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ORDINANCE NO. 2912-2020

SUMMARY

On September 21, 2021, the City of Garden City, Kansas adopted Ordinance No. 2912-2021, regulating traffic within the corporate limits of the City of Garden City, Kansas; incorporating by reference the Standard Traffic Ordinance for Kansas Cities, 48th Edition, with certain omissions, changes, and additions; prescribing additional regulations; providing certain penalties; amending Code Section 86-2; repealing existing Code Section 86-2; all to the Code of Ordinances of the City of Garden City, Kansas.

A complete copy of the ordinance may be viewed free of charge at www.garden-city.org or may be obtained from the City Clerk, at the City Administrative Center, 301 North Eighth Street, Garden City, Kansas 67846. This Ordinance Summary is certified that it is legally accurate and sufficient, by Randall D. Grisell, City Attorney.



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ORDINANCE NO. 2912-2021

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF GARDEN CITY, KANSAS; INCORPORATING BY REFERENCE THE STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, 48th EDITION, WITH CERTAIN OMISSIONS, CHANGES, AND ADDITIONS; PRESCRIBING ADDITIONAL REGULATIONS; PROVIDING CERTAIN PENALTIES; AMENDING CODE SECTION 86-2; REPEALING EXISTING CODE SECTION 86-2; ALL TO THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS.

BE IT ORDAINED by the Governing Body of the City of Garden City, Kansas:

SECTION 1. That Section 86-2 of the Code of Ordinances of the City of Garden City, Kansas, is hereby amended as follows:

Section 86-2. Standard Traffic Ordinance.

(a) Incorporating Standard Traffic Ordinance. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Garden City, Kansas, that certain standard traffic ordinance known as the *Standard Traffic Ordinance for Kansas Cities*, 48th edition, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, hereinafter referred to as Standard Traffic Ordinance, save and except such articles, sections, parts, or portions as are hereafter omitted, deleted, modified, added, or amended. One official copy of the Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. 2912-2021", 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. The police department, municipal judge, city attorney, city prosecutor, and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient. All references to the Standard Traffic Ordinance as adopted and incorporated into this Code shall be in a form designating section 86-2 followed in parenthesis followed by the section number of the Standard Traffic Ordinance, as incorporated. (For example, section 33 of the Standard Traffic Ordinance as incorporated shall be referred to as section 86-2(33).)

(b) Omission. The following sections contained in Articles 8 and 14 of the Standard Traffic Ordinance are hereby omitted and deleted:

Section 38.1	Driving in Defiles or Canyons.
Section 105.1	Criminal Penalties for Violation of Size and Weight Laws; Exceptions.

(c) Amendment. The following section of the Standard Traffic Ordinance is hereby changed to read as follows:

Section 1. Definitions.

- (a) As used in the Standard Traffic Ordinance, as incorporated, and as used in other traffic ordinances of the city, the words and phrases defined in Section 1 of Article 1 of the Standard Traffic Ordinance shall have the meanings respectively ascribed to them therein and any such definitions are hereby incorporated by reference as if fully set forth herein, except as expressly provided in subsection (b) or except when the context otherwise requires
- (b) Notwithstanding the definitions of Section 1 of Article 1 of the Standard Traffic Ordinance as incorporated by subsection (a), the following words and phrases shall have the meanings ascribed to them as set forth below:

- (1) **Police Officer.** Every law enforcement officer, as defined in K.S.A. 21-5111, and amendments thereto, authorized to direct or regulate traffic or to make arrests for violations of traffic regulations. (K.S.A. 8-1450)
- (2) **Electric Personal Assistive Mobility Device.** Electric Personal Assistive Mobility Device means: (A) A self-balancing two (2) nontandem wheeled device, designed to transport only one (1) person, with an electric propulsion system that limits the maximum speed of the device to fifteen (15) miles per hour or less; or (B) a self-balancing device with one (1) wheel designed to transport only one (1) person by an electric propulsion system with an average power of two thousand watts (two and two-thirds horsepower) having a maximum speed on a paved level surface, when powered solely by such propulsion system, of less than twenty (20) miles per hour.

(d) Amendment. The following section of the Standard Traffic Ordinance is hereby changed to read as follows:

Section 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) Upon a first conviction of a violation of this section a person shall be sentenced to not less than five (5) days nor more than 90 days' imprisonment or fined not less than \$25 nor more than \$500, or sentenced to 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 ten (10) days nor more than six (6) months imprisonment or fined not less than \$50 nor more than \$500, or sentenced to both such fine and imprisonment.

(e) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 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, is .08 or more;
 - (2) The alcohol concentration in the person's blood or breath, as measured within three (3) 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) Upon a first conviction of a violation of this section, a person shall be sentenced to not less than forty-eight (48) consecutive hours nor more than six (6) months imprisonment and be fined \$1,000. The person convicted must serve at least forty-eight (48) consecutive hours imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released. The person convicted shall neither be ordered to nor be permitted to serve the forty-eight (48) consecutive hours by or as house arrest, work furlough, work release, or similar custody alternative program.

