

CHAPTER X. POLICE

Article 1. Police Department

Article 2. Property in Police Custody

Article 3. Police Fees

ARTICLE 1. POLICE DEPARTMENT

10-101. **POLICE DEPARTMENT.** The law enforcement department shall consist of a chief of police and such number of regular law enforcement officers as shall be appointed as provided by K.S.A. 15-204. (Code 1999)

10-102. **LAW ENFORCEMENT PERSONNEL; GENERAL DUTIES.** It shall be the general duty of the chief of police and all sworn law enforcement personnel to the best of their ability to preserve good order, peace and quiet throughout the city as provided by law or ordinance.

The chief of police and all sworn law enforcement personnel shall at all times have power to make arrest under proper process or without process on view of any offense against the laws of the State of Kansas or laws of the city and to keep all persons so arrested, unless admitted to bail, in the city jail, county jail or other proper place to prevent their escape until their trial can be had before the proper officer.

All persons arrested for violation of any law of the state and who shall not be charged with an offense under any law of the city shall be released to the custody of the sheriff of the county and such arrest shall be reported to the county attorney. (Code 1999)

10-103. **RULES AND REGULATIONS.** The chief of police shall have power to make such rules and regulations as may be necessary for the proper and efficient conduct of the department. Such rules and regulations shall be approved by the governing body. (Code 1999)

ARTICLE 2. PROPERTY IN POLICE CUSTODY

10-201. **REGULATIONS.** The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 1999)

10-202. **DISPOSITION.** Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 90 days. After a period of 90 days, such property, except as provided in section 10-203, shall be sold at public auction to the

highest bidder and the proceeds after expenses shall be paid to the city general fund. (Code 1999)

10-203. SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:

(a) Cash money shall be turned over to the city general fund unless it shall be determined to have collector's value, in which case it shall be auctioned according to the provisions in section 10-202.

(b) Firearms which are available for disposition may be dealt with in the following manner:

(1) If compatible with law enforcement usage, they may be turned over to the police department inventory.

(2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.

(3) They may be destroyed.

(4) In no case shall firearms be sold at public auction.

(c) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, homemade weapons or weapons of a contraband nature shall be destroyed.

(d) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.

(e) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.

(f) Foodstuffs, if sealed and undamaged may be turned over to any appropriate social service agency or destroyed, but shall not be auctioned.

(g) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.

(h) Items with a value in excess of \$500 may be sold after advertising said item in a general circulation newspaper on at least two occasions. Such sales shall be by closed bid.

(Code 1999)

10-204. CLAIMING PROPERTY. The police department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner. (Code 1999)

10-205. PROOF OF OWNERSHIP. Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 1999)

10-206. AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing all property to be disposed of shall be prepared and kept on file in the police department. Notice of an auction shall be published at least twice in a general circulation newspaper prior to the date of the auction. The notice shall specify the date, time and place of the auction and shall also notify prospective buyers or potential claimants that a list of items to be auctioned is available at the police department and any claims on property must be made prior to the start of the auction. (Code 1999)

ARTICLE 3. POLICE FEES

10-301. FEE FOR POLICE RESPONSES TO PARTY. Definitions. As used in this article, the following terms shall have the following meanings, unless the context clearly indicates that a different meaning is intended:

Host: The person who owns or is in possession of the property where the party, gathering or event takes place, or the person in charge of the premises, or the person who organized the event. If the host is a minor, then the parents or guardians of that minor will be jointly and severally liable for the fee incurred for police services.

Party, Gathering or Event: An event involving a group of persons who have assembled or are assembling for a social occasion or for a social activity.

Police Services Fee: The cost to the city of any special security assignment, including, but not limited to, salaries of police officers while responding to or remaining at the party, gathering or event, the pro rata cost of equipment, the cost of repairing city equipment and property, the cost of any medical treatment of injured police officers, and the cost of reasonable attorney fees.

Special Security Assignment: The assignment of police officers, services and equipment during a second or subsequent response to the party, gathering or event after the delivery of a written notice to the host that a fee may be imposed for costs incurred by the city for any subsequent police response.
(Code 1999)

10-302. INITIAL POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS. When any police officer responds to any party, gathering or event, and that police officer determines that there is a threat to the public peace, health, safety, or general welfare, the police officer shall issue a written notice to the host or hosts that a subsequent response to that same location or address within 24 hours of the first response shall be deemed a special security assignment rendered to provide security and order on behalf of the party, gathering or event and that the host may be liable for a police services fee as defined in this article. (Code 1999)

10-303. SUBSEQUENT POLICE RESPONSES TO PARTIES, GATHERINGS OR EVENTS; LIABILITY. If, after a written notice is issued pursuant to section 10-302, a subsequent police response or responses is necessary to the same location or address within 24 hours of the first response, such response or responses shall be deemed a special security assignment. Persons previously warned shall be jointly and severally liable for a police services fee as defined in this article.

The amount of the fee shall be a debt owned to the city by the person or person warned, and if he or she is a minor, his or her parents or guardians shall be jointly and severally liable for the debt.
(Code 1999)

10-304. COST; COLLECTION. The chief of police shall notify the city treasurer in writing of the performance of a special security assignment, of the name and address of the responsible person or persons, the date and time of the incident, the services performed, the costs and such other information as may be required. The city treasurer shall thereafter cause appropriate billings to be made. (Code 1999)

(Published in The Morning Sun on Tuesday, August 18, 2020)

ORDINANCE NO. 546

AN ORDINANCE AMENDING SECTION 11-101 OF THE CODE OF THE CITY OF CHEROKEE, KANSAS, REGULATING CERTAIN PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF CHEROKEE, KANSAS, BY ADOPTING BY REFERENCE THE 2020 UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES AS PUBLISHED BY THE LEAGUE OF KANSAS MUNICIPALITIES, SAVE AND EXCEPT SUCH PARTS OR PORTIONS AS SUPPLEMENTED, DELETED OR CHANGED, AND REPEALING ORDINANCE NO. 541 AND PARTS OF ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE.

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

Section 11-101 of the Code of the City of Cherokee, Kansas is hereby amended to provide as follows:

SECTION 1: For the purpose of regulating certain public offenses within the corporate limits of the City of Cherokee, Kansas, that certain code known as the 2020 Uniform Public Offense Code for Kansas Cities prepared and published in book form by the League of Kansas Municipalities hereby is incorporated herein by reference, save and except such sections or parts as are hereafter omitted, deleted, supplemented, modified or changed, as authorized by K.S.A. §§ 12-3009 -3012, and K.S.A. §§ 12-3301 -3302, inclusive, as amended.

Not less than three (3) copies of said 2020 Uniform Public Offense Code for Kansas Cities shall be marked or stamped Official Copy, as adopted by Ordinance No. 546, with all sections or portions thereof intended to be omitted or changed clearly marked to show such change or omission and to which shall be attached a copy of this Ordinance and filed with the City Clerk to be open for inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with the enforcement of the Ordinance shall be supplied, at the cost of the City, such number of official copies of such 2020 Uniform Public Offense Code for Kansas Cities similarly marked as may be deemed expedient.

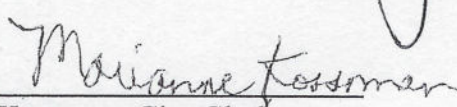
SECTION 2: Ordinance No. 541 of the City of Cherokee, Kansas, and all ordinances and parts of ordinances that are in conflict with this ordinance hereby are repealed.

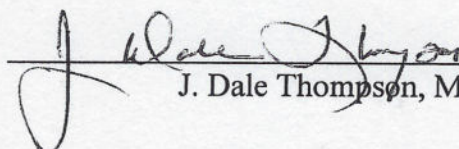
SECTION 3: This ordinance shall become effective following its passage and publication in the official City newspaper.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF CHEROKEE, KANSAS, this August 11, 2020.

(SEAL)

ATTEST:


Marianne Kossman, City Clerk


J. Dale Thompson, Mayor

(Published in The Morning Sun on Friday, August 16, 2019)

ORDINANCE NO. 541

AN ORDINANCE AMENDING SECTION 11-101 OF THE CODE OF THE CITY OF CHEROKEE, KANSAS, REGULATING CERTAIN PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF CHEROKEE, KANSAS, BY ADOPTING BY REFERENCE THE 2019 UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES AS PUBLISHED BY THE LEAGUE OF KANSAS MUNICIPALITIES, SAVE AND EXCEPT SUCH PARTS OR PORTIONS AS SUPPLEMENTED, DELETED OR CHANGED, AND REPEALING ORDINANCE NO. 538 AND PARTS OF ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE.

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

Section 11-101 of the Code of the City of Cherokee, Kansas is hereby amended to provide as follows:

SECTION 1: For the purpose of regulating certain public offenses within the corporate limits of the City of Cherokee, Kansas, that certain code known as the 2019 Uniform Public Offense Code for Kansas Cities prepared and published in book form by the League of Kansas Municipalities hereby is incorporated herein by reference, save and except such sections or parts as are hereafter omitted, deleted, supplemented, modified or changed, as authorized by K.S.A. §§ 12-3009 -3012, and K.S.A. §§ 12-3301 -3302, inclusive, as amended.

Not less than three (3) copies of said 2019 Uniform Public Offense Code for Kansas Cities shall be marked or stamped Official Copy, as adopted by Ordinance No. 541, with all sections or portions thereof intended to be omitted or changed clearly marked to show such change or omission and to which shall be attached a copy of this Ordinance and filed with the City Clerk to be open for inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with the enforcement of the Ordinance shall be supplied, at the cost of the City, such number of official copies of such 2019 Uniform Public Offense Code for Kansas Cities similarly marked as may be deemed expedient.

