

(Published Jan. 14, 2021)

ORDINANCE NO. O-18-21

An ordinance relating to Chapter 35 Traffic, Article III – Vehicle Towing, Impoundment, etc., adding new Division 3. Sections 35-202 to 35-206; Private Property of the Code of Ordinances for the Unified Government of Wyandotte County/Kansas City, Kansas.

BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

Section 1. That Chapter 35 Traffic, Article III – Vehicle Towing, Impoundment, etc., is amended adding new Division 3. Sections 35-202 to 35-206; Private Property of the Code of Ordinances for the Unified Government of Wyandotte County/Kansas City, Kansas, to read as follows:

DIVISION 3. – PRIVATE PROPERTY

Sec. 35-202. – Purpose and Intent.

It is the intent of this Division to protect the public and the rights of persons whose motor vehicles may be towed and stored or immobilized by private towing services at the request of third parties, by ensuring that a private property owner or lessee has provided adequate authorization for the removal of a vehicle from his or her property, and to attempt to avoid towing mistakes and false vehicle theft reports, thereby promoting the safety of all parties involved.

Sec. 35-203. – Applicability.

- (a) This division applies to the towing or immobilization of motor vehicles from privately-owned property within the city without the consent of the vehicle owner or duly authorized driver, by a tow operator or immobilization service.
- (b) This division does not apply to the towing or immobilization of motor vehicles from public streets and other locations within the city that is performed pursuant to Sections 35-170 to 35-201, contract with the city, codes enforcement personnel or requests by law enforcement officers and fire department personnel.

Sec. 35-204. – Definitions.

As used in this Division, the words and phrases defined in this section shall have the following meanings, unless the context otherwise requires:

- (a) Towing** means the moving or removing or the preparation therefor of a motor vehicle for which a service charge is made, either directly or indirectly of a motor vehicle from private

property without the consent of the owner or the person in legal possession of the vehicle.

(b) Tow truck means any truck or other vehicle adapted or used for the purpose of towing, winching, carrying or otherwise removing another vehicle from a given location for commercial purposes.

(c) Storage means the custody and control of a vehicle by a tow truck operator as a result of a third-party ordered tow.

(d) Tow operator means any person engaged in the business of offering or providing a towing service for commercial purposes.

(e) Private property means all property privately owned regardless of whether the property is open to public access.

(f) Vehicle immobilization means the impounding, incapacitating, or immobilizing of any vehicle without the permission of the owner.

Sec. 35-205. – Unlawful Acts.

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

(a) Notification: The property owner requesting the tow, tow operator towing or removing a vehicle from private property, or individual responsible for immobilizing a vehicle on private property, shall notify the Kansas City, Kansas Police Department within 2 hours of the tow, removal or immobilization of the vehicle, of the following information:

- (1) Vehicle make, model, style, color and year;
- (2) Vehicle Identification Number (VIN);
- (3) License plate number and State of issuance;
- (4) Ultimate destination where the vehicle is to be towed and stored, and a contact number for the owner to call for information regarding release of the vehicle; in the case of immobilization, a contact number for the owner to call for information regarding removal of the immobilizing device.
- (5) Reason for the tow or immobilization; and
- (6) Person ordering the tow or immobilization.

(b) Mandatory Disconnect: If the owner or other legally authorized person in control of the vehicle arrives at the scene prior to removal or towing of the vehicle, the vehicle shall be disconnected from the towing or removal apparatus, and that person shall be allowed to remove the vehicle without interference, upon the payment of a reasonable service fee of not more than one-half (1/2) of the posted rate for such towing or removal, for which a receipt shall be given unless that person refuses to remove the vehicle from the property where it is otherwise unlawfully parked. There shall be no charge if the vehicle has not been connected to the tow truck.

(c) Notice and Sign Requirements: Except for property appurtenant to and obviously a part of a single-family residence, which shall include duplexes, townhomes, and residential planned unit developments, and except for instances when notice is personally given to a vehicle owner or operator that the area where the vehicle is parked is reserved or otherwise unavailable for

unauthorized vehicles which are subject to being towed or immobilized at the owner or operator's expense, and except when any private property owner is attempting to comply with Chapter 8, Section 302.8, of the Property Maintenance code, any private property owner or other person in legal possession of the property, prior to towing, removing, or immobilizing any vehicle from private property without the consent of the owner or operator, must post a notice meeting the following requirements:

1. The notice must be prominently placed at each primary driveway access or curb cut allowing vehicular access to the property.
2. The notice must clearly indicate with light-reflective letters on a contrasting background, that "Unauthorized Vehicles Will be Towed", "Tow Away Zone" or "Violators Will be Towed".
3. The sign structure containing the required notices shall be permanently installed and continuously maintained on the property for not less than twenty-four (24) hours prior to the towing, removal, or immobilization of vehicles.
4. All requirements of this section shall be in accordance with the provisions set forth in Chapter 27, Division 11 of this Code.

(d) Owner Access: Any owner of a vehicle towed pursuant to this Division shall have access to personal property in such vehicle for up to 48 hours after such vehicle has been towed, and such personal property shall be released to said owner unless it is being held or seized as evidence.

(e) Maximum Tow and Storage Fees: The maximum fee a tow operator or tow company may charge for towing of vehicles from private property at the request of a third party or for storage of such vehicle shall not exceed 120% of the rates charged by city tow contracts..

(f) Notice and conditions of vehicle immobilization: Immediately upon attaching a vehicle immobilization device to the vehicle, the vehicle immobilization service shall affix a written notice to the driver's side window containing the following information and comply with the following conditions:

1. A warning that any attempt to move the vehicle may result in damage to the vehicle;
2. The name and telephone number of the licensee responsible for removing the device;
3. The fee required to remove the vehicle immobilization device, which shall not exceed \$75.00.
4. The time and reason the vehicle was immobilized;
5. Signs identifying the name and phone number shall be affixed to both sides of any vehicle used by a vehicle immobilization service or its agent to perform vehicle immobilization services.
6. All vehicle immobilization services shall have 24-hour service and access. All vehicle immobilization services shall respond to all calls for release of a vehicle within one hour of a request for response.
7. Charges for damages to vehicle immobilization equipment shall not be governed by this division and shall not prevent the vehicle's release if the removal fee is paid.

8. Emergency vehicles used in police, fire, or medical emergencies shall not be immobilized for any reason. Upon proof that an unmarked vehicle is used for the same purpose, the vehicle immobilization device shall be removed immediately at no charge.

Sec. 35-206. – Penalties.

(a) Any person or company violating a provision of this Division shall, upon conviction, be guilty of a Class C, misdemeanor, punishable of a fine not to exceed \$500.00 and one month in jail.

(b) Any penalty imposed because of a violation of this Division, shall be in addition to any other remedy at law or equity available to the City for any failure to comply with the provisions herein.

Section 2. That said Chapter 35 Traffic, Article III – Vehicle Towing, Impoundment, etc., is amended adding new Division 3. Sections 35-202 to 35-206; Private Property of the Code of Ordinances for the Unified Government of Wyandotte County/Kansas City, Kansas.

Section 3. This ordinance shall take effect and be in full force from and after the passage, approval, and publication in the official Unified Government newspaper.

PASSED BY THE BOARD OF COMMISSIONERS OF THE UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS,

THIS 7TH DAY OF JANUARY, 2021.

David Alvey, Mayor/CEO

Attest:

Unified Government Clerk

Approved As To Form:

Unified Government Counsel