- (c) On a second conviction of a violation of this section, a person shall be sentenced to not less than ninety (90) days nor more than one (1) year imprisonment and be fined \$1,750. The person convicted must serve at least ten (10) consecutive days imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released. The person convicted shall neither be ordered to nor be permitted to serve the ten (10) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
- (d) Any person eighteen (18) years of age or older convicted of violating this section who had one or more children under the age of eighteen (18) years in the vehicle at the time of the offense shall have such person's punishment enhanced by thirty (30) consecutive days of imprisonment, which must be served consecutively to any other minimum mandatory penalty imposed pursuant to subsection (b) or (c) and must be served before the person is granted probation, suspension of sentence, or parole or is otherwise released. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. The person convicted shall neither be ordered to nor be permitted to serve the thirty (30) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
- (e) In addition, prior to sentencing for any conviction pursuant to this section, 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. Notwithstanding the foregoing, the court may order that the alcohol and drug evaluation be performed, and its recommendations followed and completed, as a term and condition of probation; *provided, however, that* this option shall be ordered only if, at the time of sentencing, the person being sentenced is: (1) in custody pursuant to the jurisdiction of a Kansas state court, a state court of another jurisdiction, or the federal court system; (2) is hospitalized, or is otherwise under medical treatment, to an extent that prevents or hinders the person's ability to undergo the evaluation; or (3) is in the custody of U.S. Immigration and Customs Enforcement. Subject to the consent of all parties, the court may order that an alcohol or drug evaluation not be required if the person being sentenced is or will be serving a substantial period of incarceration in a state or federal prison.
- (f) The court may establish the terms and time for payment of any fines, fees, assessments, and costs imposed pursuant to this section. Any assessments and costs shall be required to be paid not later than ninety (90) days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (g) 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 (1) 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 (0) the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (h) 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.
- (i)
 - (1) Except as provided in subsection (i)(5), in addition to any other penalty which may be 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 (1) year and that the convicted person pay all towing, impoundment, and storage fees or other immobilization costs.
 - (2) The court shall not order the impoundment or immobilization of a motor vehicle driven by a person convicted of a violation of this section if the motor vehicle had been stolen or converted at the time it was driven in violation of this section.

- (3) Prior to ordering the impoundment or immobilization of a motor vehicle or vehicles owned by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:
 - (A) Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and
 - (B) Whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.
 - (4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.
 - (5) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than one (1) year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of the time remaining on the lease.
- (j) For the purposes of determining whether a conviction is a first or second conviction in sentencing under this section:
- (1) A "conviction" shall include any conviction occurring on or after July 1, 2021 for a violation of subsection (a), for a violation of any ordinance of any city, resolution of any county, law of any state, or law of any other jurisdiction that would constitute an offense that is comparable to subsection (a), or for a violation of K.S.A. 8-1567, and amendments thereto;
 - (2) A "conviction" shall include any conviction occurring during a person's lifetime for a violation of any of the following offenses or for a violation of any ordinance of any city, resolution of any county, law of any state, or law of any other jurisdiction that would constitute an offense that is comparable to any of the following offenses:
 - (A) Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto, or subsection (a) of Section 86-2(30.1) of the Code;
 - (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. Supp. 21-5405(a)(3) or (a)(5), and amendments thereto;
 - (D) Aggravated battery as described in K.S.A. Supp. 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) A "conviction" shall include any diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of any offense described in subsection (j)(1) or (j)(2);
 - (4) Nothing in subsection (j)(1) shall be construed as preventing the court from considering any conviction occurring or diversion agreement entered into during the person's lifetime in determining the sentence to be imposed within the limits provided for a first or second offense;

- (5) Multiple convictions of any offense described in subsections (j)(1) or (j)(2) arising from the same arrest shall only be counted as one conviction; and
- (6) It is irrelevant whether an offense occurred before or after conviction for a previous offense.
- (k) 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; and
 - (3) Whether the out-of-jurisdiction offense prohibits similar conduct prohibited by the closest approximate offense under subsection (a).
- (l) 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.
- (m) 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.
- (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) 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.
- (p) 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., and amendments thereto, shall not constitute plea bargaining.
- (q) 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.
- (r) For the purpose of this section:
 - (1) Alcohol Concentration means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.
 - (2) Drug includes toxic vapors as such term is defined in K.S.A. Supp. 21-5712, and amendments thereto.
 - (3) 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 governing body of the city.

