accorded the parking privileges contained in subsection (b), except that if such person becomes a resident of the state of Kansas, such identification devices shall not be recognized as acceptable identification 60 days after such person becomes a resident of this state and such devices shall be deemed expired. Possession of an identification device deemed to have expired shall be subject to the provisions of subsection (a) of Section 87.1.
- (d) (1) Notwithstanding the provisions of K.S.A. 8-2003, and amendments thereto, each designated accessible parking space shall be clearly marked by vertically mounted signs bearing the international symbol of access.

- (2) All parking shall conform to Title II or Title III, as required by the Americans with disabilities act of 1990, 42 USCA 12101 *et seq.* and 28 CFR Parts 35 and 36.

- (e) (1) At no time, except when necessary to avoid conflict with other traffic, or in compliance with the law or the directions of a law enforcement officer or official traffic-control device, shall a person:
 - (A) Stop, stand or park a vehicle in any parking space designated as accessible parking without displaying a special license plate, permanent placard or disabled veteran license plate and an individual identification card, or a valid temporary placard. Placards shall be displayed in accordance with subsection (a) K.S.A. 8-1,125, and amendments thereto;
 - (B) Stop, stand or park a vehicle so that it blocks an access entrance;
 - (C) Stop, stand or park a vehicle so that it blocks a disabled parking stall;
 - (D) Stop, stand or park a vehicle so that it blocks an access aisle; or
 - (E) Stop, stand or park a vehicle in an access aisle between or beside a designated accessible parking space.
- (2) Each violation of subsection (e)(1) is punishable by a fine of not less than \$50 nor more than \$100.
- (3) The provisions of subsection (e)(1) shall be enforced by law enforcement officers on public and private property.

- (f) (1) Any person who willfully and falsely represents that such person has the qualifications to obtain a special license plate, a permanent placard and an individual identification card or temporary placard shall be guilty of a violation of this ordinance and shall be punished by a fine of not more than \$500 or by imprisonment for not more than one month or by both such fine and imprisonment.
- (2) Any person authorized to certify a person with a disability under subsection (a) of K.S.A. 8-1,125, and amendments thereto, who willfully and falsely certifies that a person has the qualifications to obtain a special license plate, a permanent placard and an individual identification card or

temporary placard shall be guilty of a violation of this ordinance and shall be punished by a fine of not more than \$500 or by imprisonment for not more than one month or by both such fine and imprisonment. (K.S.A. 8-1,125-8-1,130)

Sec. 87.1. Accessible Parking; Revoked or Suspended Devices.

- (a) Any person who has in such person's possession any accessible parking identification device which has expired or has been revoked or suspended shall be guilty of a violation of this ordinance and shall be punished by a fine of not less than \$100 nor more than \$300.
- (b) Any person who utilizes any accessible parking identification device issued to another person, an agency or a business, to park in any parking space specified in K.S.A. 8-1,126, and amendments thereto, which could be utilized by a person with a disability, except when transporting or arriving to transport a person with a disability to whom or for whom the identification device was issued shall be guilty of a violation of this ordinance and shall be punished by a fine of not less than \$100 nor more than \$300. (K.S.A. 8-1,130a)

Ref.: Sec. 198. Vehicle License; Illegal Tag.

Sec. 88. Parking for Certain Purposes Prohibited. No person shall park a vehicle upon any roadway for the principal purpose of:

- (a) Displaying such vehicle for sale.
- (b) Washing, greasing or repairing such vehicle except repairs necessitated by an emergency.

Sec. 89. Stall Parking. Where parking stalls or spaces are marked or designated on the pavement or curb, vehicles shall be parked or stopped within such stalls or spaces in the direction of the flow of traffic or at the angle indicated by the markings.

Sec. 90. Blocking Traffic; Narrow Streets; Stopping; When. No person shall stop, stand or park any vehicle upon a street, other than an alley, in such a manner or under such conditions as to leave available less than 10 feet of the width of the roadway for free movement of vehicular traffic, except that a driver may stop temporarily during the actual loading or unloading of passengers or when necessary in obedience to traffic regulations or traffic signs or signals by a police officer. (K.S.A. 8-2002(a)(1))

Sec. 91. Parking on Narrow Streets; Signs. When signs prohibiting parking are erected on narrow streets, no person shall park or stand a vehicle in any such designated place. The chief of police is authorized to erect signs indicating "no parking" upon both sides of any street when the width of the roadway does not exceed 20 feet, or upon one side of a street when the width of the roadway does not exceed 30 feet.

Sec. 92. Parking in Alley.

- (a) No person shall park any vehicle in any alley except for the purpose of loading or unloading.
- (b) No person shall park any vehicle in any alley for any time of greater duration than reasonably necessary for the expeditious loading or unloading of materials. (K.S.A. 8-2002(a)(1))

Sec. 93. Parking Disabled and Other Vehicles.

- (a) No person shall park or store any farm machinery, trailer or semitrailer of any kind, or parts of the same, or any dead, damaged or disabled motor vehicle or farm machinery, trailer or semitrailer of any kind, in the roadway of any highway, or between the property line or sidewalk and the curb line of any street.
- (b) A person shall not use the public highway to abandon vehicles or use the highway to leave vehicles unattended in such a manner as to interfere with public highway operations. When a person leaves a motor vehicle on a public highway or other property open to use by the public, the city having jurisdiction of such highway or other property open to use by the public, after 48 hours or when the motor vehicle interferes with public highway operations, may remove and impound the motor vehicle. (K.S.A. 8-1102)

Sec. 94. Parking Adjacent to Schools; Signs. When official signs or markings are placed indicating no parking upon any street adjacent to any school property, no person shall park a vehicle in any such designated place. The chief of police is hereby authorized to erect signs indicating "No Parking" upon either or both sides of any street adjacent to any school property when such parking would unreasonably interfere with traffic or create a hazard to traffic in such places. (K.S.A. 8-2002(a)(1))

Sec. 95. Stopping or Parking in Hazardous or Congested Places; Signs. When signs are erected upon approach to hazardous or congested places, no person shall stop, stand or park a vehicle in any such designated place. The chief of police is authorized to determine and designate by proper signs those places where the stopping or parking of vehicles would create an especially hazardous condition or would cause unusual delay to traffic. (K.S.A. 8-2002(a)(1))

Sec. 96. Parking Prohibited at All Times in Designated Places. When authorized signs are erected giving notice thereof, no person shall park a vehicle at any time upon that portion of any of the streets so posted or signed for "No Parking." (K.S.A. 8-1571)

Sec. 97. Limited Time Parking Zones. Whenever any appropriate sign shall be placed and maintained in any block by lawful authority of the city giving notice that the street or highway or city owned parking lot may be used for parking or standing vehicles for a limited time only, it shall be unlawful for any person to fail or refuse to comply with such sign. (K.S.A. 8-2002(a)(1))

Sec. 98. Commercial and Delivery Vehicles: Loading and Unloading; Blocking Traffic; Removal of Vehicle; Duty of Police Department. Subject to any provision prohibiting parking at all times or during specified hours, vehicles used for the transportation of merchandise or materials may stand or be parked at the curb to take on or discharge loads on any street marked for parallel parking: Provided, that such vehicles may be backed into any curb at such times and places when and where the same may not interfere with or become a hazard to vehicular traffic on such street within the block: Provided further, that traffic may be temporarily blocked by any such vehicle backed into any curb to load or unload when the same may be necessary during such times as loading or unloading shall be undertaken in an expeditious manner without any delay, upon prior notice to and under the direction and supervision of the Police Department: Provided further, that the driver or some person in charge of such vehicle shall constantly be present or available to remove

such vehicle in an emergency and the vehicle shall be removed immediately upon the same being loaded or unloaded as the case may be. The chief of police may place suitable warning signs to direct or control traffic during the time any street may be blocked or traffic restricted from its normal flow or course. (K.S.A. 8-2002(a)(1))

Sec. 99. Loading, Unloading or Special Zones. Whenever any appropriate sign shall be placed or marked along any street or highway by lawful authority of the city giving notice of any special use of the roadway adjacent thereto for the loading or unloading of merchandise or passengers or the standing of taxicabs, buses or for other authorized purposes, it shall be unlawful for any person to refuse or fail to comply with such sign. (K.S.A. 8-2002(a)(1))

Sec. 100. Citation on Illegally Parked Vehicles. Whenever any motor vehicle without driver is found parked, standing or stopped in violation of this ordinance, the officer finding such vehicle shall take its registration number and may take any other information displayed on the vehicle which may identify its user, and shall conspicuously affix to such vehicle a traffic citation. (K.S.A. 8-2112)

Sec. 101. Failure to Comply with Traffic Citation Attached to Parked Vehicle. If a violator of restrictions on stopping, standing or parking does not appear in response to a traffic citation affixed to such motor vehicle within a period of five days, the clerk of the court, shall send to the owner of the motor vehicle to which the traffic citation was affixed a letter informing the owner of the violation and warning that in the event such letter is disregarded for a period of five days a warrant of arrest will be issued. (K.S.A. 8-2113)

Sec. 102. Presumption in Reference to Illegal Parking.

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

- (b) The foregoing stated presumption shall apply only when the procedure as prescribed in Sections 100 and 101 has been followed. (K.S.A. 8-2114)

Article 14. Miscellaneous Rules

Sec. 103. Using Headphones in Vehicles. No person shall operate any motor vehicle on the streets, alleys, or roadways of the city while wearing headphones which in any way interfere with hearing of traffic noise, or warning devices or signals.

Sec. 104. Inattentive Driving. Every driver whose vehicle, because of his or her driving error or negligent inattention, collides with another vehicle, a person or fixed object, shall be guilty of inattentive driving and in violation of this section.

Sec. 105. Allowing Use of Motor Vehicle in Violation of K.S.A. 8-1014.

- (a) It shall be unlawful for the owner of a motor vehicle to allow a person to drive such vehicle when such owner knows or reasonably should have known such person was driving in violation of K.S.A. 8-1014, and amendments thereto.
- (b) Violation of this section is punishable by a fine of not less than \$500 nor more than \$1,000. In addition to the fine imposed upon a person convicted of a violation of this section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one year and that the convicted person pay all towing, impoundment, and storage fees or other immobilization costs. Prior to ordering the impoundment or immobilization of any such motor vehicle, the court shall consider the factors established in subsection (g) of K.S.A. 8-1567, and amendments thereto. Any personal property in a vehicle impounded or immobilized pursuant to this section may be retrieved prior to or during the period of such impoundment or immobilization. (K.S.A. 8-1022)

Sec. 105.1. Criminal Penalties for Violation of Size and Weight Laws; Exceptions.

- (a) It shall be unlawful for any person to drive or move, or for the owner or lessee to cause or knowingly permit to be driven or moved, on any highway any vehicle or combination of vehicles of a size or weight exceeding the limitations stated in article 19 of chapter 8 of Kansas Statutes Annotated or otherwise in violation of this article, and the maximum size and weight of vehicles herein specified shall be lawful throughout this state, and local authorities shall have no power or authority to alter such limitations except as express authority may be granted in this article.
- (b) Any person violating any of the provisions of article 19 of chapter 8 of the Kansas Statutes Annotated, except for the provisions of K.S.A. 8-1908 and 8-1909, and amendments thereto, shall, upon conviction thereof, be fined in an amount not to exceed \$500.
- (c) Any person violating any of the provisions of K.S.A. 8-1908 or 8-1909, and amendments thereto, shall, upon a first conviction thereof, pay a fine from one, but not both of the schedules listed in subsection (c) of K.S.A. 8-2118, and amendments thereto.
- (d) Except as otherwise specifically provided in this act, the provisions of article 19 of chapter 8 of Kansas Statutes Annotated governing size, weight and load shall not apply to fire apparatus, road machinery, farm tractors or to implements of husbandry temporarily moved upon a highway, or to a vehicle operated under the terms of a currently valid special permit issued in accordance with K.S.A. 8-1911, and amendments thereto.
- (e) Except on highways designated as part of the national system of interstate defense highways, the gross weight limitation prescribed by article 19 of chapter 8 of Kansas Statutes Annotated on any axle or tandem, triple or quad axles shall not apply to: (1) Trucks specifically designed and equipped and used exclusively for garbage, refuse or solid waste disposal operations when loaded with garbage, refuse or waste; or (2) trucks mounted with a fertilizer spreader used or manufactured principally to spread animal dung, except that this paragraph (2) shall not apply to truck tractors so equipped. Except that such

trucks under this subsection shall not exceed 60,000 pounds for three axles or 40,000 pounds for two axles, regardless of width spacing between axles.

- (f) As used in this section, "conviction" means a final conviction without regard to whether sentence was suspended or probation granted after such conviction, and a forfeiture of bail, bond or collateral deposited to secure a defendant's appearance in court, which forfeiture has not been vacated, is equivalent to a conviction. (K.S.A. 8-1901)

Sec. 105.2. Width of Vehicles and Loads thereon.

- (a) The total outside width of any vehicle or the load thereon shall not exceed 8 ½ feet, except as otherwise provided in this section.
- (b) A farm tractor or a fertilizer dispensing machine shall not be permitted to travel on any highway which is a part of the national system of interstate and defense highways. Whenever a farm tractor or implement of husbandry, and any load on any such vehicle, exceeds the width limitations prescribed by this section to the extent that the width of such vehicle, including any load thereon, exceeds the width of that portion of a roadway on which such vehicle is driven, which is marked as a single lane of traffic, or, if such roadway has not been marked for lanes of traffic, the width of such vehicle exceeds more than ½ the width of such roadway, the driver shall move such vehicle as soon as possible as far to the right side of the highway as is practicable and safe upon the approach of any oncoming or following vehicle and upon approaching the crest of a hill.
- (c) The secretary shall adopt rules and regulations consistent with federal requirements designating safety and other devices which may extend out on either side of the vehicle.
- (d) (1) A vehicle may be loaded with bales of hay which shall not exceed 12 feet in width and a height as authorized by K.S.A. 8-1904, and amendments thereto, but vehicles so loaded shall not be moved on any highway designated as a part of the national network of highways, except as permitted under subsection (j) of K.S.A. 8-1911, and amendments thereto, or under paragraph (2) of this subsection.

- (2) A farm vehicle may be loaded with bales of hay which shall not exceed 12 feet in width and a height as authorized by K.S.A. 8-1904, and amendments thereto, but vehicles so loaded shall not be moved on any highway designated as a part of the national system of interstate and defense highways, except as permitted under subsection (j) of K.S.A. 8-1911, and amendments thereto. As used in this paragraph "farm vehicle" means a truck or truck tractor registered under K.S.A. 8-143, and amendments thereto, as a farm truck or truck tractor. Such farm truck or truck tractor may be used in combination with any type of trailer or semitrailer.
- (3) Any such vehicles under paragraphs (1) or (2) so loaded shall not be moved during the period beginning 30 minutes after sunset and ending 30 minutes before sunrise. Any vehicle loaded with bales of hay as authorized by the exception in this subsection, with the load extending beyond 8 ½ feet, shall have attached thereto a sign which states "OVERSIZE LOAD" and the dimensions of the sign shall be a minimum of seven feet long and 18 inches high. Letters shall be a minimum of 10 inches high with a brush stroke of not less than 1 2/5 inches. The sign shall be readily visible from a distance of 500 feet and shall be removed when the vehicle or load does not exceed the legal width. Each vehicle shall be equipped with red flags on all four corners of the oversized load.
- (e) The secretary of transportation shall adopt rules and regulations authorizing vehicles to be loaded with two combine headers which exceed the legal width, but vehicles so loaded shall not be moved on any highway designated as a part of the national system of interstate and defense highways, except as permitted under subsection (i) of K.S.A. 8-1911, and amendments thereto, and vehicles so loaded shall not be moved during the period beginning 30 minutes after sunset and ending 30 minutes before sunrise.
- (f) A motor home or travel trailer may exceed 102 inches, if such excess width is attributable to an appurtenance, except that no appurtenance may extend further than the rear-view mirrors. Such mirrors may only extend the distance necessary to provide the required field of view before the appurtenances were attached.

For the purposes of this subsection the term “appurtenance” shall include:

- (1) An awning and its support hardware; and
- (2) any appendage that is intended to be an integral part of a motor home or travel trailer coach and that is installed by the manufacturer or dealer.

The term “appurtenance” shall not include any item that is temporarily affixed or attached to the exterior of a motor home or travel trailer by the owner of such motor home or travel trailer for the purposes of transporting such item from one location to another.

(K.S.A. 8-1902)

Sec. 105.3. Loads on Passenger Vehicles Extending to Either Side. No passenger-type vehicle shall be operated on any highway with any load carried thereon extending beyond the left side of such vehicle nor extending more than six (6) inches beyond the right side thereof. (K.S.A. 8-1903)

Sec. 105.4. Projecting Loads to the Front and Rear.

- (a) The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, shall not extend more than three feet beyond the front wheels of such vehicle or the front bumper of such vehicle if it is equipped with a bumper.
- (b) Any vehicle or combination of vehicles transporting passenger vehicles or other motor vehicles may carry a load which extends no more than four feet beyond the front and six feet beyond the rear of the transporting vehicle or combination of vehicles.

(K.S.A. 8-1905)

Sec. 106. Transportation of Alcoholic Beverage.

- (a) No person shall transport in any vehicle upon a highway or street any alcoholic beverage unless such beverage is:
 - (1) In the original unopened package or container, the seal of which has not been broken and from which the original cap, cork or other means of closure has not been removed;

- (2) (A) In the locked rear trunk or rear compartment, or any locked outside compartment which is not accessible to any person in the vehicle while it is in motion; or
 - (B) If a motor vehicle is not equipped with a trunk, behind the last upright seat or in an area not normally occupied by the driver or a passenger; or
 - (3) In the exclusive possession of a passenger in a vehicle which is a recreational vehicle or a bus, who is not in the driving compartment of such vehicle or who is in a portion of such vehicle from which the driver is not directly accessible.
- (b) Violation of this section is punishable by a fine of not more than \$200 or by imprisonment for not more than six months, or both.
 - (c) Except as provided in subsection (e) upon conviction or adjudication of a second or subsequent violation of this section, the judge, in addition to any other penalty or disposition ordered pursuant to law, shall suspend the person's driver's license or privilege to operate a motor vehicle on the streets and highways of this state for one year.
 - (d) Upon suspension of a license pursuant to this section, the court shall require the person to surrender the license to the court, which shall transmit the license to the division of motor vehicles of the department of revenue, to be retained until the period of suspension expires. At that time, the licensee may apply to the division for return of the license. If the license has expired, the person may apply for a new license, which shall be issued promptly upon payment of the proper fee and satisfaction of other conditions established by law for obtaining a license unless another suspension or revocation of the person's privilege to operate a motor vehicle is in effect.
 - (e) In lieu of suspending the driver's license or privilege to operate a motor vehicle on the highways of this state of any person convicted of violating this section, as provided in subsection (c), the judge of the court in which such person was convicted may enter an order which places conditions on such person's privilege of operating a motor vehicle on the highways of this state, a certified copy of which such person shall be required to

carry any time such person is operating a motor vehicle on the highways of this state. Any such order shall prescribe the duration of the conditions imposed, which in no event shall be for a period of more than one year for a second violation.

Upon entering an order restricting a person's license hereunder, the judge shall require such person to surrender such person's driver's license to the judge who shall cause it to be transmitted to the division of vehicles, together with a copy of the order. Upon receipt thereof, the division of vehicles shall issue without charge a driver's license which shall indicate on its face that conditions have been imposed on such person's privilege of operating a motor vehicle and that a certified copy of the order imposing such conditions is required to be carried by the person for whom the license was issued any time such person is operating a motor vehicle on the highways of this state. If the person convicted is a nonresident, the judge shall cause a copy of the order to be transmitted to the division and the division shall forward a copy of it to the motor vehicle administrator, of such person's state of residence. Such judge shall furnish to any person whose driver's license has had conditions imposed on it under this section a copy of the order, which shall be recognized as a valid Kansas driver's license until such time as the division shall issue the restricted license provided for in this section. Upon expiration of the period of time for which conditions are imposed pursuant to this subsection, the licensee may apply to the division for the return of the license previously surrendered by such licensee. In the event such license has expired, such person may apply to the division for a new license, which shall be issued immediately by the division upon payment of the proper fee and satisfaction of the other conditions established by law, unless such person's privilege to operate a motor vehicle on the highways of this state has been suspended or revoked prior thereto. If any person shall violate any of the conditions imposed under this subsection, such person's driver's license or privilege to operate a motor vehicle on the highways of this state shall be revoked for a period of not less than 60 days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

- (f) It shall be an affirmative defense to any prosecution under this section that an occupant of the vehicle other than the defendant was in exclusive possession of the alcoholic beverage.

