

ORDINANCE NO. 22-41

AN ORDINANCE PERTAINING TO TOWING FEES; AMENDING SECTIONS 5.44.030, 5.44.060 AND 5.44.090 OF THE OLATHE MUNICIPAL CODE AND REPEALING THE EXISTING SECTIONS.

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

SECTION ONE: Section 5.44.030 of the Olathe Municipal Code is hereby amended to read as follows:

“5.44.030 Definitions.

As used in this chapter, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

“Business enterprise” means a unit of economic organization or activity in the form of person, firm, partnership, corporation, trust or association.

“Non-residential property” means property located in the City zoned or used for commercial or industrial purposes.

“Private property impound tow” means a third party tow in which the vehicle is impounded and held subject to the payment of a fee.

“Property owner” means ~~Any~~ any person in lawful possession of private real property, including but not limited to the legal title holder, lessee or property manager. In no case shall any owner, operator or agent of a business enterprise engaged in the towing of vehicles from private property be considered a property owner unless he is the legal title holder or in possession of said property.

“Private property” means nongovernmental owned property.

“Removing” means the act of changing by towing, the location of a parked vehicle from its location on private property other than residential property to a storage site.

~~“Storing” “Storage” or “storing” means to place and leave a towed vehicle at a properly zoned site where the business enterprise or another business enterprise exercises control and supervision over the vehicle~~ storage area.

“Storage area” means a limited-access, properly zoned site, either indoor or outdoor, where the business enterprise or another business enterprise exercises control and supervision over the vehicle.

“Third party tow” means the towing for hire of vehicles from private property without the permission or authority of the vehicle owner or their authorized representative.

“Towing” means drawing or pulling a vehicle by means of another vehicle equipped with booms, car carriers, winches or similar equipment.

SECTION TWO: Section 5.44.060 of the Olathe Municipal Code is hereby amended to read as follows:

“5.44.060 Rates and Charges.

It shall be unlawful to:

(A) ~~Tow a vehicle unless the business enterprise shall file and keep on record with the City Manager, or his authorized representative, a complete copy of the current maximum rates charged for the towing and storage of vehicles on an imprinted tow receipt or ticket~~

(B) Charge the registered owner or other authorized person in control of the vehicle fees in excess of ~~those fees filed with the City Manager, or his authorized representative, in accordance with the requirements of this chapter~~ the maximum rates set forth in this Section or the rates specified in the posting or notice required by subsection (C), if lower than the maximum rates, or ~~Charge~~ charge the registered owner or other authorized person in control of a vehicle fees for any of the listed services ~~other than those that are not~~ reasonably related to the towing and storage of vehicles ~~which that~~ are actually ~~garaged~~ towed and stored, except as otherwise provided by this Section.

For vehicles under 26,000 pounds, the maximum rates that may be charged for towing, storage, and related fees are as follows:

<u>Hookup</u>	<u>\$100</u>
<u>Mileage</u>	<u>\$3.50 per mile</u>
<u>Storage</u>	<u>\$35 per day</u>

<u>Dolly Fee</u>	<u>\$50</u>
<u>Winching Fee</u>	<u>\$100 per hour</u>
<u>Lockout</u>	<u>\$35</u>
<u>Tarp (if needed)</u>	<u>\$35</u>

For vehicles 26,000 pounds and over, the maximum rates that may be charged for towing, storage, and related fees are as follows:

<u>Hookup</u>	<u>\$400</u>
<u>Mileage</u>	<u>\$3.50 per mile</u>
<u>Cage Brakes</u>	<u>\$60</u>
<u>Driveshaft Removal</u>	<u>\$35</u>
<u>Extra Labor</u>	<u>\$100, including tire change, lockout, winching, cleanup</u>
<u>Tarp (if needed)</u>	<u>\$35</u>
<u>Storage</u>	<u>\$50 per day, per unit</u>

Winching fees for any vehicle may be charged only when the vehicle is completely off a paved or gravel surface or when the vehicle is not upright.

~~No fee shall be charged for “hoisting,” or for “let down” or “standby” fees for allowing the registered owner or other authorized person to retrieve personal property from the impounded vehicle. No fee shall be charged for releasing the vehicle unless such release is at a time other than between 8:00 a.m. and 5:00 p.m., Monday through Friday, or unless such release is on the following holidays: New Year’s Day, Presidents Day, Memorial Day, Independence Day, Labor Day, Veterans Day, Thanksgiving Day and Christmas Day.~~

(B) Tow or remove or store a vehicle where the registered owner or other authorized person in control of the vehicle arrives at the scene of potential towing prior to towing or removal and such person:

(1) Pays a reasonable service fee (drop fee) of not more than one-half (1/2) of the posted rate for the hookup, for which a receipt will be given; and

(2) Immediately removes the vehicle from the property where it is otherwise unlawfully parked.