- (f) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:
- Section 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 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 (3) hours of the time of operating or attempting to operate a commercial motor vehicle, is .04 or more; or
 - (3) Committing a violation of subsection (a) of Section 86-2(30) of the Code.
 - (b) Upon a first conviction of a violation of this section, a person shall be sentenced to not less than forty-eight (48) consecutive hours nor more than six (6) months imprisonment and be fined \$1,000. The person convicted must serve at least forty-eight (48) consecutive hours imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released. The person convicted shall neither be ordered to nor be permitted to serve the forty-eight (48) consecutive hours by or as house arrest, work furlough, work release, or similar custody alternative program.
 - (c) On a second conviction of a violation of this section, a person shall be sentenced to not less than ninety (90) days nor more than one (1) year imprisonment and be fined \$1,750. The person convicted must serve at least ten (10) consecutive days imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released. The person convicted shall neither be ordered to nor be permitted to serve the ten (10) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
 - (d) Any person eighteen (18) years of age or older convicted of violating this section who had one or more children under the age of eighteen (18) years in the vehicle at the time of the offense shall have such person's punishment enhanced by thirty (30) consecutive days of imprisonment, which must be served consecutively to any other minimum mandatory penalty imposed pursuant to subsection (b) or (c) and must be served before the person is granted probation, suspension of sentence, or parole or is otherwise released. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. The person convicted shall neither be ordered to nor be permitted to serve the thirty (30) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
 - (e) In addition, prior to sentencing for any conviction pursuant to this section, 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. Notwithstanding the foregoing, the court may order that the alcohol and drug evaluation be performed, and its recommendations followed and completed, as a term and condition of probation; *provided, however, that* this option shall be ordered only if, at the time of sentencing, the person being sentenced is: (1) in custody pursuant to the jurisdiction of a Kansas state court, a state court of another jurisdiction, or the federal court system; (2) is hospitalized, or is otherwise under medical treatment, to an extent that prevents or hinders the person's ability to undergo the evaluation; or (3) is in the custody of U.S. Immigration and Customs Enforcement. Subject to the consent of all parties, the court may order that an alcohol or drug evaluation not be required if the person being sentenced is or will be serving a substantial period of incarceration in a state or federal prison.
 - (f) 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 ninety (90) days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.

- (g) 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 (1) 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 (0) the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (h) 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.
- (i) For the purposes of determining whether a conviction is a first or second conviction in sentencing under this section:
 - (1) A "conviction" shall include any conviction occurring on or after July 1, 2021 for a violation of subsection (a) of Section 86-2(30) of the Code, for a violation of any ordinance of any city, resolution of any county, law of any state, or law of any other jurisdiction that would constitute an offense that is comparable to subsection (a) of Section 86-2(30) of the Code, or for a violation of K.S.A. 8-1567, and amendments thereto;
 - (2) A "conviction" shall include any conviction occurring during a person's lifetime for a violation of any of the following offenses or for a violation of any ordinance of any city, resolution of any county, law of any state, or law of any other jurisdiction that would constitute an offense that is comparable to any of the following offenses:
 - (A) Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto, or subsection (a) of Section 86-2(30.1) of the Code;
 - (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. Supp. 21-5405(a)(3) or (a)(5), and amendments thereto;
 - (D) Aggravated battery as described in K.S.A. Supp. 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) A "conviction" shall include any diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of any offense described in subsection (i)(1) or (i)(2);
 - (4) Nothing in subsection (i)(1) shall be construed as preventing the court from considering any conviction occurring or diversion agreement entered into during the person's lifetime in determining the sentence to be imposed within the limits provided for a first or second offense;
 - (5) Multiple convictions of any offense described in subsections (i)(1) or (i)(2) arising from the same arrest shall only be counted as one conviction; and
 - (6) It is irrelevant whether an offense occurred before or after conviction for a previous offense.
- (j) 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; and
 - (3) Whether the out-of-jurisdiction offense prohibits similar conduct prohibited by the closest approximate offense under subsection (a).
- (k) The court shall electronically report 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:
 - (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.
- (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) 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.
- (n) 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.
- (o) If a person is charged with a violation of subsections (a)(4) or (a)(5) of Section 86-2(30) of the Code, 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.
- (p) For the purpose of this section:
 - (1) Alcohol Concentration means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.
 - (2) Drug includes toxic vapors as such term is defined in K.S.A. Supp. 21-5712, and amendments thereto.
 - (3) 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 governing body of the city.

(g) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 30.3. Ignition Interlock Devices.

- (a) No person shall:
 - (1) Tamper with an ignition interlock device for the purpose of circumventing it or rendering 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, for the purpose of 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 or start a motor vehicle equipped with an ignition interlock device for the purpose of 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 (1) year, or by both such fine and imprisonment.
 - (c) A person convicted of a violation of this section shall serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and shall be fined at least \$500. The person convicted shall neither be ordered to nor be permitted to serve the thirty (30) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.

(h) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 33. Maximum Speed Limits.

- (a) Except when a special hazard exists that requires lower speed for compliance with Section 86-2(32) of the Code, the limits specified in this section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at a speed in excess of such maximum limits:
 - (1) In any central business district or school zone unless otherwise posted, 20 mph.
 - (2) In any residence or urban district unless otherwise posted, 30 mph.
 - (3) In any park, 20 mph.

The maximum speed limit established by or pursuant to this section shall be of force and effect regardless of whether signs are posted giving notice thereof and notwithstanding any signs giving notice of maximum speed limit in excess thereof; and any sign giving notice of a maximum speed limit in excess of the limits established by or pursuant to this section shall not be of any force or effect.