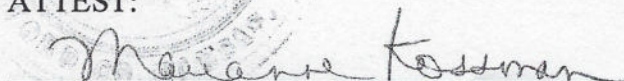
SECTION 2: Ordinance No. 538 of the City of Cherokee, Kansas, and all ordinances and parts of ordinances that are in conflict with this ordinance hereby are repealed.

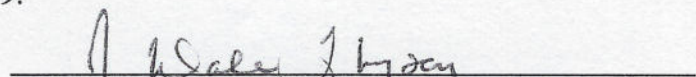
SECTION 3: This ordinance shall become effective following its passage and publication in the official City newspaper.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF CHEROKEE, KANSAS, this August 8, 2019.

(SEAL)

ATTEST:


Marianne Kossman, City Clerk


J. Dale Thompson, Mayor

(Published in The Morning Sun on August, 17, 2017)

ORDINANCE NO. 535

AN ORDINANCE AMENDING SECTION 11-101 OF THE CODE OF THE CITY OF CHEROKEE, KANSAS, REGULATING CERTAIN PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF CHEROKEE, KANSAS, BY ADOPTING BY REFERENCE THE 2017 UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES AS PUBLISHED BY THE LEAGUE OF KANSAS MUNICIPALITIES, SAVE AND EXCEPT SUCH PARTS OR PORTIONS AS SUPPLEMENTED, DELETED OR CHANGED, AND REPEALING ORDINANCE NO. 533 AND PARTS OF ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE.

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

Section 11-101 of the Code of the City of Cherokee, Kansas is hereby amended to provide as follows:

SECTION 1: For the purpose of regulating certain public offenses within the corporate limits of the City of Cherokee, Kansas, that certain code known as the 2017 Uniform Public Offense Code for Kansas Cities, prepared and published in book form by the League of Kansas Municipalities is incorporated herein by reference, save and except such sections or parts as are hereafter omitted, deleted, supplemented, modified or changed, as authorized by K.S.A. §§ 12-3009 -3012, and K.S.A. §§ 12-3301 -3302, inclusive, as amended.

Not less than three (3) copies of said 2017 Uniform Public Offense Code for Kansas Cities shall be marked or stamped Official Copy, as adopted by Ordinance No. 533, with all sections or portions thereof intended to be omitted or changed clearly marked to show such change or omission and to which shall be attached a copy of this Ordinance and filed with the City Clerk to be open for inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with the enforcement of the Ordinance shall be supplied, at the cost of the City, such number of official copies of such 2017 Uniform Public Offense Code for Kansas Cities similarly marked as may be deemed expedient.

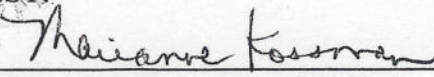
SECTION 2: Ordinance No. 533 of the City of Cherokee, Kansas, and all ordinances and parts of ordinances that are in conflict with this ordinance hereby repealed.

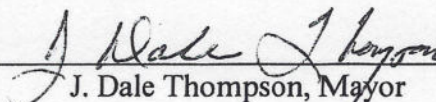
SECTION 3: This ordinance shall become effective following its passage and publication in the official City newspaper.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF CHEROKEE, KANSAS, this 10 day of August, 2017.

(SEAL)

ATTEST:


Marianne Kossman, City Clerk


J. Dale Thompson, Mayor

11-204. CHILDREN ON STREETS. It shall be unlawful for any child under the age of 16 years to be, or for the parents or guardian of such child to knowingly and wilfully permit the child to be upon any of the public streets, avenues, alley, or grounds in this city after the hour of 10:00 p.m. and before the hour of 6:00 a.m. , unless the child is accompanied by one of its parents or guardians, or has the written consent of such parent or guardian to be upon such places for the purpose of some business. (Code 1949, 6-601)

11-205. HEIGHT OF HEDGES. It shall be unlawful for any person owning or controlling any hedge fence bordering on any street, avenue, alley or sidewalk in this city to permit the same to grow to a height of more than 3½ feet. (Code 1949, 6-801)

11-206. SEWAGE WORKS. No unauthorized person shall maliciously, wilfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct. (Ord. 402, Art. VI)

ARTICLE 2. LOCAL REGULATIONS

11-201. SPEED OF TRAINS. It shall be unlawful for any railroad company, corporation or person having charge of any railroad train, engine or car, to run the same at a rate of speed greater than 35 miles per hour, within the city limits. The rate of speed shall be determined as the head end speed of the train as it enters and leaves the corporate limits of the city. (Ord. 441, Sec. 1)

11-202. INJURY TO TREES. It shall be unlawful for any person to wilfully, maliciously or without lawful authority cut down, root up, sever, injure, peel, or otherwise injure or destroy any fruit, shade or ornamental tree, cultivated plant, grape or strawberry vine, or any other vine or plant, shrub or bush whatever, which is the property of another, standing on or attached to the land of another or to pick, destroy or carry away therefrom or in any way interfere with any part of the fruit thereof or to wilfully and without lawful authority cut down, root up, destroy, or to trespass upon the premises of another without lawful intent, or to attach any telegraph, telephone, electric, radio or other wire to any live tree or in any manner injure any fruit, shade or ornamental tree, shrub or vine planted or growing on any street, avenue, alley or public ground of this city. (Code 1949, 6-204)

11-203. SALE OF FIREWORKS. It shall be unlawful for any person to sell or offer for sale within the city any toy pistol, cartridge cane, squib, rocket, firecracker or Roman candle, or other fireworks or articles that can be used in pyrotechnical display. (Code 1949, 6-415)

AN ORDINANCE AMENDING THE CODE OF THE CITY OF CHEROKEE, KANSAS.

SECTION 1. The Code of the City of Cherokee, Kansas is hereby amended by adding Sections 11-206, 11-207, 11-208, 11-209, 11-210 and 11-211.

11-206. It is hereby found:

- This portion left off in Code Book*
- (1) The making and creation of excessive, unnecessary or unusually loud noises within the limits of the City is a condition, which has existed for some time in certain areas of the City;
 - (2) The making, creation or maintenance of such excessive, unnecessary, or unusually loud noises which are prolonged and unusual in their time, place and use affect and are a detriment to public health, comfort, convenience, safety, welfare and prosperity of the residents of the City; and
 - (3) It is necessary and in the public interest for the provisions and prohibitions contained in this division to be enacted, and it is further declared that the provisions and prohibitions contained in this division and enacted are in pursuance of and for the purpose of securing and promoting the public health, comfort, convenience, safety, welfare and prosperity and the peace and quiet of the City and its inhabitants.

11-207. Unlawful noise generally.

It shall be unlawful for any person to be in charge of any premises, or to participate in or be in any party or gathering of people from which any unusually loud, excessive or unnecessary noise emanates so as to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others inside the limits of the City. A police officer may order all persons present at such a party or gathering to immediately disperse from the vicinity of the party or gathering in lieu of being charged under this division; provided, however, that owners or tenants are not required to leave their own dwelling unit. Owners or tenants residing in a dwelling unit from which such noise emanates or where the party or gathering occurs shall, upon request of a police officer, cooperate fully in abating the disturbance and failing to do so shall be in violation of this division.

11-208. Specific noises prohibited; standards.

The following acts, among others, are declared to be loud, excessive and unnecessary noises in violation of this division, but such enumeration shall not be deemed to be exclusive, namely:

- (1) The playing, using, operating, or permitting to be played, used or operated, any radio, receiving set, musical instrument, phonograph, tape player, television, VCR, compact disc player, loudspeaker, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, repose, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the residence or upon the premises, in which such machine or device is operated. The operation of any

11-205 **HEIGHT OF HEDGES**

It shall be unlawful for any person owning or controlling any hedge fence bordering on any street, avenue, alley or sidewalk in this city to permit the same to grow to a height of more than 3 feet.

Code 1949, 6-801

11-206 **SEWAGE WORKS**

No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment which is a part of the sewage works. Any person violating this provision shall be subject to immediate arrest under charge of disorderly conduct.

Ord. 402, Art. VI

11-207 **UNLAWFUL NOISE GENERALLY**

It shall be unlawful for any person to be in charge of any premises, or to participate in or be in any party or gathering of people from which any unusually loud, excessive or unnecessary noise emanates so as to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of others inside the limits of the City. A police officer may order all persons present at such a party or gathering to immediately disperse from the vicinity of the party or gathering in lieu of being charged under this division; provided, however, that owners or tenants are not required to leave their own dwelling unit. Owners or tenants residing in a dwelling unit from which such noise emanates or where the party or gathering occurs shall, upon request of a police officer, cooperate fully in abating the disturbance and failing to do so shall be in violation of this division.

Ord. 484

11-208 **SPECIFIC NOISES PROHIBITED; STANDARDS**

The following acts, among others, are declared to be loud, excessive and unnecessary noises in violation of this division, but such

enumeration shall not be deemed to be exclusive, namely:

- a) The playing, using, operating, or permitting to be played, used or operated, any radio, receiving set, musical instrument, phonograph, tape player, television, VCR, compact disc player, loudspeaker, or other machine or device for the producing or reproducing of sound in such manner as to disturb the peace, quiet, repose, and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the persons who are in the residence or upon the premises, in which such machine or device is operated. The operation of any such set, instrument, phonograph, tape player, television, VCR, compact disc player, loudspeaker, machine or device in such a manner as to be plainly audible at a distance of 50 feet from the residence or premises in or on which it is emanates shall be prima facie evidence of a violation of this Section. Measurement standards for plainly audible at a distance of 50 feet shall be by the auditory senses, based upon direct line of sight. Words and phrases need not be discernible and bass reverberations are included.
- b) Yelling, shouting, whistling or singing on the public streets, highways, alleys or sidewalks, or while on a private or public parking area or parking lot, or while in or upon a private residence, lot or driveway, so as to annoy or disturb the peace, quiet, comfort or repose of the persons in any residence or premises. Such yelling, shouting, hooting, whistling or singing in such a manner as to be plainly audible at a distance of 50 feet from the boundary of such street, highway, alley, sidewalk, parking area or parking lot shall be

prima facie evidence of a violation of this Section.