- (g) The court shall report to the division every conviction of a violation of this section. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

- (h) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:
 - (1) **Conviction** includes being convicted of a violation of an ordinance of any city, or resolution of any county, which prohibits the acts that K.S.A. 8-1599, as amended, prohibits;
 - (2) Only convictions occurring in the immediately preceding five years shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second or subsequent offender, whichever is applicable; and
 - (3) It is irrelevant whether an offense occurred before or after conviction for a previous offense. (K.S.A. 8-1599)

{Editor's Note: K.S.A. 8-1599 was not amended in 2021 HB 2137 when amendments were made in Section 32 to K.S.A. 41-2653 to allow the removal by patrons of alcoholic liquor or cereal malt beverages from clubs or drinking establishments. Any opened containers must be securely resealed by licensee or the licensee's employee and placed in a tamper-proof, transparent bag that is sealed in a manner that makes it visibly apparent if the bag is subsequently tampered with or opened. Section 32 also allows the removal of one or more containers of beer, domestic beer and cereal malt beverages that are sold on the licensed premises to consumers and served in refillable and sealable containers for consumption off the licensed premises if such containers: (1) Contain between 32 and 64 fluid ounces; (2) have a label affixed that clearly indicates the licensee's name and the type of alcoholic beverage contained in such container; and (3) are not sold or removed from the premises after 11:00 p.m.}

Sec. 107. Unattended Motor Vehicle; Ignition; Key and Brakes.

- (a) No person driving or in charge of a motor vehicle shall permit it to stand unattended without first stopping the engine, locking the ignition, removing the key from the ignition and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.
- (b) For the purpose of this section, unattended shall not be construed to mean a motor vehicle with an engine that has been activated by a remote starter system, when the motor vehicle is locked and when the ignition keys are not in the motor vehicle. (K.S.A. Supp. 8-1573)

Sec. 108. Obstruction of Driver's View or Driving Mechanism.

- (a) No person shall drive a vehicle when it is so loaded, or when there are in the front seat such a number of persons, exceeding three as to obstruct the view of the driver to the front or sides of the vehicle or as to interfere with the driver's control over the driving mechanism of the vehicle.
- (b) No passenger in a vehicle shall ride in such position as to interfere with the driver's view ahead or to the sides, or to interfere with the driver's control over the driving mechanism of the vehicle. (K.S.A. 8-1576)

Sec. 109. Coasting.

- (a) The driver of any motor vehicle when traveling upon a down grade shall not coast with the gears of such vehicle in neutral.
- (b) The driver of a truck or bus when traveling upon a down grade shall not coast with the clutch disengaged. (K.S.A. 8-1580)

Sec. 109.1. Motorized Skateboards. It shall be unlawful for any person to operate a motorized skateboard on any street, road or highway in this city.

Sec. 110. Following Fire Apparatus Prohibited. The driver of any vehicle other than one on official business shall not follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or stop such vehicle within 500 feet of any fire apparatus stopped in answer to a fire alarm. (K.S.A. 8-1581)

Sec. 111. Crossing Fire Hose. No vehicle shall be driven over any unprotected hose of a fire department when laid down on any street or private road, or driveway, to be used at any fire or alarm of fire, without the consent of the fire department official in command. (K.S.A. 8-1582)

Sec. 112. Putting Glass, Etc. on Highway Prohibited.

- (a) No person shall throw or deposit upon any highway any glass bottle, glass, nails, tacks, wire, cans or any other substance likely to injure any person, animal or vehicle upon such highway.
- (b) Any person who drops, or permits to be dropped or thrown, upon any highway any destructive or injurious material shall immediately remove the same or cause it to be removed.
- (c) Any person removing a wrecked or damaged vehicle from a highway shall remove any glass or other injurious substance dropped upon the highway from such vehicle. (K.S.A. 8-1583)

Sec. 112.1. Littering from a Motor Vehicle.

- (a) No person shall throw, place or drop litter or allow litter to be thrown, placed or dropped from a motor vehicle onto or upon any highway, road or street. The driver or the vehicle may be cited for any litter thrown, placed or dropped from the motor vehicle, unless any other person in the motor vehicle admits to or is identified as having committed the act.
- (b) "Litter" means rubbish, refuse, waste material, garbage, trash or debris of whatever kind or description and includes improperly discarded paper, metal, plastic or glass. (K.S.A. 8-15,102)

Sec. 113. Stop When Traffic Obstructed. No driver shall enter an intersection or a marked crosswalk or drive onto any railroad grade crossing unless there is sufficient space on the other side of the intersection, crosswalk or railroad grade crossing to accommodate the vehicle he or she is operating without obstructing the passage of other vehicles, pedestrians or railroad trains notwithstanding any traffic-control signal indication to proceed. (K.S.A. 8-1584)

Sec. 114. Snowmobile Operation Limited. No person shall operate a snowmobile on any controlled-access highway. No person shall operate a snowmobile on any other highway, except when crossing the highway at a right angle, or when use of the highway by other motor vehicles is impossible because of snow, or when such operation is authorized by the governing body. (K.S.A. 8-1585)

Sec. 114.1. Unlawful Operation of All-Terrain Vehicle.

- (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 or the Kansas department of transportation may be allowed to operate such all-terrain vehicles upon the right-of-way of any federal highway or state highway for the purpose of eradicating noxious weeds and such all-terrain vehicles may be operated incidentally upon such federal highway or state highway.
- (c) Notwithstanding the provisions 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 or state highway 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 or state highway 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 roadway 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 or road between sunset and sunrise unless equipped with lights as required by law for motorcycles. (K.S.A. 8-15,100)

{**Editor's Note:** If a city authorizes the operation of all-terrain vehicles within the city limits, only those operators meeting all the requirements of subsection (d) can be authorized to operate on a federal or state highway located within city limits.}

Sec. 114.2. Unlawful Operation of a Micro Utility Truck.

- (a) It shall be unlawful for any person to operate a micro utility truck:
- (1) On any interstate highway, federal highway, or state highway; or
 - (2) On any public highway or street within the corporate limits of any city unless authorized by such city.
- (b) No micro utility truck shall be operated on any public highway or street, unless such truck complies with the equipment requirements under Article 17 of Chapter 8 of the Kansas Statutes Annotated and amendments thereto.
- (c) The provisions of subsection (a), shall not prohibit a micro utility truck from crossing a federal or state highway. (K.S.A. 8-15,106)

Sec. 114.3. Unlawful Operation of Low-Speed Vehicle.

- (a) It shall be unlawful for any person to operate a low-speed vehicle on any street or highway with a posted speed limit greater than 40 miles per hour.
- (b) The provisions of subsection (a), shall not prohibit a low-speed vehicle from crossing a street or highway with a posted speed limit in excess of 40 miles per hour. (K.S.A. 8-15,101)

Sec. 114.4. Unlawful Operation of a Golf Cart.

- (a) It shall be unlawful for any person to operate a golf cart:
 - (1) On any interstate highway, federal highway, or state highway;
 - (2) On any public highway or street within the corporate limits of any city unless authorized by such city; or
 - (3) On any street or highway with a posted speed limit greater than 30 miles per hour.
- (b) The provisions of subsection (a) shall not prohibit a golf cart from crossing a federal or state highway or a street or highway with a posted speed limit in excess of 30 miles per hour.
- (c) A golf cart shall be operated on any public street or highway only during the hours between sunrise and sunset, unless equipped with:
 - (1) Lights as required for motorcycles by Sections 183 through Section 188 of this ordinance; and
 - (2) A properly mounted slow-moving vehicle emblem as required by K.S.A. 8-1717, and amendments thereto. (K.S.A. 8-15,108)

Sec. 114.5. Unlawful Operation of a Work-Site Utility Vehicle.

- (a) It shall be unlawful for any person to operate a work-site utility 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), work-site utility vehicles may be operated to cross a federal highway or state highway.
- (c) Notwithstanding the provisions of subsection (a)(1), persons engaged in agricultural purposes may operate a work-site utility vehicle on a federal highway or state highway 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 or state highway 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 roadway 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.
- (d) No work-site utility vehicle shall be operated on any public highway, street, or road between sunset and sunrise unless equipped with lights as required by law for motorcycles. (K.S.A. 8-15,109)

{**Editor's Note:** If a city authorizes the operation of work-site utility vehicles within the city limits, only those operators meeting all the requirements of subsection (d) can be authorized to operate on a federal or state highway located within city limits.}

Sec. 115. Unlawful Riding on Vehicles; Persons 14 Years of Age and Older.

- (a) It shall be unlawful for any person 14 years of age or older to ride on any vehicle or upon any portion thereof not designed or intended for use of passengers when the vehicle is in motion.
- (b) It shall be unlawful for the operator of any vehicle to allow any person 14 years of age or older to ride on any vehicle or upon any portion thereof not designated or intended for the use of passengers when the vehicle is in motion.

- (c) This section shall not apply to:
- (1) An employee under the age of 14 years engaged in the necessary discharge of the employee's duty within truck bodies in space intended for merchandise or cargo; or
 - (2) When the vehicle is being operated in parades, caravans or exhibitions which are officially authorized or otherwise permitted by law.
(K.S.A. 8-1578a)

Ref.: For Persons Under 14 Years of Age see Sec. 182.2.

Sec. 116. Driving Upon Sidewalk. No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary driveway. (K.S.A. 8-1575)

Sec. 117. Limitations on Backing.

- (a) The driver of a vehicle shall not back the same unless such movement can be made with safety and without interfering with other traffic.
- (b) The driver of a vehicle shall not back the same upon any shoulder or roadway of any controlled-access highway.
(K.S.A. 8-1574)

Sec. 118. Driving Through or On Private Property to Avoid Traffic Control Devices. No person shall drive through the property of a gasoline service station or the service entrance of any public or private property adjacent to any street intersection to avoid any official traffic control device or short cut from one street to another.

Sec. 119. Parades and Processions. No parade of persons or vehicles, excepting the military forces of the United States, the military forces of the State of Kansas, or the forces of the city police and fire departments, shall occupy, march or proceed along any highway until the chief of police shall have been notified by the person or persons in charge thereof and until the chief shall have made provision for such purpose together with a police escort if he or she deems such escort necessary. (K.S.A. 8-2002(a)(3))

Sec. 120. Driving through Procession. It shall be unlawful for the driver of any vehicle to drive between the vehicles comprising a funeral or other authorized procession while they are in motion provided such vehicles are conspicuously so designated. This section shall not apply at intersections where traffic is controlled by traffic-control devices or police officers. (K.S.A. 8-2002(a)(3))

Sec. 121. Military Forces. The military forces of the United States and the State of Kansas, while on any authorized duty involving controlled movement of military convoys, critical supplies or equipment, or during any national or state emergency, shall not be restricted by traffic regulations, and shall have the right-of-way on any street or highway through which they may pass against all except carriers of the United States mail and other emergency vehicles. (K.S.A. 48-252a)

Sec. 122. Street Barriers. Whenever any street or alley or part thereof is closed for repair, rebuilding, construction or reconstruction and suitable warning signs and barricades, which so advise the public, are erected at all intersections of the closed street or alley with all other streets and alleys, it shall be unlawful for any person or operator without authority from the proper official to:

- (a) Destroy or remove any barricade, warning sign, light or torch used to close the street or alley or warn the public of the closing.
- (b) Drive on that portion of the street or alley that is closed: Provided, however, that nothing in this section shall be construed as prohibiting the regular authorities of the city, state or federal government from having free access to the work at all times. (K.S.A. 8-2002)

Sec. 123. Opening and Closing Vehicle Doors. No person shall open the door of a motor vehicle on the side available to moving traffic unless and until it is reasonably safe to do so, and can be done without interfering with the movement of other traffic, nor shall any person leave a door open on the side of a vehicle available to moving traffic for a period of time longer than necessary to load or unload passengers. (K.S.A. 8-1577)

Sec. 124. Riding in House Trailer or Mobile or Manufactured Home Prohibited. No person or persons shall occupy a house trailer, manufactured home, as defined in subsection (a) of K.S.A. 58-4202, or mobile home, as defined in subsection (b) of K.S.A. 58-4202 while it is being moved upon a public street or highway. (K.S.A. 8-1578)

Sec. 125. Driving Across Lawns, Sidewalks, Yards, Crops, Etc. It shall be unlawful for any person to drive a motor vehicle upon, across or onto the lawn, sidewalk, yard, farmland, crops or fences or other real or personal property of another person, intentionally damaging the same. (K.S.A. 8-1348)

Note: State statute also provides for district court action for damages and suspension of vehicle registration.

Sec. 126. Removal of Traffic Hazards.

- (a) It shall be the duty of the owner of real property to remove from such property any tree, plant, shrub or other obstruction, or part thereof, which, by obstructing the view of any driver, constitutes a traffic hazard.
- (b) When the governing body determines upon the basis of an engineering and traffic investigation that such a traffic hazard exists, it shall notify the owner and order that the hazard be removed within 10 days.
- (c) The failure of the owner to remove such traffic hazard within 10 days shall constitute an offense punishable by a penalty of \$10 and every day said owner shall fail to remove it shall be a separate and distinct offense. (K.S.A. 8-2011)

Sec. 126.1. Obstructing License Plates. It shall be unlawful for any person to attach and display on any vehicle a license plate, as required under article 1 of chapter 8 of the Kansas Statutes Annotated, which is covered, in whole or in part, with any clear or opaque material or any other plastic-like material that affects the plate's visibility or reflectivity. (K.S.A. . 8-15,110)

Section 126.1.1 Display of License Plate.

- (a) The license plate assigned to the vehicle shall be attached to the rear of the vehicle and shall be displayed during the current registration year or years. Except as otherwise provided in subsection (b), a Kansas registered vehicle shall not have a license plate attached to the front of the vehicle,
- (b) The following classes of vehicles shall attach a license plate in the location or locations specifically stated:
 - (1) The license plate issued for a truck tractor shall be attached to the front of the truck tractor;
 - (2) a model year license plate issued for an antique vehicle, in accordance with K.S.A. 8-172, and amendments thereto, may be attached to the front of the antique vehicle;
 - (3) a personalized license plate issued to a passenger vehicle or truck pursuant to K.S.A. 8-132(c), and amendments thereto, may be attached to the front of the passenger vehicle or truck;
 - (4) the license plate issued for a motor vehicle used as a concrete mixer truck may be attached to either the front or rear of the vehicle; and
 - (5) the license plate issued for a motor vehicle used as a dump truck with a gross weight of 26,000 pounds or more shall be attached to the front of the vehicle. The provisions of this paragraph shall not apply to such vehicle if such vehicle is registered as a farm truck.
- (c) Every license plate shall at all times be securely fastened to the vehicle to which it is assigned, to prevent the plate from swinging, and at a height not less than 12 inches from the ground, measuring from the bottom of such plate,. The license plate shall be fastened in a place and position to be clearly visible, and shall be maintained free from foreign materials and in a condition to be clearly legible.
- (d) During any period in which the construction of license plates has been suspended pursuant to the provisions of K.S.A. 8-132, and amendments thereto, the plate, tag, token, marker or sign assigned to such vehicle shall be attached to and displayed on such vehicle in such place, position, manner and condition as shall be prescribed by the director of vehicles.

- (e) A law enforcement officer shall issue a warning citation to anyone violating the provisions of subsection (b)(5). The provisions of this subsection shall expire and have no effect on and after January 1, 2022. (K.S.A. 8-133).

Sec. 126.2. Use of Wireless Communication Devices.

- (a) Except as provided in subsections (b) and (c), no person shall operate a motor vehicle on a public road or highway while using a wireless communications device to write, send or read a written communication.
- (b) The provisions of subsection (a) shall not apply to:
 - (1) A law enforcement officer or emergency service personnel acting within the course and scope of the law enforcement officers or emergency service personnel's employment;
 - (2) A motor vehicle stopped off the regular traveled portion of the roadway;
 - (3) A person who reads, selects or enters a telephone number or name in a wireless communications device for the purpose of making or receiving a phone call;
 - (4) A person who receives an emergency, traffic or weather alert message; or
 - (5) A person receiving a message related to the operation or navigation of the motor vehicle.
- (c) The provisions of subsection (a) shall not prohibit a person from using a wireless communications device while operating a moving motor vehicle to:
 - (1) Report current or ongoing illegal activity to law enforcement;
 - (2) Prevent imminent injury to a person or property; or
 - (3) Relay information between transit or for-hire operator and the operator's dispatcher, in which the device is permanently affixed to the motor vehicle. (K.S.A. 8-15,111)

**Article 15. Operation of Bicycles, Motorized Bicycles,
and Play Vehicles**

Sec. 127. Effect of Regulations.

- (a) Violation of any provision of Sections 128 to 133, inclusive, is a traffic infraction.
- (b) The parent of any child and the guardian of any ward shall not authorize or knowingly permit any such child or ward to violate any of the provisions of Sections 128 to 133, inclusive.
- (c) The provisions of Sections 128 to 133, inclusive, which are applicable to bicycles shall apply whenever a bicycle is operated upon any highway or upon any path set aside for the exclusive use of bicycles, subject to those exceptions stated herein. (K.S.A. 8-1586)

Sec. 128. Traffic Laws Apply to Persons Riding Bicycles.

Every person riding a bicycle upon a roadway shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of a vehicle by this ordinance, except as otherwise provided in Sections 127 to 133, inclusive, of this article and except as to those provisions of this ordinance which by their nature can have no application. (K.S.A. 8-1587)

Sec. 129. Riding on Bicycles; Seats; Riders Limited.

- (a) A person propelling a bicycle shall not ride other than upon or astride a permanent and regular seat attached thereto.
- (b) No bicycle shall be used to carry more persons at one time than the number for which it is designed and equipped. (K.S.A. 8-1588)

Sec. 130. Clinging to Vehicles. No person riding upon any bicycle, coaster, roller skates, sled or toy vehicle shall attach the same, himself or herself to any vehicle upon a roadway. (K.S.A. 8-1589)

Sec. 131. Riding on Roadways and Bicycle Paths.

- (a) Every person operating a bicycle or a moped upon a roadway at less than the normal speed of traffic at the time and place and under the conditions then existing shall ride as near to the right side of the roadway as practicable, except under any of the following situations when:
 - (1) Overtaking and passing another bicycle or vehicle proceeding in the same direction;
 - (2) Preparing for a left turn at an intersection or into a private road or driveway; or
 - (3) Reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving bicycles, pedestrians, animals, surface hazards or narrow width lanes that make it unsafe to continue along the right hand edge of the roadway.
- (b) Any person operating a bicycle or a moped upon a one-way highway with two or more marked traffic lanes may ride as near to the left side of the roadway as practicable.
- (c) Persons riding bicycles upon a roadway shall not ride more than two abreast except on paths or parts of roadways set aside for the exclusive use of bicycles.
- (d) Wherever a usable path for bicycles has been provided adjacent to a roadway, bicycle riders shall use such path and shall not use the roadway. (K.S.A. 8-1590)

Sec. 132. Carrying Articles. No person operating a bicycle shall carry any package, bundle or article which prevents the driver from keeping at least one hand upon the handlebars. (K.S.A. 8-1591)

Sec. 133. Lamps and Other Equipment on Bicycles.

- (a) Every bicycle when in use between sunset and sunrise shall be equipped with a lamp on the front which shall emit a white light visible from a distance of at least 500 feet to the front and either: (1) A red reflector on the rear which shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle; (2) a lamp on the rear that shall emit a red light visible from a distance of 500 feet to the rear; or (3) the operator of such bicycle shall be wearing a device that emits a red or amber light that shall be visible from a distance of 500 feet to the rear.

- (b) Every bicycle shall be equipped with a brake which will enable the operator to make the braked wheels skid on dry, level, clean pavement.
- (c) No person shall sell a pedal for use on a bicycle, unless such pedal is equipped with a reflector which is visible from the front and rear of the bicycle to which it is attached during darkness from a distance of 200 feet, and no person shall sell a new bicycle, unless it is equipped with pedals meeting the requirements of this subsection. (K.S.A. 8-1592)

Sec. 134. Application of Sec. 127 to Sec. 133 to Motorize Bicycles. The provisions of Sections 127 to 133, inclusive, shall be applicable to motorized bicycles, and every person operating a motorized bicycle shall be subject to the provisions thereof. (K.S.A. 8-1592a)

Sec. 135. Electric-Assisted Bicycles, Traffic Law Application. Vehicle registration and driver's license shall not be required for operation of an electric-assisted bicycle. Traffic regulations applicable to bicycles shall apply to electric-assisted bicycles, except tricycles with no brake horsepower. (K.S.A. 8-1592b)

Sec. 135.1. Electric-Assisted Scooters, Traffic Law Application.