- (b) Whenever any appropriate sign shall be placed by lawful authority along any street or parking or marked on any curb, or otherwise giving notice of any prohibited or special use of the street or highway adjacent thereto or limiting the speed of vehicles in such zones or controlling the use thereof, it shall be unlawful for any person to refuse or fail to comply with such signs or directions.
- (c) The maximum speed limits in this section or as may otherwise be established may be altered as authorized by K.S.A. 8-1560, and amendments thereto.

(i) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 85. Stopping, Standing or Parking Prohibited in Specified Places.

Except when necessary to avoid conflict with other traffic, or in compliance with the 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;
 - (11) At any place where official signs prohibit stopping; or
 - (12) Within any no parking area designated by a curb marked yellow.
- (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 fifteen (15) feet of a fire hydrant;
 - (3) Within twenty (20) feet of a crosswalk at an intersection;
 - (4) Within thirty (30) feet upon the approach to any flashing signal, stop sign or traffic-control signal located at the side of a roadway;
 - (5) Within twenty (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 seventy-five (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 fifty (50) feet of the nearest rail of a railroad crossing; or
 - (2) At any place where official signs prohibit parking.
- (d) Move a vehicle not lawfully under the person's 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)

- (j) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 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) A first conviction of a violation of this section is punishable by a fine of not more than \$200 or by imprisonment for not more than six (6) months, or both.
- (c) Upon a second conviction of a violation of this section, a person shall be fined not less than \$400. A person may also be sentenced to a term of imprisonment of not more than six (6) months.
- (d) Upon a third or subsequent conviction of a violation of this section, a person shall be fined not less than \$600. A person may also be sentenced to a term of imprisonment of not more than six (6) months.
- (e) Except as provided in subsection (g) 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.
- (f) 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, 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.
- (g) 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 (e), 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, together with a copy of the order. Upon receipt thereof, the Division 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 a 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 sixty (60) days nor more than one year by the judge of the court in which such person is convicted of violating such conditions.

- (h) 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.
- (i) 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.
- (j) For the purpose of determining whether a conviction is a first, second or subsequent conviction in sentencing under this section:
 - (1) "Conviction" includes a conviction of a violation of any ordinance of any city, resolution of any county, or law of any state that is in substantial conformity with subsection (a).
 - (2) Only convictions occurring in the immediately preceding five (5) 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)

- (k) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 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 on any street or highway, or upon the premises of any childcare facility, as defined by K.S.A. 65-503, or any family day care home, as defined by K.S.A. 65-517, 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.

- (l) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Sec. 114.2. Unlawful Operation of a Micro Utility Truck or Recreational Off-Highway Vehicle.

- (a) It shall be unlawful for any person to operate a micro utility truck or recreational off-highway vehicle on any interstate highway, federal highway, or state highway, including, but not limited to, the following highways, or portions thereof, located within the corporate limits of the city:
 - (1) U.S. 156/Kansas Avenue from Five Points to east city limits;
 - (2) U.S. 83 Business Route/Main Street from Fulton Street to south city limits;
 - (3) U.S. 83 Business Route/Taylor Street from Five Points to north city limits;
 - (4) U.S. 50/Fulton Street from U.S. 83/Main Street to east city limits; and
 - (5) U.S. 50/U.S. 83 Bypass.
- (b) Operation of a micro utility truck or recreational off-highway vehicle is authorized within the corporate limits of the city, subject to the requirements of this section.
- (c) No micro utility trucks or recreational off-highway vehicle shall be operated on any public highway or street within the city unless the person operating the micro utility truck or recreational off-highway vehicle complies with Section 192 of the Standard Traffic Ordinance pertaining to a driver's license.
- (d) No person shall operate a micro utility truck or recreational off-highway vehicle without complying with the requirements of Section 200 of the Standard Traffic Ordinance pertaining to motor vehicle liability insurance.
- (e) A person operating a micro utility truck or recreational off-highway vehicle shall comply with all sections of the Standard Traffic Ordinance which pertain to operation of a motor vehicle.
- (f) No micro utility truck or recreational off-highway vehicle shall be operated on any public highway or street, unless the micro utility truck or recreational off-highway vehicle complies with the equipment requirements under Article 17 of Chapter 8 of the Kansas Statutes Annotated and amendments thereto.
- (g) No person shall operate a micro utility truck or recreational off-highway vehicle without first registering it, or without renewing registration each calendar year thereafter, with the Garden City Police Department (GCPD), and obtaining a registration plate from the GCPD. The registration plate shall be displayed on the micro utility truck or recreational off-highway vehicle at all times the micro utility truck or recreational off-highway vehicle is operated on any public highway or street in the city. The micro utility truck or recreational off-highway vehicle registration and plate program shall be administered pursuant to policies and procedures established by the GCPD, except as otherwise provided in this section.
- (h) Prior to the issuance of any registration pursuant this section, or annual renewal thereof, the GCPD shall obtain a list of all convictions under this section of any person applying for such registration from the Garden City Municipal Court and from the State of Kansas Department of Revenue, Division of Vehicles.
- (i) The GCPD shall not issue any registration pursuant to this section, or annual renewal thereof, for a period of one (1) year to any person who has two (2) convictions under this section, or under any ordinance of any city, resolution of any county, or law of any state which is in substantial conformity with subsection (a), except that any such ordinance, resolution, or law is not required to be in substantial conformity with the specific highways listed therein. It is irrelevant whether any such conviction occurred before or after the time that the person applied for or was issued registration under this section, or annual renewal thereof. The one-year suspension shall run from the date of the last conviction. Any person suspended pursuant to this subsection may apply for registration of any micro utility truck or recreational off-highway vehicle with the GCPD at the conclusion of the one-year

suspension. The GCPD shall issue registration to said person, provided that during the one-year suspension, or anytime thereafter, the person has not been convicted and has no pending violations under this section, or under any ordinance of any city, resolution of any county, or law of any state which is in substantial conformity with subsection (a).