Upon payment of the service fee, the vehicle shall be disconnected from the towing or removal apparatus. There shall be no service fee charged if:

(1) No towing or removal apparatus has been connected to the vehicle; or

(2) The posting or notice provided pursuant to subsection (C) does not include a statement that a drop fee of one-half (1/2) of the hookup fee may be charged.

(C) Tow or remove or store a vehicle unless the current rates charged for the towing and storage of vehicles are posted in an open and conspicuous public place on the ~~premises~~ property from which the vehicle is removed and of the business enterprise doing the towing or listed on a conspicuous notice placed on the vehicle twenty-four (24) hours prior to the tow.

(D) Pay or rebate money, or solicit or offer the payment or rebate of money, or other valuable consideration to property owners for the privilege of towing or removing vehicles.”

SECTION THREE: Section 5.44.090 of the Olathe Municipal Code is hereby amended to read as follows:

“5.44.090 Regulations.

It shall be unlawful to:

(A) ~~Tow or remove or store a vehicle where the registered owner or other legally authorized person in control of the vehicle arrives at the scene of potential towing prior to towing or removal.~~

~~(B)~~ Tow or remove a vehicle occupied by a person or persons.

~~(C)~~ (B) Tow or remove or store a vehicle unless the towing business enterprise notifies the city police department ~~immediately upon arrival at the garage~~ within two (2) hours of the tow. Such notification shall include the storage site, the time and reason the vehicle was towed or removed, and the make, model, color, license plate number and vehicle identification number of the vehicle.

~~(D)~~ (C) Tow or remove or store a vehicle unless the vehicle shall be towed directly to the business enterprise's ~~garage~~ storage area and the vehicle shall not be kept in any temporary holding or public area.

~~(E)~~ (D) Store a vehicle in a ~~garage~~ storage area located further than ten (10) miles from the point of removal unless no closer facility is available.”

SECTION FOUR: Existing Sections 5.44.030, 5.44.060 and 5.44.090 are hereby repealed.

SECTION FIVE: This Ordinance shall take effect and be in force from and after its passage and publication as provided by law.

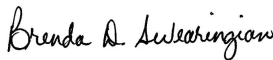
PASSED by the Governing Body this 16th day of August, 2022.

SIGNED by the Mayor this 17th day of August, 2022.


John W Bacon (Aug 17, 2022 09:44 CDT)

Mayor

ATTEST:



City Clerk



(SEAL)

APPROVED AS TO FORM:


Ron Shaver (Aug 17, 2022 11:00 CDT)

City Attorney

Publish and return the Proof of Publication to the City Clerk and City Attorney.

STATE OF KANSAS
JOHNSON COUNTY, SS

Brandon Humble, being first duly sworn, deposes and says: That he is the editor of
THE GARDNER NEWS A weekly newspaper printed in the State of Kansas, and published in
and of general circulation in Johnson County, Kansas and that said newspaper is a bi-
weekly published at least weekly, 52 times a year; has been published continuously and
uninterruptedly in said county and state for a period of more than five years prior to the first
publication of said notice; and has been admitted at the post office in Gardner, Kansas in said
county as second class matter.

That the attached notice is a true copy there of and was published in the regular and entire issue
of said newspaper for 1 consecutive weeks(s),

The first publication there of being made as aforesaid on : 24-Aug-22
Publications being made on the following .

EDITOR-----


SUBSCRIBED AND SWORN TO ME THIS: August 24, 2022

NOTARY PUBLIC _____

MY COMMISSION EXPIRES Oct/14/2023

ADAM HOLMES
Notary Public-State of Kansas
My Appt. Expires Oct/14/2023

COST-----

ADDITIONAL COPIES-----

IN THE DISTRICT COURT OF JOHNSON, COUNTY KANSAS-----

The within Proof Of Publication approved

-----JUDGE

PUBLICATION SUMMARY OF ORDINANCE NO. 22-41, PASSED BY THE GOVERNING BODY OF THE CITY OF OLATHE, KANSAS ON THE 16th DAY OF AUGUST 2022.

SUMMARY

On August 16, 2022, the Governing Body of the City of Olathe, Kansas passed Ordinance No. 22-41 making amendments to Title 5 of the Olathe Municipal Code pertaining to maximum fees and procedures for private property impound towing.

The complete text of this ordinance may be obtained or viewed free of charge at the office of the Olathe City Clerk, Olathe City Hall, 100 East Santa Fe Street, Olathe, Kansas, or on the City's official website address <http://www.olatheks.org/government/city-clerk/public-notices>, where a reproduction of the original ordinance will be available for a minimum of one week following this summary publication.

This summary is certified this 16th day of August 2022.

/s/ Robert G. Gallimore
Robert G. Gallimore
Assistant City Attorney

Publish one time and return one Proof of Publication to the City Clerk and one to the City Attorney.

Public Notice

First published in *The Gardner News* Wednesday, Aug. 24, 2022

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/s/ Robert G. Gallimore
Robert G. Gallimore
Assistant City Attorney