Ord. 484

11-209

LOUD SOUND AMPLIFICATION SYSTEMS

- a) It shall be unlawful for any person operating or occupying a motor vehicle on a street, highway, alley, parking lot or driveway to operate or permit the operation of any sound amplification system from within the vehicle so that the sound is plainly audible at a distance of 100 or more feet from the vehicle.
- b) The term "sound amplification system" means any radio, tape player, compact disc player, loudspeaker, or other electronic device used for the amplification of sound.
- c) The term "plainly audible" means any sound produced by a sound amplification system from within the vehicle, which clearly can be heard at a distance of 100 feet or more. Measurement standards shall be by the auditory senses, based upon direct line of sight. Words or phrases need not be discernible and bass reverberations are included. The motor vehicle may be stopped, standing, parked or moving on a street, highway, alley, parking lot or driveway.
- d) It is an affirmative defense to a charge under this Section that the operator or occupier was not otherwise prohibited by law from operating the sound amplification systems, and that any of the following apply:
 - 1. The system was being operated to request medical or vehicular assistance or to warn of a hazardous road condition;
 - 2. The vehicle was an emergency or public safety vehicle;

3. The vehicle was owned and operated by the City or a gas, electric, communications or refuse company;
4. The system was used for the purpose of giving instructions, directions, talks, addresses, lectures or transmitting music to any persons or assemblages of persons in compliance with ordinances of the City; or
5. The vehicle was used in authorized public activities, such as parades, fireworks, sports events, musical productions and other activities, which have the approval of the department of the City authorized to grant such approval.

Ord. 484

11-210 Loudspeakers; amplifiers; permit

It shall be unlawful for any person, either as principal, agent or employee, to play, use or operate for personal enjoyment, for purpose of attracting attention, or for advertising purposes on the streets or alleys of the City, or upon any private property any device known as a loudspeaker, or sound amplifier, or an instrument known as a calliope, or any other musical instrument of similar character, without first procuring permission therefore from the City Council. The permission shall be granted at the discretion of the City Council.

Ord. 484

ARTICLE 3 POSSESSION OF MARIJUANA

11-301 DEFINITIONS

The following words, terms and phrases, when used in this ordinance, shall have the meanings ascribed to them in this ordinance except where the context clearly indicates a different meaning:

Marijuana: All parts of all varieties of the plant Cannabis whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant. Fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compounds, manufacture, salt, derivative, mixture or preparation of the mature stalks, except resin extracted there from, fiber, oil, or cake or the sterilized seed of the plant which is incapable of germination,

Person: Any individual, corporation, business, trust, estate, partnership, or association or other legal entity.

Ordinance 488

11-302 **USE OR POSSESSION**

Except as is otherwise authorized by law, it shall be unlawful for any person to possess or have under such person's control any marijuana.

Ordinance 488

11-303 **OTHER PARTIES**

It shall not be a defense to charges arising under this ordinance that the defendant was acting in agency relationship on behalf of any other party in a transaction or in the possession or control of marijuana.

Ordinance 488

11-304 **PENALTIES**

Any person who violates this ordinance shall be guilty of a Class A Misdemeanor and shall upon convictions be punished by a fine of not to exceed Two Thousand Five Hundred Dollars (\$2,500.00) or by confinement in jail for definite term not exceeding one year, or

by both such fine and confinement.

Ordinance 488

11-305 **CONFLICT**

All ordinances and parts of ordinances in conflict herewith are hereby repealed accordingly.

Ordinance 488

11-306 **INVALIDITY**

If for any reason any chapter, article, section, subsection, position of or part of the proposed Ordinance set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the Code or other ordinances.

Ordinance 488

ARTICLE 4 POSSESSION OR USE OF DRUG PARAPHERNALIA

11-401 **DEFINITIONS**

The following words, terms and phrases, when used in this chapter, shall have the meanings ascribed to them in this ordinance, except where the context clearly indicates a different meaning:

- a) "Controlled substance" means any drug, substance or immediate precursor included in any of the schedules designated in K.S.A 65-4105, 65-4107, 65-4109, 65-4111 and 65-4113, and amendments thereto.
- b) "Deliver" or "delivery" means actual, constructive or attempted transfer from one person to another, whether or not there is an agency relationship.
- c) "Drug paraphernalia" means all equipment, products and materials of any kind which are used or intended for use in planting, propagating, cultivating, growing, harvesting,

manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing containing, concealing, injecting, ingesting, inhaling or otherwise introducing into the human body a controlled substance in violation of the uniform controlled substances act. "Drug paraphernalia" shall include, but is not limited to:

1. Kits used or intended for use in planting, propagating, cultivating, growing or harvesting any species of plant which is controlled substance or from which a controlled substance can be derived;
2. Kits used or intended of use in manufacturing, compounding, converting, producing, processing or preparing controlled substance;
3. Isomerization devices used or intended for use in increasing the potency of any species of plant which is a controlled substance;
4. Testing equipment used or intended for use in identifying or in analyzing the strength, effectiveness or purity of controlled substances;
5. Scales and balances used or intended for use in weighing or measuring controlled substance;
6. Diluents and adulterants, such as quinine hydrochloride, mannitol, dextrose and lactose, which are sued or intended of use in cutting controlled substance;
7. Separation gins and sifters used or intended for use in remaining twigs and seeds from or otherwise cleaning

- or refining marijuana;
8. Blenders, bowls, containers, spoons and mixing devices used or intended for use in compounding controlled substances;
 9. Capsules, balloons, envelopes and other containers used or intended for use packaging small quantities of controlled substances;
 10. Containers other objects used or intended for use in storing or concealing controlled substances;
 11. Hypodermic syringes, needles and oilier used or intended for use parentally injecting controlled , or
 12. Objects used or intended otherwise introducing marijuana, cocaine, into the human body, such as:
 - a) metal, wooden, acrylic, glass, stone, plastic or ceramic pipes with or without screens, permanent screens, hashish heads or punctured metal bowls;
 - b) water pipes;
 - c) carburation tubes and devices;
 - d) smoking and carburation masks;
 - e) roach clips (objects used to hold burning material, such as a marijuana cigarette, that has become too small or too short to be held in the hand);
 - f) miniature cocaine spoons and cocaine vials;
 - g) chamber pipes;
 - h) carburetor pipes;
 - i) electric pipes;

- j) air-driven pipes;
 - k) chillums;
 - l) bongs; and
 - m) ice pipes or chillers.
- d) "Persons" means any individual, corporation, government or government subdivision or agency, business trust estate, trust, partnership, association or other legal entity.
 - e) "Simulated controlled substance" means any product which identifies itself by a common name or slang term associated with a controlled substance and which indicated on its label or accompanying promotional material that the product simulated the effect of a controlled substance.

Ordinance 489

11-402

**DETERMINATION OF WHAT IS "DRUG PARAPHERNALIA,"
FACTORS TO CONSIDER**

In determining whether an object is drug paraphernalia, the municipal court shall consider, in addition to all other logically relevant factors, the following:

- a) Statements by an owner or person in control of the object concerning its use,
- b) Prior convictions, if any, of an owner or person in control of the object, under any state or federal law relating to any controlled substance,
- c) The proximity of the object, in time and space, to direct violation of the uniform controlled substances act.
- d) The proximity of the object to controlled substances.
- e) The existence of any residue of controlled substances on the

object.

- f) Direct or circumstantial evidence of the intent of an owner or person in control of the object, to deliver it to a person the owner or person in control of the object knows, or should reasonable know, intends to sue the object to facilitate a violation of the uniform controlled substances act. The innocence of an owner or person in control of the object as to a direct violation of the uniform controlled substances act shall not prevent a finding that the object is intended for use as drug paraphernalia.
- g) Oral or written instructions provided with the object concerning its use.
- h) Descriptive materials accompanying the object which explain or depict its use.
- i) National and local advertising concerning the object's use,
- j) The manner in which the object is displayed for sale,
- k) Whether the owner or person in control of the object is a legitimate supplier of similar or related items to the community such as a distributor or dealer of tobacco products.
- l) Direct or circumstantial evidence of the ratio of sales of the object or objects to the total sales of the business enterprise.
- m) The existence and scope of legitimate uses for the object in the community.
- n) Expert testimony concerning the object's use.

Ordinance 489

11-403

**SIMULATED CONTROLLED SUBSTANCES AND DRUG
PARAPHERNALIA, USE OR POSSESSION PROHIBITED,**

No person shall use or possess with intent to use:

- a) Any simulated controlled substance;
- b) any drug paraphernalia to sue, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the uniform controlled substance act;
- c) any drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process prepare, test, analyze, pack, repack, sell or distribute a controlled substance in violation of the uniform controlled substances act; or
- d) anhydrous ammonia for the illegal production of a controlled substance in a container not approved for that chemical by the Kansas Department of Agriculture.

Ordinance 489

11-404

PENALTIES

Any person who violates this ordinance shall be guilty of a Class A Misdemeanor and shall upon convictions by punished by a fine of not to exceed two thousand five hundred dollars (\$2,500,00) or by confinement in jail for a definite tern not exceeding one year, or by both such fine and confinement.