- (j) The GCPD shall not, for a period of five (5) years, issue registration pursuant to this section to any person who has applied for registration of a micro utility truck or recreational off-highway vehicle following a one-year suspension, if said person has been convicted under this section or who has been convicted under any ordinance of any city, resolution of any county, or law of any state which is in substantial conformity with subsection (a) during the one-year suspension or any time thereafter.
- (k) The GCPD shall not issue any registration under this section, or annual renewal thereof, to any person who fails to produce a valid driver's license, except those expressly exempted. The GCPD shall not issue any registration under this section, or annual renewal thereof, to any person whose driving privileges are canceled, suspended, or revoked pursuant to K.S.A. 8-252a, and amendments thereto, or to any person whose privilege to obtain a driver's license is suspended or revoked.
- (l) No registration or registration plate issued pursuant to this section shall be assignable or transferable. Any registration plate issued pursuant to this section shall be immediately removed from the registered micro utility truck or recreational off-highway vehicle upon the transfer of ownership of said vehicle. The owner of any micro utility truck or recreational off-highway vehicle registered pursuant to this section shall notify the GCPD of any transfer of ownership of said vehicle and shall return any registration plate of said vehicle to the GCPD within ten (10) calendar days.
- (m) Any person applying for registration under this section, shall pay an initial registration fee of \$25.00. Any person applying for an annual renewal under this section shall pay a fee of \$15.00.
- (n) The fees provided in subsection (m) shall be waived for registration under this section, or annual renewal thereof, for any micro utility truck or recreational off-highway vehicle that is owned and operated by any municipal, county, state, or federal government. Nothing in this subsection shall be deemed to exempt any such government from any other requirements of this section unless specifically exempted herein.
- (o) A violation of any one of the above subsections shall be deemed to be a violation of this section, and each such subsection so violated shall be deemed to be a separate offense.
- (p) Notwithstanding the provisions of subsection (a), any micro utility truck or recreational off-highway vehicle owned by a municipal, county, state, or federal government, or owned and operated by persons contracting with the same, may be allowed to operate such vehicle upon and within the corporate city limits of the city as required in the performance of its duties.
- (q) Charges under this section are not eligible for the fast trac program.
- (r) The provisions of subsection (a) shall not prohibit a micro utility truck or recreational off-highway vehicle from crossing a federal or state highway. (K.S.A. Supp. 8-15,106)
- (m) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 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 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 ordinance, resolution, or law.

Ref.: For Persons Under 14 Years of Age see Sec. 182.2.

(n) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 116. Driving Upon Sidewalk.

- (a) No person shall drive any vehicle upon a sidewalk or sidewalk area except upon a permanent or duly authorized temporary highway.
- (b) The provisions of subsection (a) shall not apply to an electric-assisted scooter.

(o) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 118. Driving Through or On Private or Public Property to Avoid Traffic Control Devices.

No person shall drive through any public or private property adjacent to any street intersection to avoid any official traffic control device or to short cut from one street to another.

(p) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 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) Every person operating an electric-assisted scooter upon a street or highway at less than the normal speed of traffic shall ride as near to the right side of the street or highway as practicable except when:
 - (1) Preparing to make a left turn at an intersection or into a private drive or roadway; or
 - (2) Reasonably necessary to avoid conditions including, but not limited to, fixed or moving objects, parked or moving vehicles, bicycles, pedestrians, animals, surface hazards, or narrow width lanes that make it unsafe to continue along the right-hand edge of the street, highway or roadway. For the purposes of this subsection, "narrow width lane" shall mean a lane that is too narrow for a bicycle or electric-assisted scooter and a vehicle to travel safely side-by-side within the lane.
- (d) It shall be unlawful for any person to operate an electric-assisted scooter upon a street or highway between the hours of dusk or 9:00 p.m., whichever is earlier, and sunrise.
- (e) Persons riding electric-assisted scooters upon a street or highway shall not ride more than two (2) abreast, except on paths or parts of a street or highway set aside for the exclusive use of bicycles or electric-assisted scooters.