- (a) It shall be unlawful for any person to operate an electric-assisted scooter on any interstate highway, federal highway or state highway.
- (b) Notwithstanding the provisions of subsection (a), traffic regulations applicable to bicycles, Sections 127 to 133, inclusive, shall be applicable to electric-assisted scooters.
- (c) The governing body of a city or county may adopt an ordinance or resolution that further restricts or prohibits the operation of electric-assisted scooters on any public highway, street or sidewalk within such city or county.
- (d) Except as otherwise provided in subsection (c), the provisions of subsection (a) shall not prohibit an electric-assisted scooter from crossing a federal or state highway. (2019 Kansas Laws Ch. 61(SB63))

{**Editor's Note:** Pursuant to subsection (c) a city can adopt an ordinance regulating the use of electric-assisted scooters including banning their use within the city.}

Sec. 136. Use of Coasters, Roller Skates and Similar Devices Restricted. No person upon roller skates, or riding in or by means of any coaster, toy vehicle, or similar device, shall go upon any roadway except while crossing a street at a crosswalk and except upon streets set aside as play streets. (K.S.A. 8-2002(a)(21))

Ref.: Sec. 20. Play Streets.

Article 16. Special Rules for Motorcycles

Sec. 137. Traffic Laws Apply to Persons Operating Motorcycles. Every person operating a motorcycle shall be granted all of the rights and shall be subject to all of the duties applicable to the driver of any other vehicle under this ordinance, except as provided in Section 138 to 142, inclusive, and except as to those provisions of this ordinance which by their nature can have no application. (K.S.A. 8-1593)

Sec. 138. Riding on Motorcycles.

- (a) A person operating a motorcycle shall ride only upon the permanent and regular seat attached thereto, and such operator shall not carry any other person nor shall any other person ride on a motorcycle, unless such motorcycle is designed to carry more than one person, in which event a passenger may ride upon the permanent and regular seat if designed for two persons, or upon another seat firmly attached to the motorcycle at the rear or side of the operator.
- (b) A person shall ride upon a motorcycle only while sitting astride the seat, facing forward, with one leg on each side of the motorcycle. This subsection shall not apply to any person riding within an autocycle.
- (c) No person shall operate a motorcycle while carrying any package, bundle or other article which prevents such person from keeping both hands on the handlebars.
- (d) No operator shall carry any person, nor shall any person ride, in a position that will interfere with the operation or control of the motorcycle or the view of the operator. (K.S.A. 8-1594)

Sec. 139. Operating Motorcycles on Roadways Laned for Traffic.

- (a) All motorcycles are entitled to full use of a lane and no motor vehicle shall be driven in such a manner as to deprive any motorcycle of the full use of a lane. This subsection shall not apply to motorcycles operated two abreast in a single lane.
- (b) The operator of a motorcycle shall not overtake and pass in the same lane occupied by the vehicle being overtaken.
- (c) No person shall operate a motorcycle between lanes of traffic or between adjacent lines or rows of vehicles.
- (d) Motorcycles shall not be operated more than two abreast in a single lane.
- (e) Subsections (b) and (c) shall not apply to police officers in the performance of their official duties. (K.S.A. 8-1595)

Sec. 140. Clinging to Other Vehicles. No person riding upon a motorcycle shall attach himself, herself or the motorcycle to any other vehicle on a roadway. (K.S.A. 8-1596)

Sec. 141. Motorcycle Seat and Footrests. A motorcycle carrying a passenger, other than in a sidecar or enclosed cab, shall be equipped with a seat and footrests for such passenger. (K.S.A. 8-1597)

Sec. 142. Equipment for Motorcycle Operator or Rider.

- (a) No person under the age of 18 years shall operate or ride upon a motorcycle or a motorized bicycle unless wearing a helmet which complies with minimum guidelines established by the National Highway Traffic Safety Administration pursuant to the National Traffic and Motor Vehicle Safety Act of 1966 for helmets designed for use by motorcyclists and other motor vehicle users.
- (b) No person shall allow or permit any person under the age of 18 years to:

- (1) Operate a motorcycle or motorized bicycle or to ride as a passenger upon a motorcycle or motorized bicycle without being in compliance with the provisions of subsection (a); or
 - (2) Operate a motorcycle or to ride as a passenger upon a motorcycle without being in compliance with the provisions of subsection (c).
- (c) (1) No person shall operate a motorcycle unless he or she is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant, except when the motorcycle is equipped with a windscreen which has a minimum height of 10 inches measured from the center of the handlebars.
- (2) No person under the age of 18 years shall ride as a passenger on a motorcycle unless such person is wearing an eye-protective device which shall consist of protective glasses, goggles or transparent face shields which are shatter proof and impact resistant.
- (d) This section shall not apply to persons riding within an enclosed cab, an autocycle, or on a golf cart, nor shall it apply to any person operating or riding any industrial or cargo-type vehicle having three wheels and commonly known as a truckster. (K.S.A. 8-1598)

Ref.: Motorcycle Equipment, Article 18.

Article 17. Lights, Brakes, Horns and Other Equipment

Sec. 143. Scope and Effect of Regulations.

- (a) It is unlawful for any person to drive or move, or for the owner to cause or knowingly permit to be driven or moved on any highway, any vehicle or combination of vehicles which does not contain those parts or is not at all times equipped with such lamps and other equipment in proper condition and adjustment as required in this article, or which is equipped in any manner in violation of any section of this article, or for any person to do any act forbidden or fail to perform any act required by any provision of any section of this article.

- (b) Nothing contained in this article shall be construed to prohibit the use of additional parts and accessories on any vehicle not inconsistent with the provisions of this article.
- (c) The provisions of this article with respect to equipment required on vehicles shall not apply to implements of husbandry, road machinery, road rollers or farm tractors except as specifically made applicable in this article.
- (d) The provisions of this article with respect to equipment required on vehicles shall not apply to motorcycles or motor-driven cycles, except as specifically made applicable by law.
- (e) A low-speed vehicle which is in compliance with the equipment requirements in 49 C.F.R. 571.500 shall be deemed to be in compliance with the provisions of this ordinance. (K.S.A. 8-1701)

Sec. 144. When Lighted Lamps Required; Visibility Distance and Mounted Height of Lamps.

- (a) Every vehicle, except as provided in subsection (b), upon a highway within this state, at all times shall display lighted head and other lamps and illuminating devices as required for different classes of vehicles, subject to exceptions with respect to parked vehicles:
 - (1) From sunset to sunrise;
 - (2) When due to insufficient light or unfavorable atmospheric conditions, including smoke or fog, persons and vehicles on the highway are not clearly discernible at a distance of 1,000 feet ahead; or
 - (3) When windshield wipers are in continuous use as a result of rain, sleet, or snow.

Stop lights, turn signals, and other signaling devices shall be lighted as prescribed for the use of such devices.

- (b) Motorcycles, motor-driven cycles and motorized bicycles manufactured after January 1, 1978, shall display lighted head and taillights at all times that such vehicles are operated on any highway.
- (c) Law enforcement officers shall issue a warning citation to anyone violating subsection (a)(3). (K.S.A. 8-1703)

Sec. 145. Visibility Distance and Mounted Height of Lamps.

- (a) Whenever any requirement is declared in this article as to the distance from which certain lamps and devices shall render objects visible or within such lamps or devices shall be visible, said provisions shall apply, during the times stated in Section 144 in respect to a vehicle without load upon a straight, level, unlighted highway under normal atmospheric conditions unless a different time or condition is expressly stated.
- (b) Whenever any requirement is declared in this article as to the mounted height of lamps or devices, it shall mean from the center of such lamp or device to the level ground upon which the vehicle stands when such vehicle is without a load. (K.S.A. 8-1704)

Ref.: Vehicles Parked at Night, see Sec. 157.

Sec. 146. Head Lamps on Motor Vehicles.

- (a) Every motor vehicle shall be equipped with at least two head lamps with at least one on each side of the front of the motor vehicle, which head lamps shall comply with the requirements and limitations set forth in this article.
- (b) Every head lamp upon every motor vehicle manufactured or assembled after July 1, 1959, shall be located at a height of not more than 54 inches nor less than 24 inches to be measured as set forth in subsection (b) of Section 145. (K.S.A. 8-1705)

Sec. 147. Tail Lamps.

- (a) Every motor vehicle, trailer, semitrailer and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two tail lamps mounted on the rear, which, when lighted as required in Section 144, shall emit a red light plainly visible from a distance of 1,000 feet to the rear, except that passenger cars manufactured or assembled prior to July 1, 1959, shall have at least one tail lamp. On a combination of vehicles, only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one tail lamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable.

- (b) Every tail lamp upon every vehicle shall be located at a height of not more than 72 inches nor less than 15 inches.
- (c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render is clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever head lamps or auxiliary driving lamps are lighted. (K.S.A. 8-1706)

Sec. 148. Reflectors.

- (a) Every motor vehicle, trailer, semitrailer and pole trailer shall carry on the rear, either as a part of the tail lamps or separately, two or more red reflectors meeting the requirements of this section: provided, that vehicles of the types mentioned in Section 151 shall be equipped with reflectors meeting the requirements of subsection (a) of Section 153 and subsection (a) of Section 154.
- (b) Every such reflector shall be mounted on the vehicle at a height not less than 15 inches nor more than 60 inches measured as set forth in subsection (b) of Section 145 and shall be of such size and characteristics and so mounted as to be visible at night from all distances within 600 feet to 100 feet from such vehicle when directly in front of lawful lower beams of head lamps, except that reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be visible at night from all distances within 350 feet to 100 feet when directly in front of lawful upper beams of head lamps. (K.S.A. 8-1707)

Sec. 149. Stop Lamps and Turn Signals.

- (a) Every motor vehicle, trailer, semitrailer and pole trailer shall be equipped with two or more stop lamps meeting the requirements of subsection (a) of Section 161, except that passenger cars manufactured or assembled prior to January 1, 1953, shall be equipped with at least one stop lamp. On a combination of vehicles, only the stop lamps on the rearmost vehicle need actually be seen from the distance specified in subsection (a) of Section 161.

- (b) Every motor vehicle, trailer, semitrailer and pole trailer shall be equipped with electric turn signal lamps meeting the requirements of subsection (b) of Section 161, except that passenger cars and trucks less than 80 inches in width, manufactured or assembled prior to January 1, 1953 and vehicles registered under K.S.A. 8-194, need not be equipped with electric turn signal lamps. (K.S.A. 8-1708)

Sec. 150. Application of Succeeding Sections. Sections 151 to 155, inclusive, relating to clearance lamps, marker lamps and reflectors, shall apply as stated in said sections to vehicles of the type therein enumerated, namely buses, trucks, truck-tractors, motor homes, motor vehicles with mounted truck-campers, and trailers, semitrailers and pole trailers, respectively, when operated upon any highway, and said vehicle shall be equipped as required and all lamp equipment required shall be lighted at the times mentioned in Section 144. For purposes of the sections enumerated above, a truck-camper, when mounted upon a motor vehicle, shall be considered part of the permanent structure of that motor vehicle. (K.S.A. 8-1709)

Sec. 151. Additional Equipment Required on Certain Vehicles. In addition to other equipment required by this ordinance, the following vehicles shall be equipped as herein stated.

- (a) Buses, trucks, motor homes, and motor vehicles with mounted truck-camper, 80 inches or more overall width:
 - (1) On the front, two clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (g).
 - (2) On the rear, two clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (g).
 - (3) On each side, two side marker lamps, one at or near the front and one at or near the rear.
 - (4) On each side, two reflectors, one at or near the front and one at or near the rear.
- (b) Trailers and semitrailers 80 inches or more in overall width, except boat trailers and house trailers for which special permits are required for movement:

- (1) On the front, two clearance lamps, one at each side.
 - (2) On the rear, two clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (g).
 - (3) On each side, two side marker lamps, one at or near the front and one at or near the rear.
- (c) Trailers and semitrailers, except boat trailers and house trailers for which special permits are required pursuant to K.S.A. 8-1911, and amendments thereto, for movement of such house trailers upon the highways of this state:

On each side, two reflectors, one at or near the front and one at or near the rear.

- (d) Truck-tractors: On the front, two cab clearance lamps, one at each side, and on vehicles manufactured or assembled after July 1, 1959, three identification lamps meeting the specifications of subsection (g).

- (e) Trailers, semitrailers and pole trailers 30 feet or more in overall length:

On each side, one amber side marker lamp and one amber reflector, centrally located with respect to the length of the vehicle.

- (f) Pole trailers:

- (1) On each side, one amber marker lamp at or near the front of the load.
- (2) One amber reflector at or near the front of the load.
- (3) On the rearmost support for the load, one combination marker lamp showing amber to the front and red to the rear and side, mounted to indicate maximum width of the pole trailer.

- (g) Whenever required or permitted by this article, identification lamps shall be grouped in a horizontal row, with lamp centers spaced not less than six nor more than 12 inches apart, and mounted on the permanent structure of the vehicle as close as practicable to the vertical center line: provided, that where the cab of a vehicle is not more than 42 inches wide at the front roof line, a single identification lamp at the center of the cab shall be deemed to comply with the requirements for front identification lamps.

- (h) Boat trailers 80 inches or more in overall width:
 - (1) On each side, at or near the midpoint, one clearance lamp performing the function of both a front and rear clearance lamp.
 - (2) On each side, two side marker lamps, one at or near the front and one at or near the rear.
 - (3) On each side, two reflectors, one at or near the front and one at or near the rear. (K.S.A. 8-1710)

Ref.: Secs. 153, 154.

Sec. 151.1. Air-conditioning Equipment.

- (a) The term "air-conditioning equipment" as used or referred to in this section shall mean mechanical vapor compression refrigeration equipment which is used to cool the driver's or passenger compartment of any motor vehicle.
- (b) Air-conditioning equipment shall be manufactured, installed and maintained with due regard for the safety of the occupants of the vehicle and the public, and shall not contain any refrigerant which is toxic to persons or which is flammable.
- (c) The secretary of transportation may adopt and enforce safety requirements, rules or regulations and specifications consistent with the requirements of this section applicable to such equipment, which shall correlate with and, so far as possible, conform to the current recommended practice or standard applicable to such equipment approved by the society of automotive engineers.
- (d) No person shall have for sale, offer for sale, sell or equip any motor vehicle with any such equipment unless it complies with the requirements of this section.
- (e) No person shall operate on any highway any motor vehicle equipped with any air-conditioning equipment unless said equipment complies with the requirements of this section. (K.S.A. 8-1747)

Sec. 152. Color of Clearance Lamps, Identification Lamps, Side Marker Lamps, Backup Lamps and Reflectors.

- (a) Front clearance lamps, identification lamps and those marker lamps and reflectors mounted on the front or on the side near the front of a vehicle shall display or reflect an amber color.
- (b) Rear clearance lamps, identification lamps and those marker lamps and reflectors mounted on the rear or on the sides near the rear of a vehicle shall display or reflect a red color. (K.S.A. 8-1711)

Sec. 153. Mounting of Reflectors, Clearance Lamps and Side Marker Lamps.

- (a) Reflectors when required by Section 151 shall be mounted at a height not less than 24 inches and not more than 60 inches above the ground on which the vehicle stands, except that if the highest part of the permanent structure of the vehicle is less than 24 inches the reflector at such point shall be mounted as high as that part of the permanent structure will permit.
The rear reflectors on a pole trailer may be mounted on each side of the bolster or load. Any required red reflector on the rear of a vehicle may be incorporated with the tail lamp, but such reflector shall meet the other reflector requirements of this article.
- (b) Clearance lamps, so far as is practicable, shall be mounted on the permanent structure of the vehicle in such a manner as to indicate the extreme height and width of the vehicle, except that when rear identification lamps are required and are mounted as high as is practicable, rear clearance lamps may be mounted at optional height and when the mounting of front clearance lamps results in such lamps failing to indicate the extreme width of the trailer, such lamps may be mounted at optional height but must indicate, as near as practicable, the extreme width of the trailer. Clearance lamps on truck-tractors shall be located so as to indicate the extreme width of the truck-tractor cab. Clearance lamps and side marker lamps may be mounted in combination if illumination is given as required herein with reference to both. (K.S.A. 8-1712)

Ref.: Sec. 151.

Sec. 154. Visibility of Reflectors, Clearance Lamps, and Marker Lamps.

- (a) Every reflector upon any vehicle referred to in Section 151 shall be of such size and characteristics and so maintained as to be readily visible at nighttime from all distances within 600 feet to 100 feet from the vehicle when directly in front of lawful lower beams of head lamps, except that the visibility of reflectors on vehicles manufactured or assembled prior to January 1, 1970, shall be measured in front of lawful upper beams of head lamps. Reflectors required to be mounted on the sides of the vehicle shall reflect the required color of light to the sides, and those mounted on the rear shall reflect a red color to the rear.
- (b) Front and rear clearance lamps and identification lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the time lights are required at all distances between 500 feet and 50 feet from the front and rear, respectively, of the vehicle.
- (c) Side marker lamps shall be capable of being seen and distinguished under normal atmospheric conditions at the times lights are required at all distances between 500 feet and 50 feet from the side of the vehicle on which mounted. (K.S.A. 8-1713)

Sec. 155. Obstructed Lights Not Required. Whenever motor and other vehicles are operated in combination during the time that lights are required, any lamp except tail lamps which, by reason of its location on a vehicle of the combination, would be obscured by another vehicle of the combination, need not be lighted, but this shall not affect the requirement that lighted clearance lamps be displayed on the front of the foremost vehicles required to have clearance lamps, nor that all lights required on the rear of the rearmost vehicle of any combination shall be lighted. (K.S.A. 8-1714)

Sec. 156. Lamps or Flags on Projecting Loads. Whenever the load upon any vehicle extends to the rear four (4) feet or more beyond the bed or body of such vehicle, there shall be displayed at the extreme rear end of the load, at the times specified in K.S.A. 8-1703, two (2) red lamps visible from a distance of at least five hundred (500) feet to the rear, two (2) red reflectors visible at night from all distances within six hundred (600) feet to one hundred (100) feet to the rear when directly in front of lawful lower beams of head lamps and located so as to indicate maximum width, and on each side one (1) red lamp visible from a distance of at least five hundred (500) feet to the side and located so as to indicate maximum overhang. There shall be displayed at all other times on any vehicle having a load which extends beyond its sides or more than four (4) feet beyond its rear, red flags, not less than twelve (12) inches square, marking the extremities of such load, at each point where a lamp would otherwise be required by this section. (K.S.A. 8-1715)

Sec. 157. Lamps on Parked Vehicles.

- (a) Every vehicle shall be equipped with one or more lamps which, when lighted, shall display a white or amber light visible from a distance of 1,000 feet to the front of the vehicle, and a red light visible from a distance of 1,000 feet to the rear of the vehicle. The location of said lamp or lamps always shall be such that at least one lamp or combination of lamps meeting the requirements of this section is installed as near as practicable to the side of the vehicle which is closest to passing traffic.
- (b) Whenever a vehicle is lawfully parked upon a street or highway during the hours between a half hour after sunset and a half hour before sunrise, and in the event there is sufficient light to reveal persons and vehicles within a distance of 1,000 feet upon such street or highway, no lights need be displayed upon such parked vehicle.
- (c) Whenever a vehicle is parked or stopped upon a roadway or shoulder adjacent thereto, whether attended or unattended, during the hours between a half hour after sunset and a half hour before sunrise and there is insufficient light to reveal any person or object within a distance of 1,000 feet upon such highway, such vehicle so parked or stopped shall be equipped with and shall display lamps meeting the requirements of subsection (a).
- (d) Any lighted head lamps upon a parked vehicle shall be depressed or dimmed. (K.S.A. 8-1716)

Sec. 158. Lamps on Other Vehicles and Equipment.

- (a) Every vehicle, including animal-drawn vehicles and vehicles referred to in subsection (c) of Section 143, not specifically required by the provisions of other sections in this article to be equipped with lamps or other lighting devices, shall be equipped, at all times specified in Section 144, with at least one lamp displaying a white light visible from a distance of not less than 1,000 feet to the front of said vehicle, and also shall be equipped with two lamps displaying red lights visible from a distance of not less than 1,000 feet to the rear, or as an alternative, one lamp displaying a red light visible from a distance of not less than 1,000 feet to the rear and two red reflectors visible from all distances of 600 to 100 feet to the rear when illuminated by the lawful lower beams of head lamps.
- (b) Every animal-drawn vehicle shall be equipped at all times with a slow-moving vehicle emblem complying with subsection (g) of K.S.A. 8-1717. (K.S.A. 8-1718)

Sec. 158.1 Lights, Lamps and Reflectors on Farm Tractors; Slow-moving Vehicle and Slow-moving Vehicle Emblem Defined; Requirements for Slow-moving Vehicles; Unlawful Acts; Exception.