Ordinance 489

11-405

CONFLICT

All ordinances and parts of ordinances in conflict herewith are hereby repealed accordingly.

Ordinance 489

11-406

INVALIDITY

If for any reason any chapter, article sections, subsection position

or part of the proposed ordinances set out, or the application thereof to any person or circumstance is declared to be unconstitutional or invalid, such decision shall not affect the validity of the remaining portions of the code or other ordinances.

Ordinance 489

CHAPTER XII. PUBLIC PROPERTY

Article 1. City Parks

Article 2. Cemetery

ARTICLE 1. CITY PARKS

- 12-101. CITY LAWS EXTENDED TO PARK. The laws of the city shall extend to and cover all city parks. (Code 1999)
- 12-102. POLICE JURISDICTION OVER PARKS. The city shall have police regulations governing any public parks belonging to the city and the chief of police and law enforcement officers of the city shall have full power to enforce city laws governing city parks and shall maintain order therein. (Code 1999)
- 12-103. DAMAGING PARK PROPERTY. It shall be unlawful for any person, except duly authorized city employees, to willfully or wantonly remove, injure, tarnish, deface or destroy any building, walk, bench, tree or improvement or property of any kind belonging to any park owned by the city. (Code 1999)
- 12-104. DANGEROUS WEAPONS NOT ALLOWED. (a) Except as provided in subsection (b), it shall be unlawful for any person to carry or have in his or her possession any firearm or dangerous weapon or to shoot or discharge the same within the limits of any city parks.
(b) The provisions of subsection (a) above shall not apply to duly authorized law enforcement officers in the performance of official duty. (Code 1999)
- 12-105. VEHICLE REGULATIONS. (a) Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways and motorbikes, go-carts, snowmobiles and other motorized off-the-road vehicles shall be operated in a safe and prudent manner at all times in park areas.
(b) Except as provided in subsection (d), it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.
(c) Except as provided in subsection (d), it shall be unlawful for any person to operate any motor vehicle within any city park except upon roads, drives and parking areas established by the city.
(d) Subsections (b) and (c) above shall not apply to authorized city employees while engaged in the maintenance and care of the park.
(e) It shall be unlawful to operate any such vehicle in any park area at a speed in excess of 20 m.p.h. (Code 1999)

- 12-106. HUNTING. It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any city park. (Code 1999)
- 12-107. FIRES. It shall be unlawful for any person to build or kindle any fire in any city park except in the ovens, stoves, or grills provided for that purpose by the city, and such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof. (Code 1999)
- 12-108. CAMPING PROHIBITED. Overnight camping is hereby prohibited in city parks except where posted. (Code 1999)
- 12-109. SANITATION. All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements. (Code 1999)
- 12-110. PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES. It shall be unlawful for any person or persons to use, consume or have on the premises of any park or other city property within the city any alcoholic liquor or cereal malt beverage. (Code 1999)
- 12-111. PRESERVATION OF NATURAL STATE. It shall be unlawful for any person, except duly authorized city employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks. (Code 1999)
- 12-112. GENERAL REGULATIONS. The city may post such rules and regulations, as are approved by the governing body, pertaining to the use of the city parks in a conspicuous place in each city park. Violations of these posted rules shall constitute a violation of this code. (Code 1999)

ARTICLE 2. CEMETERY

- 12-201. PURCHASE OF LAND. The mayor and council are hereby authorized and empowered to purchase a tract of land outside the limits of the city, for the purpose of the burial and interment of the dead, for the purpose of the burial and interment of the dead, and authorized to use any money in the city treasury, that is not otherwise provided for to pay for the purchase, the land and improvement of the cemetery. (Code 1949, 16-101)
- 12-202. SURVEY. The mayor and councilmembers shall provide for the survey, platting, grading, fencing, ornamental and improving all the burial and cemetery grounds and the avenues leading thereto, owned by such city, and may construct walks therein, rear and protect ornamental trees therein, rear and protect

ornamental trees therein, and provide for paying the expenses thereof. (Code 1949, 16-102)

12-203.

LOTS; HOW CONVEYED. Cemetery lots owned by such city shall be conveyed by a certificate signed by the mayor and countersigned by the clerk, under the seal of the city, specifying that the purchaser to whom the same is issued is the owner of the lot or lots described therein, by number as laid down on such map or plat, for the purposes of interment and burial; and such certificate shall vest in the purchaser, his or her heirs and assigns, a right in fee simple to such lot, for the sole purpose of interment and burial, under the regulations of the mayor and city council and such certificates shall be entitled to be recorded in the offices of the Register of Deeds of Crawford County, Kansas, without further acknowledgment; and such description of lots shall be deemed and recognized as a sufficient description thereof. The mayor and council may limit the number of lots which shall be owned by the same person at the same time; may prescribe rules for enclosing, adorning and erecting monuments and tombstones on cemetery lots; and may prohibit any diversion of the use of lots, and improper adornment thereof; but no religious test shall be made as to the ownership of the lots, the burial therein, or the ornamentation of graves or of such lots. (Code 1949, 16-103)

12-204.

RULES AND ORDINANCES. The mayor and council may pass rules and ordinances, imposing penalties and fines, not exceeding \$100 regulating, protecting and governing the cemetery the owners of lots therein, visitors thereof, and punishing trespassers therein; and the officers of such city shall have as full jurisdiction and power in the enforcing of such rules and ordinances as though they related to the city itself. (Code 1949, 16-104)

12-205.

GENERAL SUPERVISION AND CARE. It shall be the duty of the committee on cemetery to exercise general supervision, and care, and management of the grounds of the cemetery, to see that all foundations for monuments, tombs, vaults and all fences are properly built, and all grading, planting and trimming of plants and trees are properly done, and shall have control of all improvements of lots. They shall also, when necessary and ordered by the council, lay off and plat new lots, avenues, and walks, placing landmarks and cornerstones of lots, and fixing the prices of lots, and report their proceedings and plat to the council for approval. (Code 1949, 16-201)

12-206.

SECRETARY. The clerk of the city shall be ex officio secretary of the cemetery association. He or she shall keep record of all permits to bury and sales of lots, have the custody of all books, records, surveys, plats, and maps of the cemetery, collect all moneys for sale of lots and pay the same over to the city treasurer, who shall be ex officio treasurer of the cemetery, taking his or her receipt therefor, enter the date, name of purchaser, number of lot and price, and shall issue to the purchaser a certificate of purchase, signed by the mayor and attested by the secretary under the seal of the city and shall make report of his or her proceedings to the council at close of each quarter. (Code 1949, 16-202)

12-207.

INTERMENT AND CHARGES. No interment shall be made in the city cemetery without a permit issued by the city clerk and after a certificate of death of

the one to be interred signed by some physician, is filed with the city clerk in conformity with the laws of the State of Kansas; and no permit shall be issued until satisfactory arrangements have been made with the city clerk for the payment of the lot and digging the grave, and other charges.

The charges for lots and digging graves shall be filed by the cemetery committee, and approved by the city council. All lots sold shall be sold subject to the rules and regulations of the city council and cemetery committee now in force for the government of the city cemetery or that may hereafter be made. (Code 1949, 16-203)

12-208. **SEXTON DUTIES.** There shall be appointed annually by the mayor and council, in the manner prescribed for the appointment of other officers in a suitable person as sexton of the cemetery, who shall be in readiness at all times, by himself, herself or someone acting for him or her to perform the duties pertaining to his or her office as sexton, and it shall be his or her duty to show the lots and assist any person desiring to purchase a lot in selecting the same; to keep and preserve the grounds, buildings, fences, and other property in repair, to report to the committee on cemetery any injury to the same, or repairs, necessary, and when ordered by the committee or council, to make or cause to be made such repairs; to prevent trespass on the grounds, and as far as possible to prevent from being injured any tombstone, monument, vault, fence, foundation for same, tree, shrub, plant, flower, or other improvement, and to keep the walks and avenues in the cemetery in as good repair and as free from grass, weeds, and other encumbrances as possible. He or she shall dig or cause to be dug all graves in the cemetery, attend to the burial of all persons, and fill and preserve all graves therein, and immediately return all permits to the city clerk, and do and perform all other labor and duties ordered by the committee or council. (Code 1949, 16-204)

12-209. **PRICE OF LOTS.** The price of lots shall be as heretofore established or as may be hereafter fixed by the council. (Code 1949, 16-205)

12-210. **ACCESS TO GROUNDS.** The owners of lots and their friends shall have access to the grounds at all reasonable time, subject to such regulations governing the cemetery as shall be established by the council. (Code 1949, 16-206)

12-211. **GRAVE DECORATIONS.** Agents and employees of the city having the duty of mowing and maintaining the city cemetery shall have a right to remove, haul away and destroy all flowers, plants, wreaths, ornaments and decorations of whatsoever type or nature and whether the same be natural or artificial placed upon or in the vicinity of grave or burial sites within the cemetery whenever it shall be deemed necessary to do so for purposes of mowing, seeding, fertilizing, cultivating or otherwise tending the cemetery grounds; and all persons decorating graves with any such items shall do so with the understanding that the items are placed in the cemetery subject to such removal and destruction; and placing of the items within the cemetery shall be deemed a consent to such disposition of the items. (Ord. 362, Sec. 1)