- (f) No person shall operate an electric-assisted scooter upon any street, highway, or elsewhere throughout the city, where such operation is prohibited and where a sign or signs are posted on such property indicating that such scooters, similar devices, or bicycles are prohibited. Any such property shall include, but not be limited to, any path, park, or other public property and any parking lot or other private property.
- (g) It shall be unlawful for any person to operate an electric-assisted scooter upon any street or highway, or elsewhere throughout the city, including, but not limited to, a sidewalk, in such manner as to indicate a careless or heedless disregard for the rights or safety of others or in such a manner as to endanger or be likely to endanger any person or property.
- (h) A person operating an electric-assisted scooter upon any street or highway, or elsewhere throughout the city, including, but not limited to, a sidewalk, shall yield the right-of-way to any pedestrian and shall give an audible signal before overtaking and passing such pedestrian.
- (i) It shall be unlawful for any person to operate an electric-assisted scooter upon any street or highway, or elsewhere throughout the city, including, but not limited to, a sidewalk, at a speed in excess of twenty (20) miles per hour.
- (j) No electric-assisted scooter shall be used to carry more persons at one time than the number for which it is designed or equipped.
- (k) Vehicle registration, motor vehicle liability insurance, and driver's license shall not be required under the Code for operation of an electric-assisted scooter.
- (l) The provisions of subsection (a) shall not prohibit an electric-assisted scooter from crossing a federal or state highway.
- (q) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 147. Tail Lamps.

- (a) Every motor vehicle, trailer, semi-trailer, 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 (2) tail lamps mounted on the rear, which, when lighted as required in Section 86-2(144) of the Code, 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 (1) 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 (1) 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 seventy-two (72) inches or less than fifteen (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 it clearly legible from a distance of fifty (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.
- (r) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 192. Driver's License.

- (a) No person, except those expressly exempted, shall drive or operate 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 subsection (c)(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 subsection (c)(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.
- (d) A person convicted of a violation of this section shall be sentenced to imprisonment of not more than six (6) months and shall be fined at least \$300, or sentenced to both such imprisonment and fine, but in no event shall the person be fined in excess of \$1,000.
- (e) On a second conviction of a violation of this section, the person convicted must serve at least two (2) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined \$600. The person convicted shall neither be ordered to nor be permitted to serve the two (2) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
- (f) On a third conviction of a violation of this section, the person convicted must serve at least five (5) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$1,000. The person convicted shall neither be ordered to nor be permitted to serve the five (5) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
- (g) On a fourth conviction of a violation of this section, the person convicted must serve at least ten (10) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$1,000. The person convicted shall neither be ordered to nor be permitted to serve the ten (10) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
- (h) On a fifth conviction of a violation of this section, the person convicted must serve at least fifteen (15) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined \$1000. The person convicted shall neither be ordered to nor be permitted to serve the fifteen (15) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.

- (i) On a sixth or subsequent conviction of a violation of this section, the person convicted must serve at least twenty-five (25) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined \$1,000. The person convicted shall neither be ordered to nor be permitted to serve the twenty-five (25) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
- (j) For the purposes of determining whether a conviction is a first, second, third, fourth, fifth, sixth 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 subsection (a) or (c). It is irrelevant whether an offense occurred before or after conviction for a previous offense.

(s) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 194. Driving While License Canceled, Suspended or Revoked; Penalty.

- (a) No person shall drive any 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.
- (b) Upon a first conviction of a violation of this section, the person convicted shall be sentenced to imprisonment of not less than five (5) days or fined at least \$200, or sentenced to both such imprisonment and fine, but in no event shall the person be sentenced to imprisonment of more than six (6) months or fined in excess of \$1,000. Except as provided in subsection (d), the person need not serve the five (5) days imprisonment pursuant to this subsection prior to the person being granted probation, suspension of sentence, or parole or being otherwise released.
- (c) Upon a second or subsequent conviction of a violation of this section, the person convicted shall be sentenced to imprisonment and fined as provided in the following subsections, but in no event shall the person be sentenced to imprisonment of more than one (1) year or fined in excess of \$2,500:
 - (1) Upon a second conviction of a violation of this section, the person convicted must serve at least five (5) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$300. The person convicted shall neither be ordered to nor be permitted to serve the five (5) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
 - (2) On the third conviction of a violation of this section, the person convicted must serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$500. The person convicted shall neither be ordered to nor be permitted to serve the thirty (30) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
 - (3) On the fourth conviction of a violation of this section, the person convicted must serve at least sixty (60) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$700. The person convicted shall neither be ordered to nor be permitted to serve the sixty (60) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
 - (4) On the fifth conviction of a violation of this section, the person convicted must serve at least ninety (90) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$1,000. The person convicted shall neither be ordered to nor be permitted to serve the ninety (90) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.