- (a) Every farm tractor manufactured or assembled after January 1, 1975, shall be equipped with vehicular hazard warning lights of a type described in K.S.A. 8-1722, and amendments thereto, visible from a distance of not less than 1,000 feet to the front and rear in normal sunlight, which shall be displayed whenever any such vehicle is operated upon a highway.
- (b) Every farm tractor manufactured or assembled after January 1, 1975, shall at all times, and every other such motor vehicle shall at all times mentioned in K.S.A. 8-1703, and amendments thereto, be equipped with lamps and reflectors as follows:
 - (1) At least two head lamps meeting the requirements of K.S.A. 8-1724, 8-1726 or 8-1727, and amendments thereto.
 - (2) At least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear mounted as far to the left of the center of the vehicle as practicable.

- (3) At least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of head lamps.
- (c) On every combination of farm tractor and towed farm equipment or towed implement of husbandry, the farm tractor shall be equipped as required in subsections (a) and (b), and the towed unit shall be equipped at all times mentioned in K.S.A. 8-1703, and amendments thereto, with lamps and reflectors as follows:
- (1) If the towed unit or its load extends more than four feet to the rear of the tractor or obscures any light thereon, the unit shall be equipped on the rear with at least one red lamp visible when lighted from a distance of not less than 1,000 feet to the rear, mounted as far to the left of the center of the towed unit as practicable, and at least two red reflectors visible from all distances within 600 feet to 100 feet to the rear when directly in front of lawful lower beams of head lamps.
 - (2) If the towed unit of such combination extends more than four feet to the left of the center line of the tractor, the unit shall be equipped on the front with an amber reflector visible from all distances within 600 feet to 100 feet to the front when directly in front of lawful lower beams of head lamps. This reflector shall be so positioned to indicate, as nearly as practicable, the extreme left projection of the towed unit.
 - (3) If the towed unit or its load obscures either of the vehicle hazard warning lights on the tractor, the towed unit shall be equipped with vehicle hazard warning lights described in subsection (a).
- (d) The two red reflectors required in the preceding subsections shall be so positioned as to show from the rear, as nearly as practicable, the extreme width of the vehicle or combination carrying them. If all other requirements are met, reflective tape or paint may be used in lieu of the reflectors required by subsection (c).
- (e) As used in this section:
- (1) "Slow-moving vehicle" means any vehicle, farm tractor, implement of husbandry, equipment or piece of machinery designed for use at speeds of

less than 25 miles per hour, or which is normally moved at speeds of less than 25 miles per hour, and includes all road construction or maintenance machinery, except when such machinery is engaged in actual construction or maintenance work and there is either a flagman or clearly visible warning signs to warn of such machinery's presence on the roadway.

- (2) "Slow-moving vehicle emblem" means a triangular-shaped emblem of substantial construction having equal sides of 14 inches and an altitude of 12 inches, and such emblem shall be painted a fluorescent yellow-orange color and bordered with reflective red-colored strips having a minimum width of 1 $\frac{3}{4}$ inches, with the vertices of the overall triangle truncated in such a manner that the remaining altitude shall be at least 14 inches.
- (f) The secretary of transportation shall approve slow-moving vehicle emblems which meet the requirements of this act and shall compile and publish a list of approved emblems and the manufacturers thereof.
- (g) A slow-moving vehicle emblem shall be mounted or affixed on the rear of the slow-moving vehicle in compliance with standard S276.2 of the American society of agricultural engineers, as such standard was revised in March 1968.
- (h) No person shall operate any slow-moving vehicle on any highway which is within the national system of interstate and defense highways, the state highway system or the state system of modern express highways and freeways, unless such vehicle is equipped with a properly mounted slow-moving vehicle emblem, which has been approved by the secretary of transportation, and which is maintained in a clean, fluorescent and reflective condition, or display a slow-moving vehicle emblem on any vehicle other than a slow-moving vehicle or display such emblem on a slow-moving vehicle which is being operated at a speed of 25 miles per hour or more, or to use such emblem in any manner other than authorized by this section.
- (i) Notwithstanding the provisions of this section, a low-speed vehicle shall not be required to display a slow-moving vehicle emblem. (K.S.A. 8-1717)

Sec. 159. Spot Lamps and Auxiliary Lamps.

- (a) **Spot Lamps.** Any motor vehicle may be equipped with not to exceed two spot lamps. Every lighted spot lamp emitting a white light shall be so aimed and used that no part of the high-intensity portion of the beam will strike the windshield or any windows, mirror or occupant of another vehicle in motion. The limitations of this subsection shall not apply to a police vehicle used as an authorized emergency vehicle.

- (b) **Fog Lamps.** Any motor vehicle may be equipped with not to exceed two fog lamps mounted on the front at a height not less than 12 inches nor more than 30 inches above the level surface upon which the vehicle stands, and so aimed that when the vehicle is not loaded none of the high-intensity portion of the light to the left of the center of the vehicle shall at a distance of 25 feet ahead project higher than a level of four inches below the level of the center of the lamp from which it comes. Lighted fog lamps meeting the above requirements may be used with lower head lamp beams as specified in subsection (a)(2) of Section 164 of this ordinance.

- (c) **Auxiliary Passing Lamps.** Any motor vehicle may be equipped with not to exceed two auxiliary passing lamps mounted on the front at a height not less than 24 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of Section 164 shall apply to any combination of head lamps and auxiliary passing lamps.

- (d) **Auxiliary Driving Lamps.** Any motor vehicle may be equipped with not to exceed two auxiliary driving lamps mounted on the front at a height not less than 16 inches nor more than 42 inches above the level surface upon which the vehicle stands. The provisions of Section 164 shall apply to any combination of head lamps and auxiliary driving lamps. (K.S.A. 8-1719)

Sec. 160. Authorized Emergency Vehicles.

- (a) Except as provided in subsection (b), every authorized emergency vehicle, in addition to any other equipment required by this ordinance, shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall be capable of displaying to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, or in lieu thereof, any such authorized emergency vehicle shall be equipped with at least one rotating or oscillating light, which shall be mounted as high as practicable on such vehicle and which shall display to the front and rear of such vehicle a flashing red light or alternate flashes of red and white lights or red and blue lights in combination. All lights required or authorized by this subsection shall have sufficient intensity to be visible at 500 feet in normal sunlight. Every authorized emergency vehicle may, but need not, be equipped with head lamps which alternatively flash or simultaneously flash.
- (b) A police vehicle when used as an authorized emergency vehicle may, but need not, be equipped with:
 - (1) Head lamps which alternately flash or simultaneously flash;
 - (2) Flashing lights specified in subsection (a), but any flashing lights, used on a police vehicle, other than the flashing lights specified in Section 162, rotating or oscillating lights or alternately flashing head lamps or simultaneously flashing head lamps, shall be red in color; or
 - (3) Rotating or oscillating lights, which may display a flashing red light or alternate flashes of red and blue lights in combination.
- (c) A person, partnership, association, corporation, municipality or public official shall not operate, or cause to be operated upon a public highway, road or street within this city, a motor vehicle with a red light, siren or both unless the vehicle has been designated as an authorized emergency vehicle pursuant to K.S.A. 8-2010, and amendments thereto. (K.S.A. 8-1720; K.S.A. 8-2010b)\

Sec. 160.1. Wreckers, Tow Trucks or Car Carriers; Operation of Emergency Lights; When.

- (a) Wreckers, tow trucks or car carriers designated as authorized emergency vehicles under subsection (c) of K.S.A. 8-2010, and amendments thereto, shall operate such lights authorized under K.S.A. 8-1720, and amendments thereto, only when such wreckers, tow trucks or car carriers are stationary and providing wrecker or towing service at the scene of a vehicle accident or providing emergency service on the side of a highway.
- (b) The provisions of this section shall be part of and supplemental to the uniform act regulating traffic on highways. (K.S.A. 8-2010c)

Sec. 161. Signal Lamps and Signal Devices.

- (a) Any vehicle may be equipped and when required under this ordinance shall be equipped with a stop lamp or lamps on the rear of the vehicle which shall display a red or amber light, or any shade of color between red and amber, visible from a distance of not less than 300 feet to the rear in normal sunlight, and which shall be actuated upon application of the service or foot brake, and which may, but need not, be incorporated with one or more other rear lamps.
- (b) Any vehicle may be equipped and when required under this ordinance shall be equipped with electric turn signals which shall indicate an intention to turn by flashing lights showing to the front and rear of a vehicle or on a combination of vehicles on the side of the vehicle or combination toward which the turn is to be made. The lamps showing to the front shall be mounted on the same level and as widely spaced laterally as practicable and, when signaling, shall emit amber light: Provided, that on any vehicle manufactured prior to July 1, 1973, the lamps showing to the front may emit white or amber light, or any shade of light between white and amber. The lamps showing to the rear shall be mounted on the same level and as widely spaced laterally as practicable, and, when signaling, shall emit a red or amber light, or any shade of color between red and amber. Turn signal lamps shall be visible from a distance of not less than 500 feet to the front and rear in normal sunlight. Turn signal lamps may, but need not be, incorporated in other lamps on the vehicle. (K.S.A. 8-1721)

Sec. 162. Vehicular Hazard Warning Lights.

- (a) Any vehicle may be equipped with lamps for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing.
- (b) Every bus, truck, truck-tractor, trailer, semi-trailer or pole trailer 80 inches or more in overall width or 30 feet or more in overall length shall be equipped with lamps meeting the requirements of this section.
- (c) Vehicular hazard warning signal lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing amber lights. On any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. Such warning lights shall be visible from a distance of not less than 500 feet in normal sunlight.
- (d) Any police vehicle, when used as an authorized emergency vehicle, may be equipped with warning lamps mounted as widely spaced laterally as practicable, either inside such vehicle, in front of the rear window or on the roof of such vehicle, and capable of displaying two alternately flashing amber lights to the rear of such vehicle. Such warning lamps may be used in lieu of or in combination with any other vehicular hazard warning signal lamps used to display such warning to the rear and shall be visible from a distance of not less than 500 feet in normal sunlight.
- (e) Every truck designed and used for collection and disposal of domestic or commercial waste or trash shall be equipped as provided in subsection (c) and shall operate such lamps when collecting or transporting waste or trash and traveling 15 miles per hour or less. (K.S.A. 8-1722)

Sec. 162.1. Display of Vehicular Hazard Warning Signal Lamps and Warning Devices by Certain Stopped or Disabled Vehicles.

- (a) Whenever any truck, bus, truck-tractor, trailer, semitrailer or pole trailer eighty (80) inches or more in overall width or thirty (30) feet or more in overall length is stopped upon a roadway or adjacent shoulder, the driver immediately shall actuate vehicular hazard warning signal lamps meeting the requirements of K.S.A. 8-1722. Such lights need not be displayed by a vehicle parked lawfully in an urban district, or stopped lawfully to receive or discharge passengers, or stopped to avoid conflict with other traffic or to comply with the directions of a police officer or an official traffic-control device, or while the devices specified in subsections (b) to (h) are in place.

- (b) Whenever any vehicle of a type referred to in subsection (a) is disabled, or stopped for more than ten (10) minutes, upon a roadway outside of an urban district at any time when lighted lamps are required, the driver of such vehicle shall display the following warning devices, except as provided in subsection (c):
 - (1) A lighted fusee, a lighted red electric lantern or a portable red emergency reflector shall immediately be placed at the traffic side of the vehicle in the direction of the nearest approaching traffic.
 - (2) As soon thereafter as possible but in any event within the burning period of the fusee, the driver shall place three (3) liquid-burning flares, or three (3) lighted red electric lanterns, or three (3) portable red emergency reflectors on the roadway in the following order:
 - (i) One (1) approximately one hundred (100) feet from the disabled vehicle in the center of the lane occupied by such vehicle and toward traffic approaching in that lane.
 - (ii) One (1) approximately one hundred (100) feet in the opposite direction from the disabled vehicle and in the center of the traffic lane occupied by such vehicle.
 - (iii) One (1) at the traffic side of the disabled vehicle not less than ten (10) feet rearward or forward thereof in the direction of the nearest approaching traffic. If a lighted red electric lantern or a red portable emergency reflector has been placed at the traffic side of the vehicle in accordance with paragraph (1) of this subsection, it may be used for this purpose.

- (c) Whenever any vehicle referred to in this section is disabled, or stopped for more than ten (10) minutes, within five hundred (500) feet of a curve, hillcrest or other obstruction to view, the warning device in that direction shall be so placed as to afford ample warning to other users of the highway, but in no case less than one hundred (100) feet nor more than five hundred (500) feet from the disabled vehicle.
- (d) Whenever any vehicle of a type referred to in this section is disabled, or stopped for more than ten (10) minutes, upon any roadway of a divided highway during the time lighted lamps are required, the appropriate warning devices prescribed in subsections (b) and (e) shall be placed as follows: One (1) at a distance of approximately two hundred (200) feet from the vehicle in the center of the lane occupied by the stopped vehicle and in the direction of traffic approaching in that lane; one (1) at a distance of approximately one hundred (100) feet from the vehicle, in the center of the lane occupied by the vehicle and in the direction of traffic approaching in that lane; one (1) at the traffic side of the vehicle and approximately ten (10) feet from the vehicle in the direction of the nearest approaching traffic.
- (e) Whenever any motor vehicle used in the transportation of explosives or any cargo tank truck used for the transportation of any flammable liquid or compressed gas is disabled, or stopped for more than ten (10) minutes, at any time and place mentioned in subsection (b), (c) or (d), the driver of such vehicle shall immediately display red electric lanterns or portable red emergency reflectors in the same number and manner specified therein. Flares, fusees or signals produced by flame shall not be used as warning devices for vehicles of the type mentioned in this subsection nor for vehicles using compressed gas as a fuel.
- (f) The warning devices described in subsections (b) to (e) need not be displayed where there is sufficient light to reveal persons and vehicles within a distance of one thousand (1,000) feet.
- (g) Whenever any vehicle described in this section is disabled, or stopped for more than ten (10) minutes, upon a roadway outside of an urban district or upon the roadway of a divided highway at any time when lighted lamps are not required by K.S.A. 8-1703, the driver of the vehicle shall display two (2) red flags as follows:

- (1) If traffic on the roadway moves in two (2) directions, one (1) flag shall be placed approximately one hundred (100) feet to the rear and one (1) flag approximately one hundred (100) feet in advance of the vehicle in the center of the lane occupied by such vehicle.
 - (2) Upon a one-way roadway, one (1) flag shall be placed approximately one hundred (100) feet and one (1) flag approximately two hundred (200) feet to the rear of the vehicle in the center of the lane occupied by such vehicle.
- (h) When any vehicle described in this section is stopped entirely off the roadway and on an adjacent shoulder at any time and place hereinbefore mentioned, the warning devices shall be placed, as nearly as practicable, on the shoulder near the edge of the roadway.
- (i) The flares, fusees, red electric lanterns, portable red emergency reflectors and flags to be displayed as required in this section shall conform with the requirements of K.S.A. 8-1744 applicable thereto.
(K.S.A. 8-1745)

Sec. 163. Additional Lighting Equipment.

- (a) Any motor vehicle may be equipped with not more than two side cowl or fender lamps which shall emit an amber or white light without glare.
- (b) Any motor vehicle may be equipped with not more than one running-board courtesy lamp on each side which shall emit a white or amber light without glare.
- (c) Any motor vehicle may be equipped with one or more back-up lamps, either separately or in combination with other lamps, but any such back-up lamp or lamps shall not be lighted when the motor vehicle is in forward motion.
- (d) Any vehicle 80 inches or more in overall width, if not otherwise required by Section 151, may be equipped with not more than three identification lamps showing to the front which shall emit an amber light without glare and not more than three identification lamps showing to the rear which shall emit a red light without glare. Such lamps shall be mounted as specified in subsection (g) of Section 151.

- (e) Any vehicle may be equipped with one or more side marker lamps and any such lamp may be flashed in conjunction with turn or vehicular hazard warning signals. Side marker lamps located toward the front of a vehicle shall be amber and side marker lamps located toward the rear shall be red.
- (f) Any motor vehicle may be equipped with neon ground effect lighting, except that such lighting shall not flash, be any shade of red nor shall any portion of the neon tubes be visible. **Neon ground effect lighting** means neon tubes placed underneath the motor vehicle for the purpose of illuminating the ground below the motor vehicle creating a halo light effect.
- (g) Any motor vehicle may be equipped with head lamps which alternately flash or simultaneously flash when such motor vehicle is being used as the lead motor vehicle of a funeral procession. A funeral hearse may serve as a funeral lead vehicle. (K.S.A. 8-1723)

Sec. 164. Multiple-Beam Road-Lighting Equipment.

- (a) Except as hereinafter provided, the head lamps, or the auxiliary driving lamps or the auxiliary passing lamp or combination thereof, on motor vehicles other than motorcycles shall be so arranged that the driver may select at will between distribution of light projected to different elevations, and such lamps may, in addition, be so arranged that such selection can be made automatically, subject to the following limitations:
 - (1) There shall be an uppermost distribution of light or composite beam, so aimed and of such intensity as to reveal persons and vehicles at a distance of at least 450 feet ahead for all conditions of loading.
 - (2) There shall be a lowermost distribution of light, or composite beam, so aimed and of sufficient intensity to reveal persons and vehicles at a distance of at least 150 feet ahead; and on a straight level road under any condition of loading none of the high-intensity portion of the beam shall be directed to strike the eyes of an approaching driver.

- (b) Every new motor vehicle registered in this state which has multiple-beam road-lighting equipment shall be equipped with a beam indicator, which shall be lighted whenever the uppermost distribution of light from the head lamps is in use and shall not otherwise be lighted. Said indicator shall be so designed and located that when lighted it will be readily visible without glare to the driver of the vehicle so equipped. (K.S.A. 8-1724)

Sec. 165. Use of Multiple-beam Road-lighting Equipment.

When a motor vehicle is being operated on a highway or shoulder adjacent thereto during the times specified in Section 144 of this ordinance the driver shall use a distribution of light, or composite beam, directed high enough and of sufficient intensity to reveal persons and vehicles at a safe distance in advance of the vehicle, subject to the following requirements and limitations:

- (a) When the driver of a vehicle approaches an oncoming vehicle within 500 feet, such driver shall use a distribution of light, or composite beam, so aimed that the glaring rays are not projected into the eyes of the oncoming driver. The lowermost distribution of light, or composite beam, specified in subsection (a)(2) of Section 164 or subsection (b) of Section 187, shall be dimmed to avoid glare at all times, regardless of road contour and loading.
- (b) When the driver of a vehicle approaches another vehicle from the rear, within 300 feet, except when engaged in the act of overtaking and passing, such driver shall use a distribution of light permissible under this article other than the uppermost distribution of light specified in subsection (a)(1) of Section 164 or subsection (b) of Section 187.
- (c) The requirements in subsections (a) and (b) shall not apply to:
 - (1) Authorized emergency vehicles displaying alternately flashing or simultaneously flashing head lamps as provided in Section 160; or
 - (2) School buses displaying alternately flashing or simultaneously flashing head lamps as provided in Section 170. (K.S.A. 8-1725)

Sec. 166. Single-beam Road-lighting Equipment Permitted on Certain Vehicles. Head lamp systems which provide only a single distribution of light shall be permitted on all farm tractors, regardless of date of manufacture, and on other motor vehicles manufactured and sold prior to July 1, 1938, in lieu of multiple-beam road-lighting equipment herein specified, if the single distribution of light complies with the following requirements and limitations:

- (a) The head lamps shall be so aimed that when the vehicle is not loaded none of the high intensity portion of the light at a distance of 25 feet ahead shall project higher than a level of five inches below the level of the center of the lamp from which it comes, and in no case higher than 42 inches above the level on which the vehicle stands at a distance of 75 feet ahead.
- (b) The intensity shall be sufficient to reveal persons and vehicles at a distance of at least 200 feet. (K.S.A. 8-1726)

Sec. 167. Alternate Road-lighting Equipment on Certain Vehicles; Limitations on Speed. Any motor vehicle may be operated under the conditions specified in Sec. 144 when equipped with two lighted lamps upon the front thereof capable of revealing persons and vehicles 100 feet ahead in lieu of lamps required in Sec. 164 or Sec. 166: Provided, that at no time shall it be operated at a speed in excess of 25 miles per hour. (K.S.A. 8-1727)

Sec. 168. Number of Driving Lamps Required or Permitted.

- (a) At all times specified in Section 144 of this ordinance, at least two lighted head lamps shall be displayed, one on each side at the front of every motor vehicle, except when such vehicle is parked, subject to the regulations governing lights on parked vehicles.
- (b) Whenever a motor vehicle equipped with head lamps as herein required is also equipped with any auxiliary lamps or a spot lamp or any other lamp on the front thereof projecting a beam of an intensity greater than 300 candlepower, not more than a total of four of any such lamps on the front of a vehicle shall be lighted at any one time when upon a highway. (K.S.A. 8-1728)

Sec. 169. Special Restrictions on Lamps.