- 12-212. MEMORIAL DAY. That for a period of 10 calendar days following Memorial Day, none of the decorations enumerated in section 12-211 hereof shall be removed by the city. (Ord. 362, Sec. 2)
- 12-213. ENDOWMENT FUND. (a) All funds contributed to the endowment fund shall be invested in investments authorized by K.S.A. 12-1675 and amendments thereto, in the manner prescribed therein or in state, county, or municipal bonds, bonds of the United States of America, or any bonds guaranteed both as to principal and interest by the United States of America and the interest accruing therefrom from such investments shall annually be expended for caring for graves, and beautifying the cemetery but in no case shall the endowment fund be depleted or lessened and nothing but its earnings as they accumulate annually shall be expended for any purpose whatsoever except as specified above. No moneys contributed by any donor, by gift, grant or will, shall be transferred to the general cemetery fund as hereinbefore described.
- (b) A committee consisting of all city council members shall oversee the use of any and all moneys contributed to the endowment fund. The city council shall have final authority on the use of the funds.
- (c) Any person may hereafter make gifts to this endowment fund, either for the benefit of the entire cemetery or for the special care and beautification of a particular crypt or crypts, vault, room or space therein.
- (d) All special gifts to this endowment fund not specifically conditioned for the maintenance and care of designated crypts, vaults or space, shall be deemed to be for the maintenance of the entire cemetery.
- (e) All gifts conditioned for the special care and beautification of a particular crypt or crypts, vaults, room or space, shall be treated not as a special trust and may be co-mingled with any and all other funds which are the subject matter of this endowment fund, but separate accounts shall be kept by the cemetery properly designating the particular crypt or lot to which applicable, so that the income therefrom shall be used as directed by the instrument or gift.
- (f) The committee shall have the right to refuse to accept and administer any gift, if in its opinion, the gift is not legally made or is not for the best interests of the cemetery.
- (Ord. 450, Secs. 2:7)

made to time. The City (Published in The Morning Sun on July 8, 2018) on the use of any
and all moneys contributed

THE CITY OF CHEROKEE, KANSAS
ORDINANCE NO. 536

AN ORDINANCE TERMINATING AND AUTHORIZING THE DISTRIBUTION
OF THE CHEROKEE CITY CEMETERY ENDOWMENT FUND.

WHEREAS, there was established pursuant to Ordinance No. 450 adopted on November 8, 1989 the Cherokee City Cemetery Endowment Fund for the benefit of the Cherokee City Cemetery, which heretofore has been maintained by the City Clerk in accordance with Kansas law, and has a balance of approximately \$17,985;

WHEREAS, the nominal income generated by the investment of funds in the Cherokee City Cemetery Endowment Fund is insufficient to address any of the ongoing needs of the Cherokee City Cemetery.

WHEREAS, the Mayor and City Council of the City of Cherokee have determined that it is in the best interest of the residents of the City of Cherokee to terminate the Cherokee City Cemetery Endowment Fund and make both the principal and income available exclusively for the development and maintenance of the Cherokee City Cemetery.

NOW, THEREFORE, be ordained by the governing body of the City of Cherokee as follows:

Section 1. Revocation of Prior Ordinance. Ordinance No. 450 adopted on November 8, 1989 should be and it hereby is repealed in its entirety.

Section 2. Termination. The Cherokee City Cemetery Endowment Fund should be and it hereby is terminated.

Section 3. Distribution of Funds. Any and all funds currently held in the Cherokee City Cemetery Endowment Fund shall be distributed to the City Clerk. The City Clerk is directed to deposit the proceeds of the Cherokee City Cemetery Endowment Fund into the Cemetery Fund, which is to be used exclusively for the development and maintenance of the Cherokee City Cemetery.

Section 4. Restricted Fund. The Mayor and members of the City Council of the City of Cherokee reiterate their intent that the principal and income of the Cemetery Fund shall be restricted and utilized exclusively for the development and maintenance of the Cherokee City Cemetery.

Section 5. Use of Funds. The City Treasurer is authorized to disburse the funds from the Cemetery Fund to be used exclusively for the development and maintenance of the Cherokee City Cemetery, upon the approval of the governing body of the City of Cherokee, from

time to time. The City Council shall oversee and shall have the final authority on the use of any and all moneys contributed to the Cemetery Fund.

Section 6. Force and Effect. This Ordinance shall be in full force and effect from and after its adoption and approval.

Section 7. Publication. The City Clerk is directed to publish this Ordinance one (1) time in the official City newspaper.

UNANIMOUSLY ADOPTED, APPROVED AND GIVEN by the Mayor and City Council of the City of Cherokee, under our hands at City Hall in Cherokee, Crawford County, Kansas on June 14, 2018.

(SEAL)



J. Dale Thompson
J. Dale Thompson, Mayor

Butch Buckley
Butch Buckley, Council Member

Rose Burns
Rose Burns, Council Member

John Lovell
John Lovell, Council Member

Kevin Malle
Kevin Malle, Council Member

Mike Milford
Mike Milford, Council Member

ATTEST:

Marianne Kossman

Marianne Kossman, City Clerk

CHAPTER XIII. STREETS AND SIDEWALKS

- Article 1. Sidewalks
- Article 2. Streets
- Article 3. Trees and Shrubs
- Article 4. Snow and Ice
- Article 5. Offenses Effecting Public Peace and Safety

ARTICLE 1. SIDEWALKS

- 13-101. **PERMIT REQUIRED.** It shall be unlawful to construct, reconstruct or repair any sidewalk within the city until the plans first have been approved by the governing body and a permit issued for such work by the city clerk. (Code 1999)
- 13-102. **SIDEWALK GRADE.** Hereafter all sidewalks constructed or reconstructed in the city shall be constructed on the established grade. When the governing body shall order a sidewalk constructed as hereafter provided, the city shall pay the cost of bringing the street to grade for the sidewalk. Where no grade has been established, the owner of abutting property may construct a sidewalk on the natural grade. If the grade has been established, the city clerk shall furnish the property owner with the official grade by reference to a stated distance above or below the street grade. (K.S.A. 12-1801, 12-1807; Code 1999)
- 13-103. **SAME; SPECIFICATIONS.** Hereafter all sidewalks shall be of single- course construction and shall be constructed and laid in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the city clerk as provided by K.S.A. 12-1802. It shall be unlawful for any person, firm or corporation to construct, reconstruct or repair any sidewalk except as provided by this article. (Code 1999)
- 13-104. **SAME; PETITION.** When a petition signed by no fewer than 10 citizens owning real estate in the city requesting construction of a sidewalk is filed with the city clerk, the governing body may in its discretion, by a resolution, order such sidewalk constructed as herein provided. (K.S.A. 12-1803; Code 1999)
- 13-105. **SAME; CONDEMNATION, RECONSTRUCTION.** When any sidewalk, in the opinion of the governing body, become inadequate or unsafe for travel thereon, the governing body may adopt a resolution condemning such walk and providing for the construction of a new walk in the place of the walk condemned. (K.S.A. 12-1804; Code 1999)
- 13-106. **NOTICE; PUBLICATION.** The resolution providing for the construction or reconstruction of a sidewalk, as the case may be, shall give the owner of the abutting property not less than 30 days nor more than 60 days after its publication one time in the official city paper in which to construct or cause to be constructed

or reconstructed the sidewalk at his or her own expense. If the sidewalk is not constructed by the property owner within the time specified, the governing body shall cause the work to be done by contract. (K.S.A. 12-1805; Code 1999)

13-107. **RIGHT OF ABUTTING OWNER.** Nothing in this article shall be construed to prohibit the owner of property abutting on a street, who desires to construct or reconstruct a sidewalk at his or her own expense and in accordance with official plans and specifications for the purpose and which meet such other requirements as would have to be met if the sidewalk were constructed or reconstructed by the city, to construct or reconstruct a sidewalk without any petition or a condemning resolution by the governing body. If such property owner desires the sidewalk to be constructed and reconstructed by the city and an assessment levied as provided by law in other cases, he or she shall file a request with the governing body. The governing body, in its discretion, may provide for the construction or reconstruction of the sidewalk requested in the same manner as in other cases where citizens or taxpayers petition the governing body. (K.S.A. 12-1806; Code 1999)

13-108. **REPAIRS BY OWNER OR CITY.** It shall be the duty of the owner of the abutting property to keep the sidewalk in repair, but the city may, after giving five days' notice to the owner or his or her agent, if known, of the necessity for making repairs or without notice if the lot or piece of land is unoccupied, make all necessary repairs at any time. The same shall be done and the cost thereof assessed against the lot or piece of land abutting on the sidewalk so repaired as may be provided by law. (K.S.A. 12-1808; Code 1999)

13-109. **PERFORMANCE, STATUTORY BOND.** In any case where the reconstruction or construction of a sidewalk is required to be done by contract as provided in section 13-106 hereof, the governing body may require the contractor to give a bond for the faithful performance of the contract and for the construction of the sidewalk in accordance with the plans and specifications, ordinances of the city or laws of Kansas, and for all contracts exceeding \$1,000 entered into by the city for any such purpose a statutory lien bond required by K.S.A. 60-1111 shall be furnished. (Code 1999)

13-110. **OBSTRUCTING SIDEWALKS.** It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implements, tools, merchandise, goods, containers, benches, display or show cases, on any sidewalks or other public ways in the city or to obstruct the same longer than is necessary for loading or unloading any such article or object. (Code 1999)

13-111. **SAME; EXCEPTION.** The governing body may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the city during the construction of any building or improvement thereon. No permit shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the governing body. (Code 1999)