- (5) On the sixth or subsequent conviction of a violation of this section, the person convicted must serve at least one hundred twenty (120) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$1,500. The person convicted shall neither be ordered to nor be permitted to serve the one hundred twenty (120) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
- (d) (1) A person convicted of a violation of this section must be sentenced to imprisonment of not less than ninety (90) consecutive days' imprisonment and be fined at least \$1,000, if such person:
 - (A) is convicted of a violation of this section committed while the person's privilege to drive was suspended or revoked for a violation of Section 86-2(30) or 86-2(30.1) of the Code, for a violation of K.S.A. 8-2,144 or K.S.A. 8-1567 and amendments thereto, or for a violation of any ordinance of any city, resolution of any county, or law of any state that prohibits the acts prohibited by Section 86-2(30) or 86-2(30.1) of the Code or by K.S.A. 8-2,144 or K.S.A. 8-1567, and amendments thereto; and
 - (B) is or has been also convicted of a violation of Section 86-2(30) or 86-2(30.1) of the Code, of a violation of K.S.A. 8-2,144 or K.S.A. 8-1567 and amendments thereto, or of a violation of any ordinance of any city, resolution of any county, or law of any state that prohibits the acts prohibited by Section 86-2(30) or 86-2(30.1) of the Code or by K.S.A. 8-2,144 or K.S.A. 8-1567 and amendments thereto, committed while the person's privilege to drive was so suspended or revoked.
 - (2) The person sentenced pursuant to subsection (d)(1) must serve at least ninety (90) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released and such person shall neither be ordered to nor be permitted to serve the 90 (90) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
 - (3) Any imprisonment and fine sentenced pursuant to subsection (d)(1) shall be within the maximum sentence that can be imposed for a first offense or for a second or subsequent offense under this section, as provided for in subsections (b) or (c), respectively.
 - (4) In the event that a person is subject to a sentence under subsection (d)(1) and subject to a sentence under subsection (c), the greater sentence shall be imposed.
- (e) (1) On a third or subsequent conviction of a violation of this section, the person convicted must be sentenced to imprisonment of not less than ninety (90) consecutive days' imprisonment and be fined at least \$1,500, if such person's privilege to drive a motor vehicle is canceled, suspended, or revoked because such person:
 - (A) 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, or in Section 86-2(30.2) of the Code;
 - (B) Was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, or Section 86-2(200) of the Code relating to motor vehicle liability insurance coverage;
 - (C) 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

(D) Was convicted of being a habitual violator pursuant to K.S.A. 8-287, and amendments thereto, or Section 86-2(195.1) of the Code.

(2) The person sentenced pursuant to subsection (e)(1) must serve at least ninety (90) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released and such person shall neither be ordered to nor be permitted to serve the 90 (90) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.

(3) Any imprisonment and fine sentenced pursuant to subsection (e)(1) shall be within the maximum sentence that can be imposed for a second or subsequent offense under this section, as provided for in subsections (c).

(4) In the event that a person is subject to a sentence under subsection (e)(1) and subject to a sentence under subsection (c), the greater sentence shall be imposed.

(f) For the purposes of determining whether a conviction is a first, second, third, fourth, fifth, sixth or subsequent conviction in any sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city, resolution of any county, or law of any state which is in substantial conformity with subsection (a). It is irrelevant whether an offense occurred before or after conviction for a previous offense.

(t) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 196. Unauthorized Operator.

(a) No person shall authorize or knowingly permit a motor vehicle owned by such person and 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.

(b) Any person who violates this section shall be guilty of an ordinance violation, and on conviction shall be fined not more than five hundred dollars (\$500) or be sentenced to not more than ninety (90) days' imprisonment, or sentenced to both such fine and imprisonment.

(u) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 197. Unauthorized Minors.

(a) No person shall cause or knowingly permit such person's child or ward under the age of eighteen (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.

(b) Any person who violates this section shall be guilty of an ordinance violation, and on conviction shall be fined not more than five hundred dollars (\$500) or be sentenced to not more than ninety (90) days' imprisonment, or be sentenced to both such fine and imprisonment.

(v) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 200. Motor Vehicle Liability Insurance.

(a) Every owner of a motor vehicle shall provide motor vehicle liability insurance coverage in accordance with 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), and amendments thereto;

- (2) is used as a driver training motor vehicle, as defined in K.S.A. 72-4005 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, K.S.A. 40-3101, et seq.
 - (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, K.S.A. 40-3101, et seq.
 - (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 attach a copy of the insurance verification form prescribed by the secretary of revenue to 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 of revenue shall proceed with verification in the manner prescribed in K.S.A. 40-3104(e), and amendments thereto. 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 ten (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 that 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. Upon the production in court of evidence of

financial security, the court shall record the information displayed thereon on the insurance verification form prescribed by the secretary of revenue, immediately forward such form to the department of revenue, and stay any further proceedings on the matter pending a request from the prosecuting attorney that the matter be set for trial. Upon receipt of such form the department of revenue shall proceed with verification in the manner prescribed in K.S.A. 40-3104(e), and amendments thereto, by mailing the form to the named insurance company for verification that insurance was in force on the date indicated on the form. Pursuant to K.S.A. 40-3104(e), and amendments thereto, it shall be the duty of insurance companies to notify the department of revenue within thirty (30) calendar days of the receipt of such forms of any insurance that was not in force on the date specified. Upon return of any form to the department of revenue indicating that insurance was not in force on such date, the department of revenue shall, pursuant to K.S.A. 40-3104(e), and amendments thereto, immediately forward a copy of such form to the office of the prosecuting attorney or the city clerk of the municipality in which such prosecution is pending when the prosecuting attorney is not ascertainable. Receipt of any completed form indicating that insurance was not in effect on the date specified shall be prima facie evidence of failure to provide proof of financial security and violation of this section. A request that the matter be set for trial shall be made immediately following the receipt by the prosecuting attorney of a copy of the form from the department of revenue indicating that insurance was not in force. Any charge of violating subsection (b), (c) or (d) shall be dismissed if no request for a trial setting has been made within sixty (60) days of the date evidence of financial security was produced in court.