- (a) During the time specified in Section 144, any lighted lamp or illuminating device upon a motor vehicle, other than head lamps, spot lamps, auxiliary lamps, flashing turn signals, and school bus warning lamps, that project a beam of light of an intensity greater than 300 candlepower shall be so directed that no part of the high intensity portion of the beam will strike the level of the roadway on which the vehicle stands at a distance of more than 75 feet from the vehicle.
- (b) Except as required or permitted in Sections 160, 169.1 and 170, no person shall drive or move any vehicle or equipment upon any highway with any lamp or device capable of displaying a red light visible from directly in front of the center thereof, nor shall any vehicle or equipment upon any highway have any lamp or device displaying any color of light visible from directly in front of the center thereof except white or amber or any shade of color between white and amber.
- (c) Flashing lights are prohibited except as authorized or required in Sections 158,1, 160, 161, 162, 163, 170, 171, and 172.
- (d) The flashing lights described in Sections 160, 170, and 171 shall not be used on any vehicle other than a school bus, church bus or day program bus, as defined in Section 171, or an authorized emergency vehicle.
- (e) All lighting devices and reflectors mounted on the rear of any vehicle shall display or reflect a red color, except the stop light or other signal device, which may be red, amber or yellow, and except that the light illuminating the license plate shall be white and the light emitted by a back-up lamp shall be white or amber. (K.S.A. 8-1729)

Sec. 169.1. Transportation Network Lighting Device.

- (a) A driver for a transportation network company, who is logged on to the transportation network company's digital network, may equip the vehicle with a lighting device capable of displaying light visible from directly in front of the center of the vehicle. Such lighting device may display:
 - (1) Steady light; and
 - (2) Light of any color, except red.

The words and phrase used in this section have the meanings respectively ascribed thereto in Section 1 and K.S.A. 8-2702, and amendments thereto, unless a different meaning is plainly required by the context. (K.S.A. 8-1762).

Sec. 170. School Buses.

- (a) Every school bus, in addition to any other equipment and distinctive markings required by this act:
 - (1) Shall be equipped with signal lamps mounted as high and as widely spaced laterally as practicable, which shall display to the front two alternately flashing red lights located at the same level and to the rear two alternately flashing red lights located at the same level, and these lights shall be visible at 500 feet in normal sunlight; and
 - (2) Every new school bus put into initial service after July 1, 2007, shall be equipped with a white flashing strobe light mounted on the roof of such bus to afford optimum visibility.
- (b) Any school bus, in addition to the lights required by subsection (a), may be equipped with:
 - (1) Yellow signal lamps mounted near each of the four red lamps and at the same level but closer to the vertical centerline of the bus, which shall display two alternately flashing yellow lights to the front and two alternately flashing yellow lights to the rear, and these lights shall be visible at 500 feet in normal sunlight. These lights shall be displayed by the school bus driver at least 200 feet, but not more than 1,000 feet, before every stop at which the alternately flashing red lights required by subsection (a) will be actuated; or

(2) Head lamps which alternately flash on low beam or simultaneously flash on low beam, except such head lamps shall only be activated during daylight hours.

(c) The provisions of this section shall be subject to the provisions contained in K.S.A. 8-2009a, and amendments thereto. (K.S.A. 8-1730)

Sec. 171. Lighting Equipment and Warning Devices on Church Buses and Day Care Program Buses. Any church bus, or day care program bus, in addition to any other equipment and distinctive markings required by law, may be equipped with:

- (a) Signal lamps which conform to the requirements of Section 170, and rules and regulations adopted pursuant thereto; and
- (b) A stop signal arm which conforms to requirements therefor applicable to school buses which have been adopted by rules and regulations of the state board of education. (K.S.A. 8-1730a)

Sec. 172. Highway Construction and Maintenance Vehicles. It shall be unlawful to operate any snow removal and other highway maintenance and service equipment on any highway unless the lamps thereon comply with and are lighted when and as required by the standards and specifications adopted by the Secretary of Transportation. (K.S.A. 8-1731)

Sec. 173. Brakes; Performance Requirements.

- (a) Every motor vehicle and every combination of vehicles shall have a service braking system which will stop such vehicle or combination within 40 feet from an initial speed of 20 miles per hour on a level, dry, smooth, hard surface.
- (b) Every motor vehicle and combination of vehicles shall have a parking brake system adequate to hold such vehicle or combination on any grade on which it is operated under all conditions of loading, on a surface free from snow, ice or loose material.
- (c) When necessary for the safe operation of any vehicle or class of vehicles, the secretary of transportation may require additional braking systems. Every vehicle must comply with any additional requirements.

- (d) The provisions of this section shall not apply to vehicles registered pursuant to K.S.A. 8-166 *et seq.* and any amendments thereto. (K.S.A. 8-1734)

Sec. 174. Horns and Warning Devices.

- (a) Every motor vehicle when operated upon a highway shall be equipped with a horn in good working order and capable of emitting sound audible under normal conditions from a distance of not less than 200 feet, but no horn or other warning device shall emit an unreasonably loud or harsh sound or a whistle. The driver of a motor vehicle shall when reasonably necessary to insure safe operation shall give audible warning with his horn, but shall not otherwise use such horn when upon a highway.
- (b) No vehicle shall be equipped with nor shall any person use upon a vehicle any siren, whistle or bell, except as otherwise permitted in this section.
- (c) Any vehicle may be equipped with a theft alarm signal device which is so arranged that it cannot be used by the driver as an ordinary warning signal. Such a theft alarm signal may use a whistle, bell, horn or other audible signal but shall not use a siren.
- (d) Every authorized emergency vehicle shall be equipped with a siren, whistle, or bell, capable of emitting sound audible under normal conditions from a distance of not less than 500 feet and of a type approved by the secretary of transportation, but such siren shall not be used except when such vehicle is operated in response to an emergency call or in the immediate pursuit of an actual or suspected violator of the law, in which said latter events the driver of such vehicle shall sound said siren when reasonably necessary to warn pedestrians and other drivers of the approach thereof.
- (e) Every truck specifically designed and equipped and used exclusively for garbage, refuse, or solid waste disposal operations shall be equipped with a whistle, bell, or other audible signal. Such whistle, bell, or other audible signal shall be used only when the driver of the truck is backing such truck. Notwithstanding the provisions of this section, a city may adopt an ordinance prohibiting the activation of such whistle, bell, or other audible signal during specific periods of time during the day. (K.S.A. 8-1738)

- (f) Every truck designed and used for collection and disposal of domestic or commercial waste or trash shall be equipped with vehicular hazard warning signal lamps for the purpose of warning the operators of other vehicles of the presence of a vehicular traffic hazard requiring the exercise of unusual care in approaching, overtaking or passing. Hazard warning signal lamps used to display such warning to the front shall be mounted at the same level and as widely spaced laterally as practicable and shall display simultaneously flashing amber lights. On any vehicle manufactured prior to January 1, 1969, the lamps showing to the front may display simultaneously flashing white or amber lights, or any shade of color between white and amber. The lamps used to display such warning to the rear shall be mounted at the same level and as widely spaced laterally as practicable, and shall show simultaneously flashing amber or red lights, or any shade of color between amber and red. Such warning lights shall be visible from a distance of not less than 500 feet in normal sunlight. (K.S.A. 8-1722)

Sec. 175. Noise Prevention; Mufflers.

- (a) Every vehicle shall be equipped, maintained and operated so as to prevent excessive or unusual noise. Every motor vehicle at all times shall be equipped with a muffler or other effective noise suppressing system in good working order and in constant operation, and no person shall use a muffler cutout, bypass or similar device.
- (b) The engine and power mechanism of every motor vehicle shall be so equipped and adjusted as to prevent the escape of excessive fumes or smoke. (K.S.A. 8-1739)

Sec. 175.1. Compression Release Engine Braking System.

- (a) It shall be unlawful for the driver of any motor vehicle to use or cause to be used or operated any compression release engine braking system without such motor vehicle being equipped with a muffler in accordance with Section 175.
- (b) As used in this section, "compression release engine braking system" means a hydraulically operated device that converts a power producing diesel engine into a power absorbing retarding mechanism. (K.S.A. 8-1761)

Sec. 176. Mirrors.

- (a) Every motor vehicle shall be equipped with a mirror mounted on the left side of the vehicle and so located as to reflect to the driver a view of the highway to the rear of the vehicle.
- (b) Every motor vehicle, except a motorcycle, shall be equipped with an additional mirror mounted either inside the vehicle approximately in the center or outside the vehicle on the right side and so located as to reflect to the driver a view of the highway to the rear of the vehicle.
- (c) All mirrors required by regulations of the United States department of transportation shall be maintained in good condition. (K.S.A. 8-1740)

Sec. 177. Windshields Must Be Unobstructed and Equipped with Wipers; Eye Protection.

- (a) No person shall drive any motor vehicle with any sign, poster or other nontransparent material upon the front windshield, side wings, side or rear windows of such vehicle which substantially obstructs, obscures or impairs the driver's clear view of the highway or any intersecting highway.
- (b) No person shall drive any motor vehicle with a damaged front windshield or side or rear windows which substantially obstructs the driver's clear view of the highway or any intersecting highway.
- (c) The windshield on every motor vehicle shall be equipped with a device for cleaning rain, snow or other moisture from the windshield, which device shall be so constructed as to be controlled or operated by the driver of the vehicle.
- (d) Every windshield wiper upon a motor vehicle shall be maintained in good working order. (K.S.A. 8-1741)

Sec. 178. Restrictions as to Tire Equipment.

- (a) Every solid rubber tire on a vehicle shall have rubber on its entire traction surface at least one inch thick above the edge of the flange of the entire periphery.
- (b) No person shall operate or move on any highway any motor vehicle, trailer, or semitrailer having any metal tire in contact with the roadway.
- (c) No tire on a vehicle moved on a highway shall have on its periphery any protuberance of any material other than rubber which projects beyond the tread of the traction surface of the tire, except that it shall be permissible to use:
 - (1) Farm machinery with tires having protuberances which will not injure the highway;
 - (2) Tire chains of reasonable proportions upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid;
 - (3) Studded traction equipment upon any vehicle when required for safety because of snow, ice or other conditions tending to cause a vehicle to skid; or
 - (4) Pneumatic tires having metallic or nonmetallic studs designed to improve traction without materially injuring the surface of the highway. To qualify under paragraph (3) or (4), such tires or studded traction equipment shall be approved by the secretary of transportation by adoption of rules and regulations, and their use may be limited to certain months or types of vehicles by such rules and regulations.
- (d) The governing body may issue special permits authorizing the operation upon a highway of traction engines or tractors having movable tracks with transverse corrugations upon the periphery of such movable tracks or farm tractors or other farm machinery, the operation of which upon a highway would otherwise be prohibited under this ordinance.
- (e) It is unlawful for any person to operate a motor vehicle or combination of vehicles having one or more tires in

an unsafe condition. A solid rubber tire is in an unsafe condition if it does not comply with the provisions of subsection (a). A pneumatic tire is in an unsafe condition if it has:

- (1) Any part of the ply or cord exposed;
 - (2) Any bump, bulge or separation;
 - (3) A tread design depth of less than one-sixteenth (1/16) inch measured in any two or more adjacent tread grooves, exclusive of tie bars, or, for those tires with tread wear indicators worn to the level of the tread wear indicators in any two tread grooves;
 - (4) A marking "not for highway use" or "for racing purposes only" or "unsafe for highway use";
 - (5) Tread or sidewall cracks, cuts or snags deep enough to expose the body cord;
 - (6) Been regrooved or recut below the original tread design depth, excepting special taxi tires which have extra undertread rubber and are identified as such; or
 - (7) Such other conditions as may be reasonably demonstrated to render it unsafe.
- (f) The provisions of subsection (e) shall not apply to a vehicle or combination of vehicles being transported by a wrecker or tow truck.
- (g) It shall be unlawful for any person to operate a vehicle with a single tire on any hubs configured for a dual tire assembly. The provisions of this subsection shall not apply:
- (1) To any truck registered for a gross weight of 20,000 pounds or less;
 - (2) To any vehicle or combination of vehicles operating with wide-base single tires, as defined in K.S.A. 8-1742b, and amendments thereto, on any hubs configured for a dual tire assembly;
 - (3) To any single axle with hubs configured for a dual tire assembly when such single axle does not exceed 9,000 pounds and is a part of a triple-axle combination; or
 - (4) In cases of emergency.
- (h) No person in the business of selling tires shall sell or offer for sale for highway use any tire which is in unsafe condition or which has tread depth of less than one-sixteenth (1/16) inch measured as specified in subsection (e). (K.S.A. 8-1742; K.S.A. 8-1742a)

Sec. 178.1. Wide-Base Single Tires.

- (a) The following shall apply where wide-base single tires are used in the operation of any vehicle or combination of vehicles:
 - (1) The maximum load for a wide-base single tire on a steering axle shall not exceed 600 pounds per inch of tire section width. The maximum load for a wide-base single tire on any other axle shall not exceed 575 pounds per inch of tire section width;
 - (2) No wide-base single tire shall exceed the load designated by the manufacturer; and
 - (3) The maximum tire inflation pressures shall be as designated by the manufacturer.
- (b) The provisions of paragraph (1) of subsection (a) shall apply to all wide-based single tires purchased after July 1, 1993.
- (c) Any conviction or forfeiture of bail or bond for any violation of this section shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto. (K.S.A. 8-1742b)

Sec. 179. Spilling Loads on Highways Prohibited.

- (a) No vehicle shall be driven or moved on any highway unless such vehicle is so constructed or loaded as to prevent any of its load from dropping, sifting, leaking or otherwise escaping therefrom, except that:
 - (1) This section shall not prohibit the necessary spreading of any substance in highway maintenance or construction operations; and
 - (2) (A) Subsections (a) and (c) shall not apply to:
 - (i) trailers or semitrailers when hauling livestock if such trailers or semitrailers are properly equipped with a cleanout trap and such trap is operated in a closed position unless material is intentionally spilled when the trap is in a closed position; or
 - (ii) trucks, trailers or semitrailers when hauling agricultural forage commodities intrastate from the place of production to a market or place of storage or from a place of storage to a place of use. The provisions of this clause shall not apply to trucks, trailers or semitrailers hauling:

- (a) Hay bales; or
- (b) other packaged or bundled forage commodities.

(B) Paragraph (2)(A)(i) shall not apply to trailers or semitrailers used for hauling livestock when livestock are not being hauled in such trailers or semitrailers.

- (b) All trailers or semitrailers used for hauling livestock shall be cleaned out periodically.
- (c) No person shall operate on any highway any vehicle with any load unless such load and any covering thereon is securely fastened so as to prevent the covering or load from becoming loose, detached or in any manner a hazard to other users of the highway. (K.S.A. 8-1906)

Sec. 180. Trailers and Towed Vehicles; Drawbar Connections and Safety Hitch.

- (a) When one vehicle is towing another, the drawbar, tow bar or other connections shall be of sufficient strength to pull, stop and hold all weight towed thereby, and so designed, constructed and installed as to insure that any vehicle or motor vehicle towed on a level, smooth, paved surface will follow in the path of the towing vehicle when it is moving in a straight line. In addition to the drawbar connections between any two such vehicles, there shall be provided an adequate safety hitch.
- (b) When one vehicle is towing another and the connection consists of a chain, rope or cable, there shall be displayed upon such connection a white flag or cloth not less than 12 inches square.
- (c) Motor vehicles in transit may be transported in combination by means of tow bar, saddle-mount or full-mount mechanisms, utilizing the motive power of one of the motor vehicles in such combination, except that not more than two vehicles in any such combination of motor vehicles in transit may be connected by means of a tow bar mechanism. Whenever motor vehicles are transported as authorized in this subsection, such motor vehicles shall be connected securely in combination in accordance with rules and regulations adopted by the secretary of transportation, and any combination of such motor vehicles shall comply with the limitations prescribed by K.S.A. 8-1904, and amendments thereto.

- (d) Except as otherwise provided in subsection (c), not more than three vehicles, including the towing vehicle, in any combination of vehicles may be connected by means of a tow bar mechanism, and if the three such vehicles are connected by tow bar mechanisms, the tow bar mechanism between the towing vehicle and the first towed vehicle shall be equipped with an anti-sway mechanism. In addition, the second towed vehicle of every combination of vehicles so connected shall be equipped with service brakes acting on the wheels of at least one axle, and which are of a type approved by the secretary of transportation and of such character as to be applied automatically and promptly. (K.S.A. 8-1907)

Sec. 181. One-Way Glass and Sun Screening Devices.

- (a) No motor vehicle required to be registered in this state and that is operated on the highways of this city shall be equipped with one-way glass or any sun screening device, as defined in Section 1, and used in conjunction with windshields, side wings, side windows or rear windows that do not meet the following requirements:
 - (1) A sun screening device when used in conjunction with the windshield shall be nonreflective and shall not be red, yellow or amber in color. A sun screening device shall be used only along the top of the windshield and shall not extend downward beyond the AS1 line which is clearly defined and marked;
 - (2) A sun screening device when used in conjunction with the side wings or side windows located at the immediate right and left of the driver, the side windows behind the driver and the rear most window shall be nonreflective; and
 - (3) The total light transmission shall not be less than 35% when a sun screening device is used in conjunction with other existing sun screening devices.
- (b) Subsection (a) (3) shall not apply to a window of a law enforcement motor vehicle.

- (c) The provisions of subsection (a) shall not apply to the installation, affixation or application of a clear, colorless and transparent material that may be installed, affixed or applied to the windshields, side wings, side windows or rear windows of a motor vehicle if the following conditions are met:
- (1) The material has a minimum visible light transmittance of 78%;
 - (2) The window glazing with the material applied meets all requirements of federal motor vehicle safety standard no. 205, including the specified minimum light transmittance of 70% and the abrasion resistance of AS-14 glazing, as specified in that federal standard;
 - (3) The material is designed and manufactured to enhance the ability of the existing window glass to block the sun's harmful ultraviolet A or B rays;
 - (4) The driver or occupant of the vehicle possesses a signed statement from a licensed physician or licensed optometrist that:
 - (A) Identifies with reasonable specificity the driver or occupant of the vehicle; and
 - (B) States that, in the physician's or optometrist's professional opinion, the equipping of the vehicle with the material is necessary to safeguard the health of the driver or occupant of the vehicle; and
 - (C) If the material described in this subsection tears or bubbles, or is otherwise worn to prohibit clear vision, it shall be removed or replaced.
- (d) Any driver who is issued a citation for failure to possess a signed statement pursuant to subsection (c)(4) shall have 60 days to either produce in court a signed statement or remove the material described in subsection (c). If such driver produces the signed statement or submits proof to the satisfaction of the court that the material described in subsection (c) has been removed, then the court shall dismiss the citation.
- (e) This section shall not prohibit labels, stickers or other informational signs that are required or permitted by law.

- (f) No motor vehicle required to be registered in this state that is operated on the highways of this city shall be equipped with head lamps that are covered with any sun screening device, adhesive film or other glaze or application which, when such lamps are not in operation, is highly reflective or otherwise nontransparent.
- (g) Any person violating the provisions of (a) or (f) of this section shall be in violation of this ordinance and punished as provided in Section 201.
- (h) Any person who installs a sun screening device on a motor vehicle which is not in compliance with the provisions of this section, upon conviction, shall be guilty of a violation of this ordinance and shall be punished by a fine of not more than \$500 or by imprisonment for not more than one month or by both such fine and imprisonment. (K.S.A. 8-1749a; K.S.A. 8-1749c)

Sec. 182. Child Passenger Safety Restraining System.

- (a) Every driver who transports a child under the age of 14 years in a passenger car or an autocyte on a highway shall provide for the protection of such child by properly using:
 - (1) For a child under the age of four years an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213;
 - (2) For a child four years of age, but under the age of eight years and who weighs less than 80 pounds or is less than 4 feet 9 inches in height, an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213; or
 - (3) For a child 8 years of age but under the age of 14 years or who weighs more than 80 pounds or is more than 4 feet 9 inches in height, a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208.
- (b) If the number of children subject to the requirements of subsection (a) exceeds the number of passenger

securing locations available for use by children affected by such requirements, and all of these securing locations are in use by children, then there is not a violation of this section.