ARTICLE 2. STREETS

- 13-201. EXCAVATION PERMIT. No person, other than authorized city employees, shall dig or excavate any hole, ditch, trench or tunnel in or under any street, alley, sidewalk, park or other public property or public easement through private property without first having secured a permit for such excavation. Application shall be made to the city clerk. (Code 1999)
- 13-202. SAME; BOND. (a) No permit authorized in this article shall be issued until the applicant has given to the city a good and sufficient bond in the sum of \$5,000 conditioned that the applicant will faithfully comply with all the terms and conditions of this article, and will indemnify and hold the city harmless against all costs, expenses, damages and injuries by persons or by the city sustained by reason of the carelessness or negligence of the permit holder. No bond for this purpose shall run for longer than two years without being renewed. The bond shall remain in full force and effect as to each excavation for two years after the same has been made or completed.
- (b) Any utility operating under a franchise or a contractor under contract with the city for municipal improvement shall not be required to give bond as provided in subsection (a).
- (c) Each bond given under this section shall be approved by the city attorney and filed with the city clerk. (Code 1999)
- 13-203. SAME; FILED. If the application is approved by the city, the city clerk shall issue a permit upon payment of a fee of \$5. Each permit issued under the provisions of this section shall cover only one specified excavation. (Code 1999)
- 13-204. SAME; BARRICADES. Any person to whom an excavation permit is issued shall enclose all excavations which they make with sufficient barricades and danger signs at all times, and shall maintain sufficient warning lights or flares at nighttime. The holder of an excavation permit shall take all necessary precautions to guard the public against all accidents from the beginning of the work to the completion of the same. (Code 1949, 6-401; Code 1999)
- 13-205. SAME; UNLAWFUL ACTS. It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto. (Code 1999)
- 13-206. CUTTING CURBS; PAVEMENT. (a) No person shall cut any curb, gutter, pavement, blacktop, sidewalk or excavate any street, alley or other public grounds of the city for any purpose without first obtaining a permit authorizing the same from the city clerk.
- (b) Once the work for which the excavation was made has been completed the city shall restore the pavement, blacktop, sidewalk or other surfacing at the expense of the person from whom the excavation was made.

(c) In lieu of the city replacing pavement, it may elect to authorize utility companies or contractors to resurface streets or sidewalks with like materials, subject to approval of the street superintendent.
(Code 1999)

13-207. **ALTERING DRAINAGE.** No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the governing body. (Code 1999)

13-208. **UNFINISHED PAVEMENT.** No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 1999)

13-209. **USING STREETS.** (a) No person shall occupy any portion of any street, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.

(b) No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city.
(Code 1999)

13-210. **DANGEROUS OBJECTS IN.** It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street, alley, sidewalk or other public grounds of the city, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. (Code 1949, 64-404; Code 1999)

13-211. **PETROLEUM PRODUCTS IN STREETS.** It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the city, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the city. (Code 1999)

13-212. **DISCHARGING WATER ON STREETS.** It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the city or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the governing body, nor to members of the fire department. (Code 1999)

13-213. **BURNING IN STREETS.** It shall be unlawful for any person to make or cause to be made, any fire upon any of the paved streets, alleys, or street intersections within the city. (Code 1999)

13-214. **THROWING IN STREETS.** It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on or across any street or alley or at or against any building or vehicle. (Code 1999)

13-215. **HAULING LOOSE MATERIAL.** It shall be unlawful to haul over the streets or alleys of this city any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 1999)

ARTICLE 3. TREES AND SHRUBS

13-301. **PUBLIC TREE CARE.** The city shall have the right to plant, prune, maintain and remove trees, plants and shrubs within the lines of all streets, alleys, avenues, lanes, squares and public grounds, as may be necessary to insure safety when servicing city utilities or to preserve the symmetry and beauty of public grounds. The city may remove or cause or order to be removed, any tree or part thereof which is in an unsafe condition or which by reason of its nature is injurious to sewers, electric power lines, gas lines, water lines or other public improvements, or is affected with any injurious fungus, insect or other pest. (Code 1999)

13-302. **DISEASED TREES; DETERMINATION.** Whenever any competent city authority or competent state or federal authority shall file with the governing body a statement in writing based upon a laboratory test or other supporting evidence that trees or tree materials or shrubs located upon private property within the city are infected or infested with or harbor any tree or plant disease or insect or larvae, the uncontrolled presence of which may constitute a hazard to or result in the damage or extinction of other trees or shrubs in the community, describing the same and where located, the governing body shall direct the city clerk to forthwith issue notice requiring the owner or agent of the owner of the premises to treat or to remove any such designated tree, tree material or shrub within a time specified in the notice. (Code 1999)

13-303. **SAME; NOTICE SERVED.** Notice shall be served by a police officer by delivering a copy thereof to the owner, and the person in possession of such property, or if the same be unoccupied or the owner a nonresident of the city, then the city clerk shall notify the owner by mailing a notice by certified mail to his last known address. (Code 1999)

13-304. **SAME; FAILURE OF OWNER; DUTY OF CITY.** If the owner or agent shall fail to comply with the requirements of the notice within the time specified in the notice, then the chief of police shall proceed to have the designated tree, tree material or shrub treated or removed and report the cost thereof to the city clerk. In lieu of city employees performing any such work, the governing body may contract with any competent person, company or corporation for the performance of such work. (Code 1999)

13-305. **SAME; PREVENT SPREAD OF DISEASE.** No tree, tree materials or shrubs as mentioned herein which have been cut down, either by the property owner or by

the city, shall be permitted to remain on the premises, but shall be immediately treated, removed and burned or immediately burned upon the premises, if safe to do so, so as to prevent the spread of the tree disease. (Code 1999)

13-306. DANGEROUS, DEAD OR DISEASED TREES ON PRIVATE PROPERTY.

(a) Every owner of any tree overhanging any street or right-of-way within the city shall prune the branches so that such branches shall not obstruct the light from any street lamp or obstruct the view of any street intersection and so that there shall be a clear space of 14 feet above the surface of the street or right-of-way. The owners shall remove all dead, diseased or dangerous trees, or broken or decayed limbs which constitute a menace to the safety of the public. The city shall have the right to prune any tree or shrub on private property when it interferes with the proper spread of light along the street from a street light, or interferes with visibility of any traffic control device or sign.

(b) The city shall have the right to cause the removal of any dangerous, dead or diseased trees on private property within the city, when such trees constitute a hazard to life and property. The city will notify in writing the owners of such trees. Removal shall be done by said owners at their own expense within 60 days after the date of service of notice. The owners, within 30 days of the notice, may request a hearing covering the ordered removal. In the event of failure of owners to comply with such provisions, the city shall have the authority to remove the trees and charge the cost of removal on the owner's property tax notice. (Code 1999)

13-307. TREES ON PUBLIC PROPERTY; COST BORNE BY CITY. The city shall have the authority to treat or to remove any tree as defined in section 13-301 of this article, or to remove any dead tree as mentioned herein, which is located within the limits of any public right-of-way within the city. The adjacent property owners shall not be responsible for the cost of treatment or removal of any such trees within the public right-of-way and this expense shall be borne by the city at large. (Code 1999)

13-308. COSTS ON TAX ROLLS. The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for treatment or removal performed under the authority of sections 13-304:306 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city. (Code 1999)

13-309. INJURING TREES AND SHRUBS. No person shall willfully break, cut, take away, destroy, injure, mutilate, or attempt to willfully break, cut, take away, destroy, injure or mutilate any tree, shrub, vine, flower or landscaping standing, growing, or being upon the premises in the possession of another, or growing on any public ground, street, sidewalk, promenade or park in the city. (Code 1999)

13-310. FIRE HYDRANTS, PLANTINGS ADJACENT TO. No person shall plant or cause to be planted nor allow to grow upon property owned by him or her any shrubs, trees, or planting of any kind within 10 feet of any fire hydrant in the city, in

order that every fire hydrant shall be in full view day or night, to fire apparatus approaching from any direction. (Code 1999)

ARTICLE 4. SNOW AND ICE

13-401. **SNOW AND ICE TO BE REMOVED.** (a) It shall be unlawful for the owner and/or the occupant of any lots abutting upon any sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 12 hours from the time that the snow fall or ice storm ceases. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of same must be made within 12 hours after sunrise on the following day.

(b) It shall be unlawful for any person to place snow removed from private property upon any public street, alley or sidewalk.
(Code 1999)

13-402. **SAME: EXCEPTION; ALTERNATE REMEDY.** Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of ashes, sand or other noncorrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed a sufficient compliance with the provisions of this article until the ice or snow can be removed.
(Code 1999)

13-403. **SAME; PENALTY.** That any person violating the provisions of section 13-401 shall, upon conviction, be fined \$25. (Code 1999)

13-404. **REMOVAL MAY BE MADE BY CITY.** If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the sidewalk abutting the lot or lots all snow and ice within the time specified, the city may cause such snow and ice to be removed from sidewalks and the cost thereof shall be assessed against such abutting lot or lots, and the city clerk shall certify the same to the county clerk for collection as provided by law. (Code 1999)

13-405. **COSTS ON TAX ROLLS.** The city clerk shall, at the time of certifying other city taxes to the county clerk, certify the unpaid costs for removal of snow or ice performed under the authority of section 13-404 and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the city, and such fund shall be reimbursed when payments therefor are received or when such assessments are collected and received by the city. (Code 1999)

ARTICLE 5. OFFENSES EFFECTING PUBLIC PEACE AND SAFETY

13-501. **BLASTING.** It shall be unlawful for any person or person to blast or order or direct or cause to be blasted within the city limits any rock or other material without having the same covered by good and sound planks, timbers, or sheet metal of

sufficient weight, length and thickness and so placed as to effectively prevent fragments of rock or other material from ascending into the air. (Code 1949, 6-402)