- (f) Upon a first conviction of a violation of this section, the person convicted shall be sentenced to imprisonment of not more than six (6) months and fined at least \$300, or sentenced to both such imprisonment and fine, but in no event shall the person be fined in excess of \$1,000.
- (g) Upon a second or subsequent conviction of a violation of this section, the person convicted shall be sentenced to imprisonment and fined as provided in subsection (g)(1), (g)(2), or (g)(3). If such conviction is not within three (3) years of any prior conviction, then in no event shall the person be sentenced to imprisonment of more than six (6) months or fined in excess of \$1,000. If such conviction is within three (3) years of any prior conviction, then in no event shall the person be sentenced to imprisonment of more than one (1) year or fined in excess of \$2,500.
 - (1) Upon a second conviction of a violation of any provision of this section, a person convicted must serve at least five (5) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$800. The person convicted shall neither be ordered to nor be permitted to serve the five (5) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
 - (2) Upon a third conviction of a violation of any provision of this section, a person convicted must serve at least twenty (20) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$800. The person convicted shall neither be ordered to nor be permitted to serve the twenty (20) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
 - (3) Upon a fourth or subsequent conviction of a violation of this section, a person convicted must serve at least sixty (60) consecutive days' imprisonment before the person is granted probation, suspension of sentence, or parole or is otherwise released, and be fined at least \$800. The person convicted shall neither be ordered to nor be permitted to serve the sixty (60) consecutive days by or as house arrest, work furlough, work release, or similar custody alternative program.
- (h) For the purposes of determining whether a conviction is a first, second, third, fourth, or subsequent conviction in any 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 subsection (b), (c), or (d). It is irrelevant whether an offense occurred before or after conviction for a previous offense.

- (i) The provisions of this section shall not apply to motor carriers of property or passengers regulated by the corporation commission of the state of Kansas.
- (j) The provisions of subsection (d) shall not apply to vehicle dealers, as defined in K.S.A. 8-2401, and amendments thereto, for vehicles being offered for sale by such dealers.
- (w) Amendment. The following section of the Standard Traffic Ordinance is hereby amended to read as follows:

Section 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) In addition to penalties 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 thirty (30) days from the date of mailing notice, the Division 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 thirty (30) days of mailing notice, the municipal court shall electronically notify the Division. 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 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 such compliance. Upon receipt of notification of such compliance from the informing court, the Division shall terminate the suspension or suspension action. In lieu of suspension under this subsection, the driver may submit to the Division a written request for restricted driving privileges pursuant to K.S.A. 8-2110(b), and amendments thereto. 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 pursuant to K.S.A. 8-2110(b), and amendments thereto.
- (c) On and after July 1, 2018, except as provided in subsections (d), when the municipal court notifies the Division of a failure to comply with a traffic citation pursuant to subsection (b), the court shall assess a reinstatement fee of \$100 or in any amount authorized by K.S.A. 8-2110, and amendments thereto, 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, 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.
- (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.

- (e) (1) A person who fails to comply with a traffic citation pursuant to subsection (a) and 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 fails to comply with a traffic citation pursuant to subsection (a), who is assessed a reinstatement fee pursuant to subsection (c), and 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) In the event that the Kansas Supreme Court establishes an additional charge pursuant to K.S.A. 8-2110(f), and amendments thereto, the court shall assess such additional charge in addition to any reinstatement fee provided in subsection (c) and in the same manner as such reinstatement fee.

SECTION 2. If any section, clause, sentence, or phrase of this ordinance is found to be unconstitutional or is otherwise held invalid by any court of competent jurisdiction, it shall not affect the validity of any remaining parts of the ordinance.

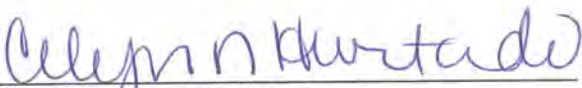
SECTION 3. That Section 86-2 of the Code of Ordinances of the City of Garden City, Kansas, as previously existing and amended, be and the same is hereby repealed, to be replaced as specified in this ordinance.

SECTION 4. That this ordinance shall be in full force and effect from and after October 1, 2021, and following its publication, in the Garden City Telegram, the official city newspaper.

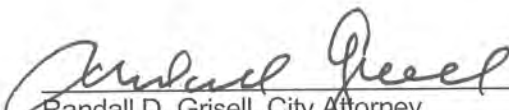
APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, this 21st day of September, 2021.


Roy Cessna, Mayor

ATTEST:


Celyn N. Hurtado, City Clerk

APPROVED AS TO FORM:


Randall D. Grisell, City Attorney