- (c) If a securing location only has a lap safety belt available, the provisions of subsection (a)(2) shall not apply and the child shall be secured in accordance with the provisions of subsection (a)(3).
- (d) It shall be unlawful for any driver to violate the provisions of subsection (a) and upon conviction such driver shall be punished by a fine of \$60. The failure to provide a child safety restraining system or safety belt for more than one child in the same passenger car or autocycle at the same time shall be treated as a single violation. Any conviction under the provisions of this subsection shall not be construed as a moving traffic violation for the purpose of K.S.A. 8-255, and amendments thereto.
- (e) The \$60 fine provided for in subsection (d) shall be waived if the driver convicted of violating subsection (a) (1) or (a)(2) provides proof to the court that such driver has purchased or acquired the appropriate and approved child passenger safety restraining system. At the time of issuing the citation for a violation of subsection (a)(1) or (a)(2), the law enforcement officer shall notify the driver of the waiver provisions of this subsection.
- (f) No driver charged with violating the provisions of this section shall be convicted if such driver produces in the office of the arresting officer or in court proof that the child was 14 years of age or older at the time the violation was alleged to have occurred.
- (g) Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of this section shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.

- (h) As used in this section **passenger car** means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying 10 passengers or fewer, including vans, but does not include a motorcycle, a trailer or a vehicle constructed either on a truck chassis registered for a gross weight of more than 12,000 pounds or a farm truck registered for a gross weight of more than 16,000 pounds. (K.S.A. 8-1343a-8-1345)

Sec. 182.1. Seat Belts.

- (a) Except as provided in subsection (b):
- (1) Each occupant of either a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208 or an auticycle, who is 18 years of age or older, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion; and
 - (2) Each occupant of either a passenger car manufactured with safety belts in compliance with federal motor vehicle safety standard no. 208 or an auticycle, who is at least 14 years of age but less than 18 years of age, shall have a safety belt properly fastened about such person's body at all times when the passenger car is in motion.
- (b) This section does not apply to:
- (1) An occupant of a passenger car who possesses a written statement from a licensed physician that such person is unable for medical reasons to wear a safety belt system;
 - (2) Carriers of United States mail while actually engaged in delivery and collection of mail along their specified routes; or
 - (3) Newspaper delivery persons while actually engaged in delivery of newspapers along their specified routes.

- (c) Law enforcement officers shall not stop drivers for violations of subsection (a)(1) by a backseat occupant in the absence of another violation of law. A citation for violation of subsection (a)(1) by a backseat occupant shall not be issued without citing the violation that initially caused the officer to effect the enforcement stop.
- (d)
 - (1) Persons convicted of violating subsection (a)(1) shall be guilty of a traffic infraction and fined \$30 and no court costs; and
 - (2) Persons convicted of violating subsection (a)(2) shall be guilty of a traffic infraction and fined \$60 and no court costs.
- (e) As used in this section, **passenger car** means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying 10 passengers or fewer, including vans, but does not include a motorcycle or a motor-driven cycle. (K.S.A. 8-2502 - 8-2504; K.S.A. 8-2116)

Sec. 182.1.2. Safety Belts and Shoulder Harnesses.

- (a) Every passenger car manufactured or assembled after January 1, 1965, shall be equipped with at least two (2) lap-type safety belt assemblies for use in the front seating positions.
- (b) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with a lap-type safety belt assembly for each permanent passenger seating position. This requirement shall not apply to police vehicles.
- (c) Every passenger car manufactured or assembled after January 1, 1968, shall be equipped with at least two (2) shoulder harness-type safety belt assemblies for use in the front seating positions.
- (d) The secretary of transportation shall except specified types of motor vehicles or seating positions within any motor vehicle from the requirements imposed by subsections (a) to (c) when compliance would be impractical.

- (e) No person shall distribute, have for sale, offer for sale or sell any safety belt or shoulder harness for use in motor vehicles unless it meets current minimum standards and specifications approved by the secretary of transportation. (K.S.A. 8-1749)

Sec. 182.2. Unlawful Riding on Vehicles; Persons Under Age 14.

- (a) It shall be unlawful for any person under the age of 14 years to ride on any vehicle or upon any portion thereof not designed or intended for use of passengers when the vehicle is in motion.
- (b) It shall be unlawful for the operator of any vehicle to allow any person under the age of 14 years to ride on any vehicle or upon any portion thereof not designed or intended for the use of passengers when the vehicle is in motion.
- (c) This section shall not apply to:
 - (1) An employee under the age of 14 years engaged in the necessary discharge of the employee's duty within truck bodies in space intended for merchandise or cargo; or
 - (2) When the vehicle is being operated in parades, caravans or exhibitions which are officially authorized or otherwise permitted by law.
- (d) The provisions of subsections (a) and (b) shall apply only when a vehicle is being operated within the corporate limits of the city. (K.S.A. 8-1578a)

Ref.: For Persons 14 Years of Age and Older see Sec. 115.

**Article 18. Equipment on Motorcycles
and Motor-Driven Cycles**

Sec. 183. Head Lamps.

- (a) Every motorcycle and every motor-driven cycle shall be equipped with at least one head lamp which shall comply with the requirements and limitations of this article.
- (b) Every head lamp upon every motorcycle and motor-driven cycle shall be located at a height of not more than 54 inches nor less than 24 inches to be measured as set forth in subsection (b) of Section 145.
- (c) Any headlamp, required by this section, may be wired with a headlamp modulation system provided the headlamp modulation system complies with federal standards established by 49 C.F.R. § 571.108. (K.S.A. 8-1801)

Ref.: Sec. 35.

Sec. 184. Tail Lamps.

- (a) Every motorcycle and motor-driven cycle shall have at least one tail lamp which shall be located at a height of not more than 72 nor less than 15 inches.
- (b) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of 50 feet to the rear. Any tail lamp or tail lamps, together with any separate lamp or lamps for illuminating the rear registration plate, shall be so wired as to be lighted whenever the head lamps or auxiliary driving lamps are lighted. (K.S.A. 8-1802)

Sec. 185. Reflectors. Every motorcycle and motor-driven cycle shall carry on the rear, either as part of the tail lamp or separately, at least one red reflector meeting the requirements of subsection (b) of Section 140. (K.S.A. 8-1803)

Sec. 186. Stop Lamps.

- (a) Every motorcycle and motor-driven cycle shall be equipped with at least one stop lamp meeting the requirements of subsection (a) of Section 161.
- (b) Every motorcycle manufactured after January 1, 1973, shall be equipped with electric turn signals meeting the requirements of subsection (b) of Section 161. Motor-driven cycles may, but need not, be equipped with electric turn signals.
- (c) In addition to the lamps otherwise permitted by this article, a motorcycle may be equipped with lamps on the sides thereof, visible from the side of the motorcycle but not from the front or the rear thereof, which lamps, together with mountings or receptacles, shall be set into depressions or recesses in the body or wheel of the motorcycle and shall not protrude beyond or outside the body or the wheel of the motorcycle. The light source may emit only white, amber or red light without glare. (K.S.A. 8-1804)

Sec. 187. Multiple-beam Road-lighting Equipment. Every motorcycle, other than a motor-driven cycle, shall be equipped with multiple-beam road-lighting equipment. Such equipment shall:

- (a) Reveal persons and vehicles at a distance of at least 300 feet ahead when the uppermost distribution of light is selected; and
- (b) Reveal persons and vehicles at a distance of at least 150 feet ahead when the lowermost distribution of light is selected, and on a straight, level road under any condition of loading, none of the high intensity portion of the beam shall be directed to strike the eyes of an approaching driver. (K.S.A. 8-1805)

Sec. 188. Lighting Equipment for Motor-Driven Cycles. The head lamp or head lamps upon every motor-driven cycle may be of the single-beam or multiple-beam type, but in either event shall comply with the requirements and limitations as follows:

- (a) Every such head lamp or head lamps on a motor-driven cycle shall be of sufficient intensity to reveal persons and vehicles at a distance of not less than 100 feet when the

motor-driven cycle is operated at any speed less than 25 miles per hour, and at a distance of not less than 200 feet when the motor-driven cycle is operated at a speed of 25 or more miles per hour, and at a distance of not less than 300 feet when the motor-driven cycle is operated at a speed of 35 or more miles per hour.

- (b) In the event the motor-driven cycle is equipped with a multiple-beam head lamp or head lamps, such equipment shall comply with the requirements of Section 187.
- (c) In the event the motor-driven cycle is equipped with a single-beam lamp or lamps, such lamp or lamps shall be so aimed that when the vehicle is loaded none of the high-intensity portion of light, at a distance of 25 feet ahead, shall project higher than the level of the center of the lamp from which it comes. (K.S.A. 8-1806)

Ref.: Sec. 35.

Sec. 189. Brake Equipment Required. Every motorcycle and motor-driven cycle shall comply with the provisions of subsection (a) of Section 173, except that the wheel of a sidecar attached to a motorcycle or to a motor-driven cycle, and the front wheel of a motor-driven cycle need not be equipped with brakes: provided, that such motorcycle or motor-driven cycle is capable of complying with the performance requirements of this article. (K.S.A. 8-1807)

Sec. 190. Performance Ability of Brakes. Upon application of the service brake, every motorcycle and motor-driven cycle, at all times and under all conditions of loading, shall be capable of stopping from a speed of 20 miles per hour in not more than 30 feet, such distance to be measured from the point at which movement of the service brake pedal or control begins.

Tests for stopping distance shall be made on a dry smooth, hard and substantially level surface, not to exceed 1% grade, that is free from loose material. (K.S.A. 8-1808)

Sec. 190.1. Approval of Braking Systems on Motor-driven Cycles; Suspension or Revocation of Registration; Prohibited.

- (a) The secretary of transportation is authorized to require an inspection of the braking system on any motor-driven cycle and to disapprove the braking system on any such vehicle which it finds will not comply with the performance ability standard set forth in K.S.A. 8-1808, or which in the opinion of the secretary is equipped with a braking system that is not so designed or constructed as to insure reasonable and reliable performance in actual use.
- (b) The director may refuse to register or may suspend or revoke the registration of any vehicle referred to in this section when the secretary of transportation determines that the braking system thereon does not comply with the provisions of this section.
- (c) No person shall operate on any highway any vehicle referred to in this section in the event the secretary of transportation has disapproved the braking system upon such vehicle. (K.S.A. 8-1809)

Sec. 191. Other Equipment.

- (a) Every motorcycle and every motor-driven cycle shall comply with the requirements and limitations of Section 174 on horns and warning devices, Section 175 on noise prevention and mufflers, Section 176 on mirrors and Section 178 on tires.
- (b) Every motorcycle and every motor-driven cycle shall comply with the requirements and limitations contained in this article, and unless otherwise specifically made applicable, motorcycles and motor-driven cycles shall not be subject to the requirements and limitations imposed elsewhere in this ordinance with respect to equipment on vehicles. (K.S.A. 8-1810)

Article 19. Driver's License and Vehicle Tags

Sec. 192. Driver's License.

- (a) No person, except those expressly exempted, shall drive any motor vehicle or motorized bicycle upon any highway in this city unless such person has a valid driver's license.
- (b) Any person operating in this city a motor vehicle, shall be the holder of a driver's license that is classified for the operation of such motor vehicle, and any person operating in this city a motorcycle that is registered in the state of Kansas shall be the holder of a class M driver's license.
- (c) No person shall drive any motorized bicycle upon a highway of this state unless such person: (1) Has a valid driver's license, that entitles the licensee to drive a motor vehicle in any class or classes; (2) is at least 15 years of age and has passed the written and visual examinations required for obtaining a class C driver's license, in which case the division shall issue to such person a class C license, which shall clearly indicate that such license is valid only for the operation of motorized bicycles; (3) has had their driving privileges suspended, for a violation other than a violation of K.S.A. 8-2,144, and amendments thereto, or a second or subsequent violation of K.S.A. 8-1567 or 8-1567a, and amendments thereto, and such person: (A) Has completed the mandatory period of suspension as provided in K.S.A. 8-1014, and amendments thereto; and (B) has made application and submitted a \$40 nonrefundable application fee to the division for the issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the division shall issue to such person a class C license, which shall clearly indicate that such license is valid only for the operation of motorized bicycles; or (4) has had their driving privileges revoked under K.S.A. 8-286, and amendments thereto, has not had a test refusal or test failure or alcohol or drug-related conviction, as those terms are defined in K.S.A. 8-1013, and amendments thereto, in the last five years, has not been convicted of a violation of K.S.A. 8-1568(b), and amendments thereto, in the last five years and has made application to the division for issuance of a class C license for the operation of motorized bicycles, in accordance with paragraph (2), in which case the

division shall issue such person a class C license, which shall clearly indicate that such license is valid only for the operation of motorized bicycles. As used in this subsection, "motorized bicycle" shall have the meaning ascribed to it in K.S.A. 8-126, and amendments thereto.

- (d) Violation of this section is punishable 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. (K.S.A. 8-235)

Sec. 193. Driver's License in Possession.

- (a) Every licensee shall have such person's driver's license in such person's immediate possession at all times when operating a motor vehicle. However, no person charged with violating this subsection shall be convicted if such person produces in court or the office of the arresting officer a driver's license theretofore issued to such person and valid at the time of arrest.
- (b) Every licensee operating a motor vehicle shall promptly deliver such person's driver's license upon demand of any law enforcement officer when the license is in such person's immediate possession at the time of the demand. (K.S.A. 8-244)

Sec. 194. Driving While License Canceled, Suspended or Revoked; Penalty.

- (a) (1) Any person who drives a motor vehicle on any street or highway at a time when such person's privilege so to do is canceled, suspended or revoked or while such person's privilege to obtain a driver's license is suspended or revoked pursuant to K.S.A. 8-252a and amendments thereto, shall upon a first conviction be punished by imprisonment for not more than six months or fined not to exceed \$1,000, or both such fine and imprisonment. On a second or subsequent conviction of a violation of this section such person shall be punished by imprisonment for not more than one year or fined not to exceed \$2,500, or both such fine and imprisonment.
- (2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257 and amendments thereto, to the return of such person's driver's license.

- (3) Except as otherwise provided by subsection (a) (4) or (b), every person convicted under this section shall be sentenced to at least five days' imprisonment and fined at least \$100 and upon a second conviction shall not be eligible for parole until completion of five days' imprisonment.
 - (4) Except as otherwise provided by subsection (b), if a person:
 - (A) Is convicted of a violation of this section, committed while the person's privilege to drive or privilege to obtain a driver's license was suspended or revoked for a violation of K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, or any ordinance of any city or resolution of any county or a law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes; and
 - (B) Is or has been also convicted of a violation of K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto, or any ordinance of any city or resolution of any county or law of another state, which ordinance or resolution or law prohibits the acts prohibited by those statutes, committed while the person's privilege to drive or privilege to obtain a driver's license was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least 90 days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.
- (b) A person on a third or subsequent conviction of this section shall be sentenced to not less than 90 days' imprisonment and fined not less than \$1,500 if such person's privilege to drive a motor vehicle is canceled, suspended, or revoked because such person:
- (1) Refused to submit and complete any test of blood, breath, or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;
 - (2) Was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;

- (3) Was convicted of vehicular homicide, K.S.A. 21-3405, prior to its repeal or K.S.A. 21-5406, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal or K.S.A. 21-5405(a)(3) and (a)(5), and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or
 - (4) Was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.
- (c) The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment.
- (d) For the purposes of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section, **conviction** includes a conviction of a violation of any ordinance of any city or resolution of any county or a law of any state which is in substantial conformity with this section. (K.S.A. 8-262)

Sec. 195. Driving in Violation of Restrictions.

- (a) No person shall operate a motor vehicle in violation of the restrictions on any driver's license or permit imposed pursuant to any statute.
- (b) Except as provided in subsection (c):
 - (1) Any person guilty of violating this section, upon the first conviction, shall be fined not to exceed \$250, and the court shall suspend such person's privilege to operate a motor vehicle for not less than 30 days and not more than two years.
 - (2) Any person guilty of violating this section, upon a second or subsequent conviction, shall be fined not to exceed \$500, and the court shall suspend such person's privilege to operate a motor vehicle for not less than 90 days and not more than two years.

- (c) Any person guilty of violating this section, for violating restrictions on a driver's license or permit imposed pursuant to K.S.A. 8-237, 8-296, 8-2,100, or 8-2,101, and amendments thereto:
 - (1) Upon first conviction, the court shall suspend such person's privilege to operate a motor vehicle for 30 days;
 - (2) Upon a second conviction, the court shall suspend such person's privilege to operate a motor vehicle for 90 days; and
 - (3) Upon a third or subsequent conviction, the court shall suspend such person's privilege to operate a motor vehicle for one year.

- (d) Nothing in this section shall limit the court in imposing penalties, conditions or restrictions authorized by any other ordinance arising from the same occurrence in addition to penalties and suspensions imposed under this section. (K.S.A. 8-291)

Ref.: Procedure for Imposing Restrictions, K.S.A. 8-292.

Sec. 195.1. Operation of a Motor Vehicle When a Habitual Violator. Except as allowed under subsection (d)(4) of K.S.A. 8-235, and amendments thereto, operation of a motor vehicle in this state when one's driving privileges are revoked pursuant to K.S.A. 8-286, and amendments thereto shall be punished by imprisonment for not more than one year or fined not to exceed \$2,500, or both such fine and imprisonment. The person found guilty of a third or subsequent conviction of this section shall be sentenced to not less than 90 days' imprisonment and fined not less than \$1,500. The person convicted shall not be eligible for release on probation, suspension, or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The court may place the person convicted under a house arrest program or any municipal ordinance to serve the remainder of the minimum sentence only after such person has served 48 consecutive hours' imprisonment. (K.S.A. 8-287)

Sec. 196. Unauthorized Operator. No person shall authorize or knowingly permit a motor vehicle owned by him or her or under such person's control to be driven upon any highway by any person who has no legal right to do so, or who does not have a valid driver's license. (K.S.A. 8-264)

Sec. 197. Unauthorized Minors. No person shall cause or knowingly permit his or her child or ward under the age of 18 years to drive a motor vehicle upon any highway when such minor person is not authorized under the laws of Kansas to drive a vehicle. (K.S.A. 8-263)

Sec. 198. Vehicle License; Illegal Tag.

(a) It shall be unlawful for any person to:

- (1) Operate, or for the owner thereof knowingly to permit the operation, upon a highway of any vehicle which is not registered, or for which a certificate of title has not been issued or which does not have attached thereto and displayed thereon the license plate or plates assigned thereto by the division for the current registration year, including any registration decal required to be affixed to any such license plate pursuant to K.S.A. 8-134, and amendments thereto, subject to the exemptions allowed in K.S.A. 8-135 and 8-198, and amendments thereto. A violation of this subsection (1) by a person unlawfully claiming that a motor vehicle is exempt from registration as a self-propelled crane under K.S.A. 8-128(b) and amendments thereto, shall constitute a violation punishable by a fine of not less than \$500. A person shall not be charged with a violation of this subsection (1) for failing to display a registration decal on any vehicle except those included under K.S.A. 8-1,101 and K.S.A. 8-143m and 8-1,152, and amendments thereto, up to and including the 10th day following the expiration of the registration if the person is able to produce a printed payment receipt or electronic payment receipt from an online electronic payment processing system for the current 12-month registration period. Any charge for failing to display a registration decal up to and including the 10th day following the expiration of the registration shall be dismissed if the person produces in court a registration receipt for the current 12-month registration period which was valid at the time of arrest.

- (2) Display or cause or permit to be displayed, or to have in possession, any registration receipt, certificate of title, registration license plate, registration decal, accessible parking placard or accessible parking identification card knowing the same to be fictitious or to have been canceled, revoked, suspended or altered. A violation of this subsection (2) shall constitute an ordinance violation punishable by a fine of not less than \$100 and forfeiture of the item. A mandatory court appearance shall be required of any person violating this subsection (2). This subsection (2) shall not apply to the possession of:
 - (A) Model year license plates displayed on antique vehicles as allowed under K.S.A. 8-172, and amendments thereto; or
 - (B) Distinctive license plates allowed under K.S.A. 8-1,147, and amendments thereto.
 - (3) Lend to, or knowingly permit the use by, one not entitled thereto any registration receipt, certificate of title, registration license plate or registration decal issued to the person so lending or permitting the use thereof.
 - (4) Remove, conceal, alter, mark or deface the license number plate or plates or any other mark of identification upon any vehicle. License plates shall be kept clean and they shall be placed on all vehicles within the city as required by law so as to be plainly legible.
 - (5) Carry or display a registered number plate or plates or registration decal upon any vehicle not lawfully issued for such vehicle.
- (b) Any person violating subsections (1), (2) or (3) shall be punished by a fine not exceeding \$2,500, or by imprisonment for not less than 30 days nor more than six months, or by both such fine and imprisonment. Any person violating subsections (4) or (5) shall be punished as provided in section 201(d) of this ordinance. (K.S.A. 8-142; K.S.A. 8-149)

Sec. 199. Unlawful Use of License.

- (a) It shall be unlawful for any person, for any purpose, to:
 - (1) Display or cause or permit to be displayed or have in possession any fictitious or fraudulently altered driver's license.