13-502. OPEN EXCAVATIONS AND OBSTRUCTIONS. It shall be unlawful for any person to leave any excavation, building material, brick, stone, sand, dirt, or other obstruction in or upon any street, avenue, alley or other public place in this city during the nighttime unless such excavation, building material, brick, stone, sand, dirt or other obstruction is provided with red lights sufficient in number and so located as to notify passersby of the extent of such excavation or obstruction and such red lights shall be lighted before dark and shall be kept burning during the entire night. (Code 1949, 6-403)

13-503. OBJECTS IN SIDEWALKS. It shall be unlawful for any person or persons to leave any automobile jacks, wheelbarrows or other implements, hardware or tools, of any kind on the sidewalk in front of their place of business or residence for a longer period of time than is necessary for the loading or unloading of them. (Code 1949, 6-405)

13-504. RIDING BICYCLES ON SIDEWALKS. It shall be unlawful for any person to ride or cause to be ridden upon the sidewalks of the city, except over street crossings, any bicycle or motorcycle. (Code 1949, 6-406)

13-505. LOOSENING SIDEWALK MATERIAL. It shall be unlawful for any person to loosen any plank, brick, block, stone, stringer, or support from any sidewalk, or crosswalk, or loosen or remove any stone, brick, or block from any curbing or gutter. Provided, this section shall not apply to any person making repairs on any such sidewalk, gutter, curb, or crosswalk or any person temporarily removing same on account of building operations. (Code 1949, 6-408)

13-506. HOLES AND OBSTRUCTIONS ON SIDEWALK. It shall be unlawful for the owner of any property having a sidewalk adjacent thereto to permit any plank, brick, stone, or segment of the sidewalk to be raised above the level of the sidewalk more than one-half inch, in any manner which will catch the foot of a pedestrian, or to permit any holes or depressions in the sidewalk in front of his or her property, in which a pedestrian may step or catch his or her foot or in any other manner be liable to cause injury to his or her person. (Code 1949, 6-409)

ARTICLE 2. OFFENSES AFFECTING PUBLIC PEACE AND SAFETY

13-501. BLASTING. It shall be unlawful for any person or person to blast or order to blast or cause to be blasted within the city limits any rock or other material without having the same covered by good and sound planks, timbers, or sheet metal of

ORDINANCE NO. 531

**AN ORDINANCE VACATING AN UNOPENED ALLEY IN THE CITY OF
CHEROKEE, KANSAS.**

WHEREAS, there is laid out and established in the City of Cherokee, Crawford County, Kansas a certain unopened alley, lying over and across the following described real estate:

The unopened alley between lots 1-6 on the East and lots 7-12 on the West in Block 2 of Chadsey's Addition to the town of Cherokee, now the City of Cherokee, Crawford County, Kansas, according to the recorded plat thereof.

WHEREAS, on July 14, 2016, Kenneth Omeck presented a Petition to the Governing Body regarding the vacation of an alley located on the above-described tract of land.

WHEREAS, a hearing was conducted on August 11, 2016 at 6:30 p.m. before the Governing Body.

WHEREAS, the Governing Body determined that due and legal notice has been given by publication as required; that no private rights will be injured or endangered by such vacation; and that the public will suffer no loss or inconvenience thereby. The Governing Body also found that in justice to the petitioner, the prayer of the petitioner should be granted.

WHEREAS, said alley is unopened, is not a public alley and is not used by any public utility. By reason of neglect, non-use, or inconvenience, or from other cause or causes said alley is impassable and the necessity for said alley does not justify the expenditure of funds necessary to put in condition for public travel, and said alley should be formally vacated;

WHEREAS, the owners of the adjoining real estate of said alley to be closed and vacated under this Ordinance, to whom the property is to revert and be vacated and transferred are Susan M. Brisbin on the East and Kenneth Omeck and Gayla S. Omeck on the West. The vacated property shall be divided equally between the adjoining landowners.


NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF CHEROKEE, KANSAS:

SECTION 1. The Governing Body finds that the above-described alley is not a public roadway, alley or public utility by reason of neglect, non-use or inconvenience, or from other cause or causes said alley has become practically impassable and the necessity for said alley or public utility does not justify the expenditure of the funds necessary to push said alley in condition for public travel, is not more than once city block long, and should be formally closed and vacated.

SECTION 2. Pursuant to K.S.A. §§ 12-504 et seq. the above-described alley hereby is formally vacated and the land comprising said alley shall close and does hereby revert to the adjoining landowners, to be divided among the landowners, equally.

SECTION 3. The City Clerk is directed to deliver to the Register of Deeds of Crawford County, Kansas a certified record of these proceedings, as reflected in this Ordinance, for the purpose of having such Ordinance duly recorded and made a public record.

Passed and approved this 11 day of August, 2016.


J. Dale Thompson
J. Dale Thompson, Mayor

ATTEST:

Marianne Kossman
Marianne Kossman, City Clerk

ORDINANCE NO. 469

AN ORDINANCE OF THE CITY OF CHEROKEE, KANSAS, VACATING
A PORTION OF CYPRESS STREET PURSUANT TO K.S.A. 15-427

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

SECTION 1. That the following described portion of Cypress
Street lying within the corporate limits of the City of Cherokee,
Kansas, should be and hereby is vacated:

All of Cypress Street from the Northern Boundary of
Magnolia Street to the Southern Boundary of Maple Street.

SECTION 2. This Ordinance shall become effective upon its
passage and publication as provided by law.

SECTION 3. The governing body of the City of Cherokee,
Kansas, finds that there are presently no portions of the
proposed vacated Cypress Street which are utilized for easements
for water or sewer purposes and therefore makes no reservation of
these rights.

SECTION 4. The City Clerk is hereby directed to file a
certified copy of this Ordinance with the Cherokee County Clerk
and the Cherokee County Register of Deeds.

PASSED AND APPROVED this 14 day of Feb,
2001.

Nael Rakeshaw
Mayor

ATTEST:

Lou A. Davis
City Clerk

(Published in The Morning Sun on Sat., August 17, 2019)

ORDINANCE NO. 540

AN ORDINANCE AMENDING SECTION 14-101 OF THE CODE OF THE CITY OF CHEROKEE, KANSAS, AND PROVIDING FOR THE PROTECTION OF PUBLIC HEALTH, PROPERTY AND SAFETY, AND THE REGULATION OF TRAFFIC BY ADOPTING BY REFERENCE THE 2019 STANDARD TRAFFIC ORDINANCE OF KANSAS CITIES AS PUBLISHED BY THE LEAGUE OF KANSAS MUNICIPALITIES, SAVE AND EXCEPT SUCH PARTS OR PORTIONS AS SUPPLEMENTED, DELETED OR CHANGED, AND REPEALING ORDINANCE NO. 537 AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE.

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

Section 14-101 of the Code of the City of Cherokee, Kansas is hereby amended to provide as follows:

SECTION 1: For the purpose of regulating traffic within the corporate limits of the City of Cherokee, Kansas, that certain Traffic Ordinance known as the 2019 Standard Traffic Ordinance for Kansas Cities prepared and published in book form by the League of Kansas Municipalities hereby is incorporated herein by reference, save and except such sections or parts as hereafter are omitted, deleted, supplemental, modified, or changed, as authorized by K.S.A. §§ 12-3009 -3012, and K.S.A. §§ 12-3301 -3302, inclusive, as amended.

Not less than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped Official Copy, as adopted by Ordinance No. 540, with all sections or portions thereof intended to be omitted or changed clearly marked to show such change or omission and to which shall be attached a copy of this Ordinance and filed with the City Clerk to be open for inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with the enforcement of the Ordinance shall be supplied, at the cost of the City, such number of official copies of such 2019 Standard Traffic Ordinance for Kansas Cities similarly marked as may be deemed expedient.

SECTION 2: Ordinance No. 537 of the City of Cherokee, Kansas, and all ordinances and parts of ordinances that are in conflict with this ordinance hereby are repealed.

SECTION 3: This ordinance shall take effect and be in force from and after its passage and publication in the official City newspaper.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF CHEROKEE, KANSAS, this August 8, 2019.

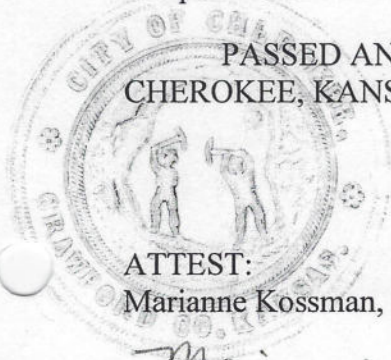
ATTEST:

Marianne Kossman, City Clerk

Marianne Kossman

J. Dale Thompson, Mayor

J. Dale Thompson



replaced by Ordinance
#540

(Published in The Morning Sun on August, 17, 2017)

ORDINANCE NO. 534

AN ORDINANCE AMENDING SECTION 14-101 OF THE CODE OF THE CITY OF CHEROKEE, KANSAS, AND PROVIDING FOR THE PROTECTION OF PUBLIC HEALTH, PROPERTY, AND SAFETY, AND THE REGULATION OF TRAFFIC BY ADOPTING BY REFERENCE THE 2017 STANDARD TRAFFIC ORDINANCE OF KANSAS CITIES AS PUBLISHED BY THE LEAGUE OF KANSAS MUNICIPALITIES, SAVE AND EXCEPT SUCH PARTS OR PORTIONS AS SUPPLEMENTED, DELETED OR CHANGED, AND REPEALING ORDINANCE NO. 532 AND ALL OTHER ORDINANCES AND PARTS OF ORDINANCES THAT ARE IN CONFLICT WITH THIS ORDINANCE.