- (2) Lend any driver's license to any other person or knowingly permit the use thereof by another.
 - (3) Display or represent as the person's own, any driver's license not issued to the person.
 - (4) Fail or refuse to surrender to any police officer upon lawful demand any driver's license which has been suspended, revoked or canceled.
 - (5) Permit any unlawful use of driver's license issued to the person.
 - (6) Photograph, photostat, duplicate or in any way reproduce any driver's license or facsimile thereof in such a manner that it could be mistaken for a valid driver's license or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile unless authorized by law.
 - (7) Display or possess any photograph, photostat, duplicate or facsimile of a driver's license unless authorized by law.
 - (8) Display or cause or permit to be displayed any canceled, revoked or suspended driver's license.
- (b) Violation of paragraphs (1) or (8) of subsection (a) is punishable 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. Violation of paragraphs (2), (3), (4), (5), (6) or (7) of subsection (a) is punishable 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.
- (c) It shall be unlawful for any person to:
- (1) Lend any driver's license to, or knowingly permit the use of, any driver's license by any person under 21 years of age for use in the purchase of any alcoholic liquor.
 - (2) Lend any driver's license to, or knowingly permit the use of, any driver's license by a person under the legal age for consumption of cereal malt beverage for use in the purchase of any cereal malt beverage.
 - (3) Display, or cause to be displayed, or have in possession any fictitious or fraudulently altered driver's license by any person under 21 years of age for use in the purchase of any alcoholic liquor or cereal malt beverage.

- (d) (1) Upon a first conviction of a violation of any provision of subsection (c) a person shall be sentenced to not less than 100 hours of public service and fined not less than \$200 nor more than \$500.
- (2) On a second or subsequent conviction of a violation of any provision of subsection (c), a 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.
- (e) The provisions of this section shall apply to any driver's license, whether issued under the laws of this state or issued under the laws of another state or jurisdiction. (K.S.A. 8-260)

Sec. 200. Motor Vehicle Liability Insurance.

- (a) Every owner shall provide motor vehicle liability insurance coverage in accordance with the provisions of the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, *et seq.*, for every motor vehicle owned by such person, unless such motor vehicle: (1) Is included under an approved self-insurance plan as provided in K.S.A. 40-3104 (f); (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-5015, and amendments thereto, in an approved driver training course by a school district or an accredited nonpublic school under an agreement with a motor vehicle dealer, and such motor vehicle liability insurance coverage is provided by the school district or accredited nonpublic school; (3) is included under a qualified plan of self-insurance approved by an agency of the state in which such motor vehicle is registered and the form prescribed in subsection (b) of K.S.A. 40-3106, and amendments thereto, has been filed; or (4) is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101, *et seq.*
- (b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.
- (c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from the provisions of the Kansas Automobile Injury Reparations Act.

- (d) (1) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. Such evidence of financial security which meets the requirements of subsection (e) may be displayed on a cellular phone or any other type of portable electronic device. The law enforcement officer to whom such evidence of financial security is displayed shall view only such evidence of financial responsibility. Such law enforcement officer shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall transmit a copy of the insurance verification form prescribed by the secretary of revenue with the copy of the citation transmitted to the court.
- (2) No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.
- (e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c) or (d) shall be convicted if such person produces in court, within 10 days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. Such

evidence of financial security may be produced by displaying such information on a cellular phone or any other type of portable electronic device. Any person to whom such evidence of financial security is displayed on a cellular phone or any other type of portable electronic device shall be prohibited from viewing any other content or information stored on such cellular phone or other type of portable electronic device. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number, make and year of the vehicle, and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance.

- (f) Any person violating any provision of this section shall be guilty of a violation of this ordinance and subject to a fine of not less than \$300 nor more than \$1,000 or by imprisonment for a term of not more than six months, or both such fine and imprisonment, except that any person convicted of violating any provision of this section within three years of any such prior conviction shall be guilty of a violation of this ordinance and subject to a fine of not less than \$800 nor more than \$2,500 or by imprisonment for a term not to exceed one year, or both such fine and imprisonment. (K.S.A. 40-3104)

Article 20. Penalties Generally

Sec. 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. 8-2503, and amendments thereto, or 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. 8-2116; K.S.A. 21-6602; K.S.A. 21-6611)

Sec. 201.1. Failure to Comply with a Traffic Citation.

- (a) It shall be unlawful to fail to comply with a traffic citation. Failure to comply with a traffic citation means failure either to:
 - (1) Appear before the municipal court in response to a traffic citation and pay in full any fine and court costs imposed; or
 - (2) Otherwise comply with a traffic citation issued for an ordinance traffic infraction. Failure to comply with a traffic citation shall be unlawful regardless of the disposition of the charge for which such citation was originally issued.
- (b) (1) In addition to penalties of law applicable under subsection (a), when a person fails to comply with a traffic citation, except for illegal parking, standing, or stopping, the municipal court in which the person should have complied with the citation shall mail notice to the person that if the person does not appear in municipal court or pay all fines, court costs and any penalties within 30 days from the date of mailing notice, the division

of vehicles will be notified to suspend the person's driving privileges. The municipal court may charge an additional fee of \$5 for mailing such notice. Upon the person's failure to comply within such 30 days of mailing notice, the municipal court shall electronically notify the division of vehicles. Upon receipt of a report of a failure to comply with a traffic citation under this subsection, pursuant to K.S.A. 8-255, and amendments thereto, the division of vehicles shall notify the violator and suspend the license of the violator until satisfactory evidence of compliance with the terms of the traffic citation has been furnished to the informing court. When the court determines the person has complied with the terms of the traffic citation, the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension or suspension action.

- (2) (A) In lieu of suspension under paragraph (1), the driver may submit to the division of vehicles a written request for restricted driving privileges.
- (B) A person whose driver's license has expired during the period when such person's driver's license has been suspended for failure to pay fines for traffic citations, the driver may submit to the division of vehicles a written request for restricted driving privileges, An individual shall not qualify for restricted driving privileges pursuant to this section unless the following conditions are met:
- (i) The suspended license that expired was issued by the division of vehicles;
 - (ii) the suspended license resulted from the individual's failure to comply with a traffic citation pursuant to subsection (b) (1) and;
 - (iii) the traffic citation that resulted in the failure to comply pursuant to subsection (b)(1) was issued in this state.

- (C) Upon review and approval of the driver's eligibility, the driving privileges will be restricted by the division of vehicles for a period up to one year or until the terms of the traffic citation have been complied with and the court shall immediately electronically notify the division of vehicles of such compliance. If the driver fails to comply with the traffic citation within the one year restricted period, the driving privileges will be suspended by the division of vehicles until the court determines the person has complied with the terms of the traffic citation and the court shall immediately electronically notify the division of vehicles of such compliance. Upon receipt of notification of such compliance from the informing court, the division of vehicles shall terminate the suspension action. When restricted driving privileges are approved pursuant to this section, the person's driving privileges shall be restricted to driving only under the following circumstances:
- (i) In going to or returning from the person's place of employment or schooling;
 - (ii) In the course of the person's employment;
 - (iii) In going to or returning from an appointment with a health care provider or during a medical emergency;
 - (iv) In going to and returning from probation or parole meetings, drug or alcohol counseling or any place the person is required to go by a court.

- (c) On and after July 1, 2018, except as provided in subsection (d), when the municipal court notifies the division of vehicles of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$100 for each charge on which the person failed to make satisfaction regardless of the disposition of the charge for which such citation was originally issued and regardless of any application for restricted driving privileges. Such reinstatement fee shall be in addition to any fine, restricted driving privilege application fee, district or municipal court costs and other penalties. The court shall remit all reinstatement fees to

the state treasurer in accordance with the provisions of K.S.A. 75–4215, and amendments thereto. Upon receipt of each such remittance, the state treasurer shall deposit the entire amount in the state treasury and shall credit the first \$15 of such reinstatement fee to the judicial branch nonjudicial salary adjustment fund and of the remaining amount, 29.41% of such moneys to the division of vehicles operating fund, 22.06% to the community alcoholism and intoxication programs fund created by K.S.A. 41–1126, and amendments thereto, 7.36% to the juvenile alternatives to detention fund created by K.S.A. 79–4803, and amendments thereto, and 41.17% to the judicial branch nonjudicial salary adjustment fund created by K.S.A. 2018 Supp. 20–1a15, and amendments thereto.

- (d) The municipal court shall waive the reinstatement fee provided for in subsection (c), if the failure to comply with a traffic citation was the result of such person enlisting in or being drafted into the armed services of the United States, being called into service as a member of a reserve component of the military service of the United States, or volunteering for such active duty, or being called into service as a member of the State of Kansas national guard, or volunteering for such active duty, and being absent from Kansas because of such military service. In any case of a failure to comply with a traffic citation which occurred on or after August 1, 1990, and prior to the effective date of this act, in which a person was assessed and paid a reinstatement fee and the person failed to comply with a traffic citation because the person was absent from Kansas because of any such military service, the reinstatement fee shall be reimbursed to such person upon application therefor.
- (e) (1) A person who is assessed a reinstatement fee pursuant to subsection (c) may petition the court that assessed the fee at any time to waive payment of the fee, any additional charge imposed pursuant to subsection (f), or any portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person or the person's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.

- (2) A person who is assessed a fine or court costs for a traffic citation may petition the court that assessed the fine or costs at any time to waive payment of the fine or costs, or any portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person or the person's immediate family, the court may waive payment of all or part of the amount due or modify the method of payment.
- (f) Except as provided further, the reinstatement fee established in this section shall be the only fee collected or moneys in the nature of a fee collected for such reinstatement. Such fee shall only be established by an act of the legislature and no other authority is established by law or otherwise to collect a fee. On and after July 1, 2019, through June 30, 2025 the supreme court may impose an additional charge, not to exceed \$22 per reinstatement fee, to fund the costs of non-judicial personnel. (K.S.A. 8-2110, as amended)

Sec. 202. Parties to a Violation. Every person who commits, attempts to commit, conspires to commit, or aids or abets in the commission of, any act declared herein to be unlawful, whether individually or in connection with one or more other persons or as a principal, agent or accessory, shall be guilty of such offense, and every person who falsely, fraudulently, forcibly, or willfully induces, causes, coerces, requires, permits or directs another to violate any provision of this ordinance is likewise guilty of such offense. (K.S.A. 8-2101)

Sec. 203. Offenses by Persons Owning or Controlling Vehicles. It is unlawful for the owner, or any other person, employing or otherwise directing the driver of any vehicle, to require or knowingly to permit the operation of such vehicle upon a highway in any manner contrary to this ordinance. (K.S.A. 8-2102)

Sec. 204. Fines Doubled in Road Construction and School Zones.

- (a) Fines listed in the schedule of fines, as established by the municipal court judge, shall be doubled if a person is convicted of an ordinance traffic infraction, which is defined as a moving violation in accordance with rules and regulations adopted pursuant to K.S.A. 8-249, and amendments thereto, committed within any road construction zone.

- (b) Fines listed in the schedule of fines, as established by the municipal court judge relating to exceeding the maximum speed limit, shall be doubled if a person is convicted of exceeding the maximum speed limit in a school zone authorized under subsection (a)(4) of K.S.A. 8-1560, and amendments thereto. (K.S.A. 8-2118)

Article 21. Severability

Sec. 205. Severability. If any provision of this code 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.

APPENDIX A

Statutes Affecting or Limiting Powers of Cities

K.S.A. 8-136, 8-198, 66-1109.

Wrecker or Tow Trucks, Licensing.

K.S.A. 8-235.

Licenses Required; City License, When. Provides that cities may require licenses of persons driving taxicabs or municipally franchised transit systems.

K.S.A. 8-253.

Duty of Municipal Court to Report Convictions; Forms to Be Used; Conviction Defined; Notice of Disposition of Appeals.

K.S.A. 8-254, 8-288, 8-1567.

Drivers' Licenses; Restrictions and Suspensions; Penalties for Violation.

K.S.A. 8-284 *et seq.*

Habitual Traffic Violator.

K.S.A. 8-1102.

Abandoned Vehicles; Removal, Storage; Notice; Sale at Auction.

K.S.A. 8-1338.

Speed Limits—Change from Statutory Limits. City may on basis of engineering and traffic investigation decrease speed limit at intersections, increase limit within an urban district not to exceed 55 m.p.h., decrease limit outside an urban district and in school zones within an urban district but not to less than 20 m.p.h. and declare maximum speed for arterial streets.

K.S.A. 8-1525.

Restrictions on Use of Controlled Access Facilities. Cities may by ordinance prohibit the use of such facilities by class or kind of traffic found to be incompatible with normal and safe flow of traffic.

K.S.A. 8-1911.

Permits for Excess Size and Weight. City may in its discretion upon proper application issue permit to operate or move vehicle over city streets of a size or weight exceeding maximum specified in state act. State connecting link not included.

K.S.A. 8-1912.

Use of Street or Bridge—City Authority to Restrict. City authorized by ordinance to prohibit operation of vehicles or impose restrictions as to weight of vehicles upon designated street for not to exceed 90 days. City may by ordinance prohibit operation of trucks or other commercial vehicles or limit weight on designated streets (except connecting link unless approved alternate route provided). City may fix limit on weight of vehicles which may use bridges.

K.S.A. 8-1914.

Issuance of Special Permits for Operation of Vehicles from Kansas Turnpike Authority Toll Booths and Motor-freight Truck Terminals. The secretary of transportation with respect to highways under the secretary's jurisdiction and local authorities with respect to highways under their jurisdiction may issue permits authorized under the provisions of K.S.A. 8-1911, and amendments thereto, for the operation of combinations of vehicles operating on a route designated by the secretary or local authority between a Kansas turnpike authority toll booth and a motor-freight truck terminal located within a ten-mile radius of any such toll booth, except at the northeastern end of the turnpike at which location a twenty-mile radius shall apply.

K.S.A. 8-2001.

Provisions of Traffic Act Uniform. Provides that no city shall enact or enforce any rule or regulation in conflict with provisions of the State Act.

K.S.A. 8-2002.

Powers of Cities Generally. Section lists a number of specific areas in which cities may regulate traffic and vehicles.

K.S.A. 8-2005.

Traffic Control Devices—Placing and Maintenance. Provides for the placing and maintenance of traffic control devices on city streets. Approval of secretary of transportation required upon highway connecting links.

K.S.A. 8-2006.

Restrictions on Pedestrian Crossings. Local authorities, by ordinance or resolution, and the secretary of transportation, by erecting appropriate official traffic-control devices, are hereby empowered within their respective jurisdictions to prohibit pedestrians from crossing any roadway in a business district or any designated highways except in a crosswalk.

K.S.A. 8-2007.

Same; Unmarked Crosswalks. The secretary of transportation and local authorities in their respective jurisdictions, after an engineering and traffic investigation, may designate unmarked crosswalk locations where pedestrian crossing is prohibited or where pedestrians must yield the right-of-way to vehicles. Such restrictions shall be effective only when official traffic-control devices indicating the restrictions are in place.

K.S.A. 8-2115.

Duty to Report Conviction or Forfeiture of Bail or Appearance Bond; Forms To Be Used.

K.S.A. 8-2117.

Prosecution of Certain Juvenile Traffic Offenses; Disposition.

K.S.A. 8-2118.

Traffic Infractions.

K.S.A. 72-9101 *et seq.*

Regulation of Traffic on School Grounds.

APPENDIX B

Ordinance Traffic Infractions

The following sections of the Standard Traffic Ordinance (STO) are classified as Ordinance Traffic Infractions by state law (K.S.A. 8-2118). The fine for violation of these sections must be established by the municipal judge in a schedule of fines. (K.S.A. 12-4305) The sections of the STO shown prohibit the same offense prohibited by state statute. The description of offense is for reference only and is not a legal description.

<u>STO</u> <u>Section</u>	<u>Statute</u>	<u>Description of Offense</u>
6.1	8-1531a	Failure to comply with restrictions in road construction zone
12	8-1507	Disobeying traffic control device
13	8-1508	Violating traffic control signal
14	8-1509	Violating pedestrian control signals
15	8-1510	Violating flashing traffic signals
16	8-1511	Violating lane-control signal
17	8-1512	Unauthorized sign, signal, marking or device
26.1	8-15,107	Failure to Remove Vehicles in Accidents
32	8-1557	Unsafe speed for prevailing conditions
33	8-1558	to exceeding maximum speed limit; or
	8-1559	establishing speed limits in road construction zones; or
	8-1560	speeding in posted zone
33.1	8-1563	Speeding in certain vehicles or on posted bridge
34	8-1561	Impeding normal traffic by slow speed
35	8-1562	Speeding on motor-driven cycle
38	8-1514	Driving on left side of roadway
38.1	8-1579	Improper driving in defiles, canyons, or on grades
39	8-1515	Failure to keep right to pass oncoming vehicle
40	8-1516	Improper passing; increasing speed when passed
40.1	8-15,112	Passing a stationary waste collection vehicle
40.2	2021, SB 67 Sec. 5	Passing a stationary authorized utility or telecommunication vehicle
41	8-1517	Improper passing on right
42	8-1518	Passing on left with insufficient clearance

<u>STO</u> <u>Section</u>	<u>Statute</u>	<u>Description of Offense</u>
43	8-1519	Driving on left side where curve, grade, intersection railroad crossing, or obstructed view
44	8-1520	Driving on left in no passing zone
45	8-1521	Driving wrong direction on one-way road
46	8-1522	Improper driving on laned roadway
47	8-1523	Following too close
48	8-1524	Improper crossover on divided highway
49	8-1545	Improper turn or approach
51	8-1546	Improper "U" turn
53	8-1547	Unsafe starting of stopped vehicle
54	8-1548	Unsafe turning or stopping, failure to give proper signal; using turn signal unlawfully
55	8-1549	Improper method of giving notice of intention to turn
56	8-1550	Improper hand signal
57	8-1526	Failure to yield right-of-way at uncontrolled intersection
58	8-1527	Failure to yield to approaching vehicle when turning left
59	8-1528	Failure to yield at stop or yield sign
60	8-1529	Failure to yield from private road or driveway
61	8-1530	Failure to yield to emergency vehicle
61.1	8-1520a	Unlawful passing of stopped emergency vehicle
62	8-1531	Failure to yield to pedestrian or vehicle working on roadway
62	8-1531	Failure to comply with restrictions in road construction zone
63	8-1532	Disobeying pedestrian traffic control device
64	8-1533	Failure to yield to pedestrian in crosswalk; pedestrian suddenly entering roadway; passing vehicle stopped for pedestrian at crosswalk
64.1	8-15,103	School crossing guard; disobeying
65	8-1534	Improper pedestrian crossing
66	8-1535	Failure to exercise due care in regard to pedestrian
67	8-1536	Improper pedestrian movement in crosswalk
68	8-1537	Improper use of roadway by pedestrian
69	8-1538	Soliciting ride or business on roadway

<u>STO</u>		
<u>Section</u>	<u>Statute</u>	<u>Description of Offense</u>
70	8-1539	Driving through safety zone
71	8-1540	Failure to yield to pedestrian on sidewalk
72	8-1541	Failure of pedestrian to yield to emergency vehicle
73	8-1542	Failure to yield to blind pedestrian
75	8-1544	Pedestrian disobeying bridge or railroad signal
76	8-1551	Failure to stop or obey railroad crossing signal
77	8-1552	Failure to stop at railroad crossing stop sign
78	8-1553	Certain hazardous vehicles failure to stop at railroad crossing
79	8-1554	Improper moving of heavy equipment at railroad crossing
80	8-1555	Vehicle emerging from alley, private roadway, building or driveway
81	8-1556	Improper passing of school bus; improper use of school bus signals
82	8-1556a	Improper passing of church or day-care bus; improper use of signals
83	8-1569	Improper stopping, standing or parking on roadway
85	8-1571	Parking, standing or stopping in prohibited area
86	8-1572	Improper parking
107	8-1573	Unattended vehicle
108	8-1576	Driving with view or driving mechanism obstructed
109	8-1580	Coasting
110	8-1581	Following fire apparatus too closely
111	8-1582	Driving over fire hose
112	8-1583	Putting glass, etc., on highway
112.1	8-15,102	Littering from a Motor Vehicle
113	8-1584	Driving into intersection, crosswalk, or crossing without sufficient space on other side
114	8-1585	Improper operation of snowmobile on highway
114.1	8-15,100	Unlawful operation of all-terrain vehicle
114.2	8-15,106	Unlawful operation of a micro utility truck
114.3	8-15,101	Unlawful operation of low-speed vehicle
114.4	8-15,108	Unlawful operation of golf cart
114.5	8-15,109	Unlawful operation of work-site utility vehicle

<u>STO</u>		
<u>Section</u>	<u>Statute</u>	<u>Description of Offense</u>
116	8-1575	Driving on sidewalk
117	8-1574	Improper backing
123	8-1577	Unsafe opening of vehicle door
124	8-1578	Riding in house trailer or mobile or manufactured home
126.1	8-15,110	Unlawful obstructing of license plate
126.2	8-15,111	Unlawful use of wireless communication devices
127	8-1586	Parental responsibility of child riding bicycle
129	8-1588	Not riding on bicycle seat; too many persons on bicycle
130	8-1589	Clinging to other vehicle
131	8-1590	Improper riding of bicycle on roadway
132	8-1591	Carrying articles on bicycle; one hand on handlebars
133	8-1592	Improper bicycle lamps, brakes or reflectors
135.1	8-15,113	Unlawful operation of electric-assisted scooter
138	8-1594	Improper operation of motorcycle; seats; passengers, bundles
139	8-1595	Improper operation of motorcycle on laned roadway
140	8-1596	Motorcycle clinging to other vehicle
141	8-1597	Improper motorcycle handlebars or passenger equipment
142	8-1598	Motorcycle helmet and eye protection requirements
143	8-1701	Equipment offenses that are not misdemeanors
144	8-1703	Driving without lights when needed
146	8-1705	Defective headlamps
147	8-1706	Defective tail lamp
148	8-1707	Defective reflector
149	8-1708	Improper stop lamp or turn signal
151	8-1710	Improper lighting equipment on certain vehicles
151.1	8-1747	Improper air-conditioning equipment
152	8-1711	Improper lamp color on certain vehicles
153	8-1712	Improper mounting of reflectors and lamps on certain vehicles
154	8-1713	Improper visibility of reflectors and lamps on certain vehicles
156	8-1715	No lamp or flag on projecting load
157	8-1716	Improper lamps on parked vehicle

<u>STO</u>		
<u>Section</u>	<u>Statute</u>	<u>Description of Offense</u>
158	8-1718	Improper lamps and equipment on implements of husbandry, road machinery or animal-drawn vehicles
158.1	8-1717	Improper lights, lamps, reflectors and emblems on farm tractors or slow-moving vehicles
159	8-1719	Unlawful use of spot, fog, or auxiliary lamp
160	8-1720	Improper lamps or lights on emergency vehicle
161	8-1721	Improper stop or turn signal
162	8-1722	Improper vehicular hazard warning lamp
162.1	8-1745	Improper use of vehicular hazard warning lamps and devices
163	8-1723	Unauthorized additional lighting equipment
164	8-1724	Improper multiple-beam lights
165	8-1725	Failure to dim headlights
166	8-1726	Improper single-beam headlights
167	8-1727	Improper speed with alternate lighting
168	8-1728	Improper number of driving lamps
169	8-1729	Unauthorized lights and signals
170	8-1730	Improper school bus lighting equipment and warning devices
171	8-1730a	Unauthorized lights and devices on church or day-care bus
172	8-1731	Improper lights on highway construction or maintenance vehicles
173	8-1734	Defective brakes
174	8-1738	Defective or improper use of horn or warning device
175	8-1739	Defective muffler
175.1	8-1761	Improper compression release engine braking system
176	8-1740	Defective mirror
177	8-1741	Defective wipers; obstructed windshield or windows
178	8-1742	Improper tires
178.1	8-1742b	Improper wide-based single tires
182.1.2	8-1749	Improper safety belt or shoulder harness
182.2	8-1578a	Unlawful riding on vehicles; persons under age 14
183	8-1801	Defective motorcycle headlamps

<u>Section</u>	<u>Statute</u>	<u>Description of Offense</u>
184	8-1802	Defective motorcycle tail lamp
185	8-1803	Defective motorcycle reflector
186	8-1804	Defective motorcycle stop lamps and turn signals
187	8-1805	Defective multiple-beam lighting
188	8-1806	Improper road-lighting equipment on motor-driven cycles
189	8-1807	Defective motorcycle or motor-driven cycle brakes
190	8-1808	Improper performance ability of brakes
190.1	8-1809	Operating motorcycle with disapproved braking system
191	8-1810	Defective horn, muffler, mirrors or tires

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CHANGES IN STANDARD TRAFFIC ORDINANCE FOR THE 47th EDITION

The following sections were modified in 48th edition of the STO published in 2021.

Article 1 Definitions.

Added: Authorized Utility or
Telecommunication Vehicle
Funeral Escort
Funeral Lead Vehicle
Funeral Procession

Amended: All-Terrain Vehicle
Antique
Golf Cart
Recreational Off-Highway Vehicle

Section 10.1 Funeral Procession

Section 30.4 Impounded Motor Vehicle (New Editor's Note)

Section 31 Fleeing or Attempting to Elude a Police Officer

Section 40.2 Passing a Stationary Authorized Utility or Telecommunications Vehicle

Section 106 Transportation of Alcoholic Beverage (New Editor's Note)

Section 119 Parades and Processions

Section 126.1.1 Display of License Plate

Section 179 Spilling Loads on Highway

Section 201 Penalties Citation added

Section 201.1 Failure to Comply with a Traffic Citation

Appendix B

40.2 Passing a stationary authorized utility or telecommunication vehicle

135.1 Updated statute



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Topeka, KS 66603
785.354.9565
www.lkm.org



INTEROFFICE MEMORANDUM

TO: MAYOR AND CITY COUNCIL
FROM: JIM MACDONALD, PUBLIC WORKS DIRECTOR
SUBJECT: JULY UPDATE
DATE: August 9, 2021

HIGHLIGHTS

2021 Street Improvements program

East Frontage Road- 67th to 75th St CARS project, 2021 Mill and Overlay Program, 2021 Sidewalk Maintenance/Repair Program. J.M. Fahey Contractor

- The 2021 mill and overlay program is substantially complete, sod is scheduled to be completed in September.
- The sidewalk maintenance and repairs along 61st street, 60th terr, Knox and 60th street have been completed. Seeding is scheduled to be completed in September.
- Carmax and East Frontage Road, all scheduled curb and sidewalk replacements have been completed, the mill and overlay was completed Monday August 2nd. Weather permitting pavement markings are scheduled to be completed next week. Sod restoration and tree plantings are scheduled to take place in September.

West Vernon Place PES

- BHC has completed the existing condition evaluation of the PES. Currently working on the potential improvements portion.

Capital Improvement Active Project List

Last Updated 8/5/2021

PROJECT NAME	FUNDING SOURCES	BUDGETED CONSTRUCTION COST	ACTUAL CONSTRUCTION COST	STATUS	DESIGN CONSULTANT	PUBLIC MEETING #1	PUBLIC MEETING #2	PUBLIC MEETING #3	ENGINEER'S ESTIMATE	BID OPENING	AWARD AT COUNCIL	CONTRACTOR	CONTRACT AMOUNT	NOTICE TO PROCEED	PROJECTED SUBSTANT COMPLETION DATE
2020															
East Frontage Road Improvements 6th to 75th	CARS/Sp. Sales Tax Street/Stormwater	\$1,549,000		Under Construction	Affinis	4/1/21			\$1,343,617.50	2/17/21	3/9/21	J.M Fahey	\$1,046,464.35	5/3/21	
Sidewalk Maintenance/Repair Program	CIP Maintenance Program	\$150,000		Under Construction	Affinis	4/1/21			\$177,700.00	2/17/21	3/9/21	J.M Fahey	\$206,234.00	5/3/21	
West Vernon Place PES	CIP Maintenance Program	\$50,000		Awarded	BHC Engineering						3/9/21	BHC Engineering	\$49,682	3/12/21	



CIP

Capital Improvement Program

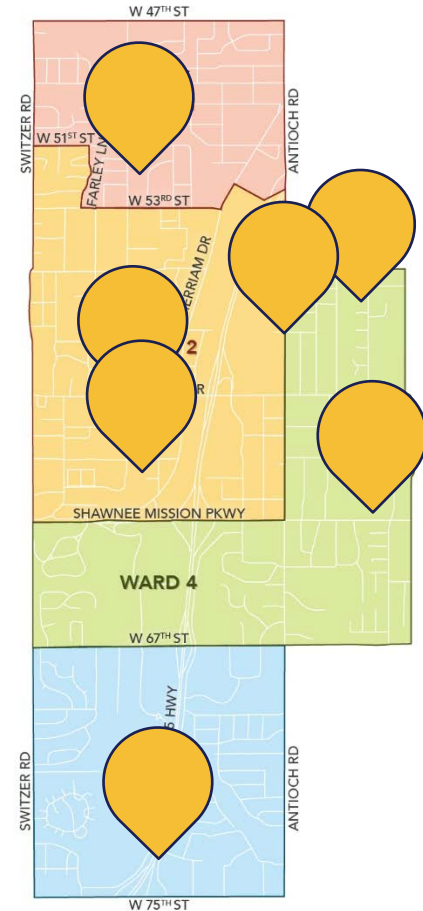


2021 Street Improvements Program

TIMELINE 2021

UPDATES

- ▶ East Frontage Road – 67th to 75th St. CARS project; 2021 Mill and Overlay Program; 2021 Sidewalk Maintenance/Repair Program.
 - ▶ The 2021 Mill and Overlay Program is substantially complete with sod scheduled to be completed in September.
 - ▶ Sidewalk maintenance and repairs along 60th St., 60th Terrace, Knox, and 61st St. are complete.
 - ▶ Seeding scheduled to be completed in September.

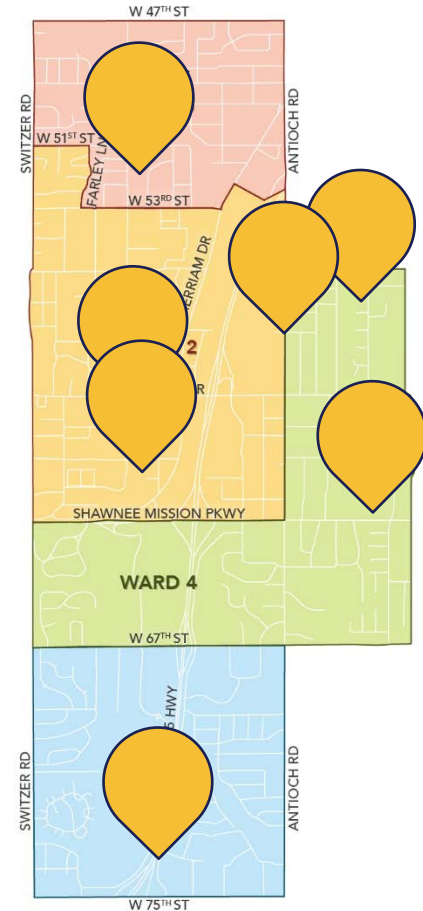


2021 Street Improvements Program

TIMELINE 2021

UPDATES

- ▶ East Frontage Road – 67th to 75th St. CARS project; 2021 Mill and Overlay Program; 2021 Sidewalk Maintenance/Repair Program.
 - ▶ Mill and overlay is completed and all substandard curb and sidewalks are replaced on Carmax Drive and East Frontage Road.
 - ▶ Pavement markings scheduled for this week, weather permitting.
 - ▶ Sod restoration and tree plantings scheduled to take place in September.

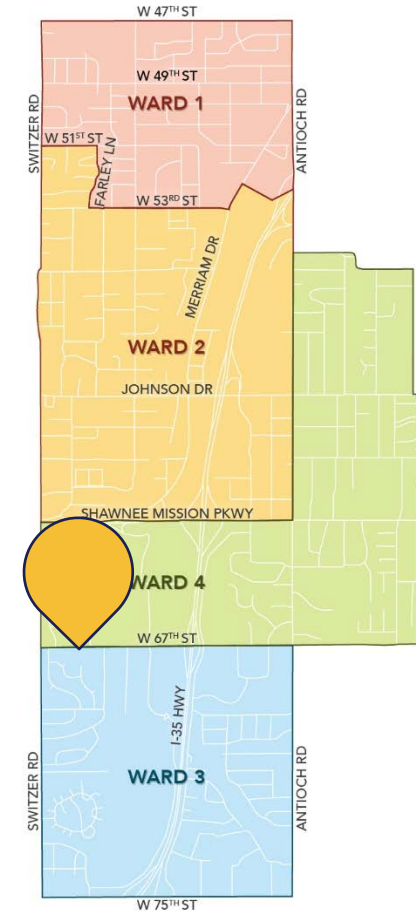


West Vernon Place PES

TIMELINE 2021

UPDATES

- ▶ BHC Engineering completed the PES existing condition evaluation.
- ▶ Currently working on the potential improvements portion.



Questions?

Staff Contact:

Jim MacDonald

913-322-5571

jmacdonald@merriam.org



CITY OF MERRIAM PARK AND RECREATION
ADVISORY BOARD MEETING MINUTES
Tuesday, July 27, 2021
6:00PM

Roll Call

The July meeting of the Merriam Parks & Recreation Advisory Board was called to order at 6:00 p.m. by Chairperson Staci Chivetta. Board members in attendance included: Billy Croan, Kathy Stull, LaVera Howard, Christopher Leitch, Katie Leary and Tony Scott. Staff members in attendance were Anna Slocum, Director and Dave Smothers, Assistant Director. Public in attendance included: Nancy Hupp.

Public Comments

There were no public comments.

Approval of Meeting Minutes

Christopher Leitch made a motion to approve the June minutes. Katie Leary seconded the motion. Motion passed unanimously.

Staff Reports

Director's Report

Community Center Update

A detailed memo was included in the packet. Updates to information shared in the memo included:

- The lone emergency light that was still on during the day has been repaired.
- The Desert Aire Unit damper repair is scheduled to occur on Thursday morning. The repair should take 4 hours and will require a brief shut down of the unit but this should not impact operation. Test and balance of the system is scheduled on Monday. The unit is now communicating with the BMS system and should alert staff if there is a problem in the future.
- Due to the unit not operating properly there has been significant damage to equipment in the natatorium. Staff is working with McCarthy to create a comprehensive list of items with photo documentation. There is a meeting scheduled for August 2 with TempCon's insurance adjuster to discuss replacement / cleaning of items impacted by the system not operating properly.
- Child Watch opened on July 6 and as of Tuesday, July 27 there have been 16 children utilize the service.

Discussion after the update included:

- Corrosion of stainless is not rust. The correct gauge of stainless was used but with the unit not working properly, it presents as rust. Once the unit works properly, regular cleaning will be required to keep it shiny but it should not present as corrosion.

- The recycle / trash emblems on the outdoor trash receptacles are coming off. These were purchased separately from the furniture contract. Staff has been working with the vendor to correct the problem and has additional transfers to apply.
- The chain around the convenience gate was needed briefly due to a liability issue that was identified. The safety guard broke which prevented someone from accessing the strike of the gate and gaining entry. While correcting that issue, another access issue was identified. Both of those liability concerns have been corrected and the chain will be removed. Staff is adding signage to the outside of the gate that will read "EXIT ONLY" as there has been some confusion from patrons.
- Outdoor pool speakers have been heard very early in the morning throughout the neighborhood.
- There have been a few times when there are no loungers available. Is there the opportunity to add more? Staff will continue to evaluate deck furniture. The walking paths need to be maintained so chairs are limited to the north and south end of the deck. There are a few chairs in storage, but finding space would require the chairs to be closer together which staff felt the current spacing was appropriate.
- A future project should consider extending the terrace on the south end with concrete eliminating the "slide" and adding more space for deck chairs.
- Consider a solution for the lower level parking structure conflict with pediatrician traffic. There is concern that that neither the pedestrian or the motor vehicle see each other. Staff is aware of this concern and have had several conversations about possible solutions.

Membership / Visit Reports

Included in the packet were the monthly reports. Due to the limited number of summer memberships sold, staff believes that many patrons purchased annual / monthly options. There could be a significant number of cancellations after Labor Day.

Visitation in the month of June skyrocketed more than doubling previous months' visits. There were a total of 12,779 visits averaging 426 visits / day. This number does not take into consideration the number of people that participated in programs or classes. July visits are on pace to surpass June, as of Monday, July 26 visitation was already at 11,000.

Insurance visits continue to hold steady. Through the first half of the year visits in most categories have doubled over the last half of 2020.

Discussion involved the types of visits occurring with the thought they were mainly for the pool. While individual visits are not traced, there has been significant activity with the pool and the gymnasium.

Assistant Director Report

Farmers' Market Update

The July 2021 update was provided in the packet. Due to the lifted restrictions related to social distancing outdoors, vendors are purchasing additional spaces. Attendance continues to follow past year trends.

Program Evaluation

Included in the packet were program evaluations for Family Fun Friday at Quail Creek and Dive in Movie events. Staff would like to be able to serve food again in 2022 at these events. For the Dive-in Movie, direct patrons through the gender specific locker rooms to access the outdoor pool versus sending them through the family locker room as the indoor pool is closed. Improve communication with Facility Attendants regarding event details to ensure proper details are shared when people call with questions.

Upcoming Events

National Night Out

Flyer included in packet. Annual event for the Police Department will occur at Waterfall Park on August 3.

Tim Murphy Art Gallery

Invitation for the August 5 reception was included in the packet. Beverages will once again be served.

Turkey Creek Cruise Night

Flyer for event included in packet. A warm-up for Car Show will be August 14, featuring music by Ronnie Ward Band and Eat Schmidt food truck.

Concert in the Courtyard

Flyer for event included in packet. While the event is free, this will also be a free day for Merriam residents to utilize the community center.

New Business

Geocache and Metal Detecting Department Policies

Draft policies related to these subjects were included in the packet. Staff researched how other departments handled these requests for suggestions and input into writing these policies. While it is not staff's intent to write a policy for every situation, staff deemed the request from the public for these two specific activities rose to the level to require policies to ensure consistency from staff when answering questions. Staff is seeking Board review and input prior to implementing. Staff is still researching how other departments handle non-competes and public use for private gain issues.

Discussion of the policies included:

- Staff provided a better understanding of the geocache activity and that the policy is more for the person placing the cache than for the seeker. While there are rules about not digging this is to ensure that the cache is easy to find.
- Due to how bullet point #3 read, there was a suggestion to add a comma in the sentence.
- There was a question regarding allowing digging for metal detecting. The concern was that plants and trees are not allowed to be dislodged, is grass not a plant? While technically it is a plant, staff sees it as ground cover. Bullet #1 addresses preserving the “plug” similar to a divot on a golf course, this plug, when replaced can regenerate and survive unlike a landscape plant or tree.
- Recommendation on bullet #2 for metal detecting to add punctuation to better explain the point being made. In addition, adding verbiage to better describe “litter” someone participating in this activity would be responsible for removing.
- There was a recommendation when drafting the non-complete policy, to consider that if someone is using the facility for personal gain and causing not interfering with users, the activity be ignored. As a steward of city resources, this will likely will not be the approach that staff takes in drafting the policy. There was significant discussion with several board members providing opinions supporting staff’s approach to the policy. Currently, there is already precedent in charging for-profit entities for using public space. Rentals are asked if they are charging a fee as there is a commercial rate. Food trucks that participate at special events have to pay an entry fee as do vendors that participate in the Farmers’ Market. Instructors, not employed by the City of Merriam, sign an instructor agreement outlining percentages of revenue sharing from registrations.

Other Business

Municipal Parking Lot Ordinance Update

Based on the input shared at the June meeting and input from various departments, staff drafted a change to the current ordinance for the attorney to review. Staff is proposing two defined terms related to parking, Municipal Parks and Municipal Campus. Parks will not allow parking from dusk to dawn mirroring the hours of operation of those amenities. Municipal Campus will be no parking after dark with three exceptions: city vehicles, city employee vehicles and approval of City Administrator or designee if on sight for an approved activity which covers the operation of the community center. This timeline for when this item goes before City Council has yet to be determined.

Downtown Corridor Updates

Christopher Leitch and Staci Chivetta serve on the committee. They had their first meeting in July. Committee members will provide updates as information is available.

Johnson County Public Art Library Committee

Kathy Stull is serving as the board representative for the committee. Currently, the library has completed a call for artists. There were no other updates at this time.

Adjournment

Billy Croan called for a motion to adjourn. Kathy Stull seconded. The meeting adjourned at 7:15 p.m.

DRAFT

CITY COUNCIL SUGGESTED MOTIONS FOR YOUR CONSIDERATION

CONSENT AGENDA

- 1. Move that the council approve Consent Agenda Item 1.**

MAYOR'S REPORT

- 1. No motion.**
- 2. Move that the council approve a resolution of support and participation in the Community for All Ages Recognition Program.**
- 3. No motion.**

COUNCIL ITEMS

- 1. Move that the council waive the customary first reading of an ordinance adopting the 2021 UPOC.**
- 2. Move that the council approve an ordinance adopting the 2021 UPOC.**
- 3. Move that the council waive the customary first reading of an ordinance adopting the 2021 STO.**
- 4. Move that the council approve an ordinance adopting the 2021 STO.**
- 5. No motion.**

EXECUTIVE SESSION