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

Section 14-101 of the Code of the City of Cherokee, Kansas is hereby amended to provide as follows:

SECTION 1: For the purpose of regulating traffic within the corporate limits of the City of Cherokee, Kansas, that certain Traffic Ordinance known as the 2017 Standard Traffic Ordinance for Kansas Cities, prepared and published in book form by the League of Kansas Municipalities, is incorporated herein by reference, save and except such sections or parts as hereafter are omitted, deleted, supplemental, modified, or changed, as authorized by K.S.A. §§ 12-3009 -3012, and K.S.A. §§ 12-3301 -3302, inclusive, as amended.

Not less than three (3) copies of said Standard Traffic Ordinance shall be marked or stamped Official Copy, as adopted by Ordinance No. 534, with all sections or portions thereof intended to be omitted or changed clearly marked to show such change or omission and to which shall be attached a copy of this Ordinance and filed with the City Clerk to be open for inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all administrative departments of the City charged with the enforcement of the Ordinance shall be supplied, at the cost of the City, such number of official copies of such 2017 Standard Traffic Ordinance for Kansas Cities similarly marked as may be deemed expedient.

SECTION 2: Ordinance No. 532 of the City of Cherokee, Kansas, and all ordinances and parts of ordinances that are in conflict with this ordinance hereby repealed.

SECTION 3: This ordinance shall take effect and be in force from and after its passage and publication in the official City newspaper.

PASSED AND APPROVED BY THE GOVERNING BODY OF THE CITY OF CHEROKEE, KANSAS, this 10 day of August, 2017.

(SEAL)


J. Dale Thompson, Mayor

ATTEST:


Marianne Kossman, City Clerk

CHAPTER XIV. TRAFFIC

Article 1. Standard Traffic Ordinance

Article 2. Local Traffic Regulations

Article 3. Abandoned Motor Vehicles on Public Property

Article 4. Hazardous Materials

Article 5. Operation of Work-Site Utility and
other Small Vehicles

ARTICLE 1. STANDARD TRAFFIC ORDINANCE

14-101 replaced by Ordinance # 532

14-101. INCORPORATING STANDARD TRAFFIC ORDINANCE. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Cherokee, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 1998, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, such incorporation being authorized by K.S.A. 12-3009 through 12-3012, inclusive, as amended. No fewer than three copies of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Cherokee, Kansas," 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 section, and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. (Code 1999)

14-102. SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES. (a) An ordinance traffic infraction is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. Supp. 8-2118. (b) All traffic violations which are included within this article, and which are not ordinance traffic infractions as defined in subsection (a) of this section, shall be considered traffic offenses. (Code 1999)

14-103. PENALTY FOR SCHEDULED FINES. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judge establishes a fine in a fine schedule shall not be less than \$10 nor more than \$30, except for speeding which shall not be less than \$10 nor more than \$500. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$500. (Code 1999)

ARTICLE 2. LOCAL TRAFFIC REGULATIONS

14-201. **TRAFFIC CONTROL DEVICES AND MARKINGS.** The Standard Traffic Ordinance as adopted is hereby modified by adding thereto the following:

The governing body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this chapter, other traffic ordinances and the state laws. The city shall place and maintain such traffic control signs, signals and devices when and as may be required by the authority of the governing body to make effective the provisions of this chapter and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this section shall be marked and labeled on a map of the City of Cherokee for the purpose of displaying all such traffic control devices and shall be filed with the city clerk to be open to inspection and available to the public at all reasonable hours of business. (Ord. 436; Code 1999)

14-202. **SPEED LIMITS.** (a) No person shall drive, run, or operate on or over any highway or street in this city any vehicle at a greater rate of speed than 30 miles per hour, except that on that portion of Kansas Highway K7 within the city limits, the maximum rate of speed shall be 35 miles per hour and on that portion of U.S. Highway 160 within the city limits, the maximum rate of speed shall be 50 miles per hour; provided, however, that in no instance shall any vehicle be operated at a rate of speed greater than is reasonable and proper having due regard for the traffic and use of the highway and the condition of the highway nor at a rate of speed such as to endanger the life or limb of any person nor at a rate of speed greater than 15 miles per hour when crossing an intersection of streets; provided, that the speed limits in this section shall not apply to physicians or surgeons or police or fire vehicles or ambulances when answering emergency calls demanding excessive speed.

(b) No person in charge of any vehicle shall drive the same passing any school faster than 20 miles per hour during any part of the school year when children are going to or from school or are in the street within one block of the school.
(Ord. 392, Sec. 1)

14-203. **LOAD LIMITS.** The load limit shall be not in excess of 10,000 pounds unless by special permit:

(a) Any police officer having reason to believe that the load limit is being violated is authorized to require the driver to stop and submit to a weighing of the same at portable or stationary scales and may require that such vehicle be driven to the nearest scale in the event such scales are within five miles.

(b) Whenever an officer upon weighing a vehicle and load as above provided, determines that the load weight is unlawful, such officer may require the driver to stop the vehicle in a suitable place and remain standing until such portion of the load is removed as may be necessary to reduce the load weight of such vehicle to such limits as permitted under this act. All material so unloaded shall be cared for by the owner or operator of such vehicle at the risk of such owner or operation.

(c) Any driver of a vehicle who fails or refuses to stop and submit the vehicle and load for a weighing or who fails or refuses when directed by an officer upon weighing of the vehicle, to stop the vehicle and otherwise comply with the provisions of this subsection shall be guilty of a misdemeanor.

(d) Any person or persons violating any of the provisions of this article shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine in a sum of not more than \$100 or by imprisonment of not more than 10 days or by both such fine and imprisonment.

(Ord. 394)

ARTICLE 3. ABANDONED MOTOR VEHICLES ON PUBLIC PROPERTY

14-301. DEFINITIONS. For the purpose of this article, the following terms, phrases, words and their derivations shall have the following meanings:

(a) Highway. The entire width between the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel. Where the word "highway" or the word "street" is used in this article, it means street, avenue, boulevard, thoroughfare, alley, and other public way for vehicular travel by whatever name, unless the context clearly indicates otherwise.

(b) Motor Vehicle. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, except devices moved by human power or used exclusively on stationary rails or tracks.

(c) Owner or Occupant. A party having fee simple title in the real property, or a party having a leasehold interest in the real property, or a party who is the beneficiary of a private easement for the purpose of egress or ingress to or from said real property.

(Code 1999)

14-302. IMPOUNDING VEHICLES. The police department may cause to be impounded:

(a) Any motor vehicle unlawfully parked on a highway in violation of any provision of a city ordinance which prohibits the parking of vehicles at the place where or time when the impounded motor vehicle is found.

(b) Any motor vehicle that has been abandoned and left on a highway or other property open to use by the public for a period in excess of 48 hours pursuant to K.S.A. 8-1102.

(c) Any vehicle which interferes with public highway operations.

(d) Any motor vehicle which:

(1) Is subject to removal pursuant to K.S.A. 8-1570, or 8-1102, or

(2) Is subject to seizure and forfeiture under the laws of the state, or

(3) Is subject to being held for use as evidence in a criminal trial.

(e) Any motor vehicle, the continued presence of which, because of the physical location or condition of the motor vehicle, poses a danger to the public safety or to the motor vehicle.

(f) Any motor vehicle which has been abandoned or parked on any real property, other than public property or property open to use by the public, may be

moved and disposed of in accordance with the terms of this article by the police department upon the request of the owner or occupant of such real property. The real property referred to herein shall not be owned or leased by the person who abandons or parks said vehicle or by the owner or lessee of such vehicle. The city or any person, partnership, corporation or their agent conducting a business enterprise for the purpose of towing vehicles which removes such vehicle from the real property at the request of the police department shall have a possessory lien on such vehicle for the cost incurred in removing, towing and storing such vehicle. For purposes of this article, common areas shall be construed not to mean public property or property open to the public. (Code 1999)

14-303. SAME. The police department may authorize storage of such impounded motor vehicles at any location, public or private, which is zoned for the storage of motor vehicles. (Code 1999)

14-304. NOTICE OF IMPOUNDMENT; STORAGE OF VEHICLE. (a) When Owner Present. When the police department intends to impound a motor vehicle pursuant to section 14-302 and the owner of the motor vehicle is then present, the police department shall before the motor vehicle is removed, provide the owner with a notice, in the form prescribed by the police department that the motor vehicle is being impounded, that towing and storage charges will be assessed against the impounded motor vehicle, that the owner may claim and regain possession of the impounded motor vehicle at the location to which it is being removed for storage without prepayment of towing and storage charges and that the owner may request a hearing as to the propriety of the impoundment and as to the amount of and the owner's liability for the towing and storage charges. The notice shall also state the location where the impounded motor vehicle will be stored and the place where the owner may make his or her request for the hearing. The notice shall also state, in prominent language, that failure by the owner to request a hearing within five days after receipt of the notice may act as a waiver of his or her right to a hearing and that this may result in the placing of a lien against the motor vehicle for the towing and storage charges without further notice to the owner; and that the motor vehicle be sold at public auction to the highest bidder for cash after 15 days from the date of the mailing of the notice. The owner of the impounded motor vehicle shall sign the notice as an acknowledgment that he or she has received a copy of the notice and a copy of the notice shall be provided to the owner.

(b) When Owner not Present. (1) When the police department impounds and removes a motor vehicle pursuant to section 14-302(a) and the owner of the motor vehicle is not present at the time of the impoundment, the police department shall, if such motor vehicle has displayed thereon a registration plate issued by the division of vehicles and has been registered with said division, mail a notice by certified mail to the registered owner thereof, addressed to the address as shown on the certificate of registration, and to the lienholder, if any, of record in the county in which the title shows the owner resides, if registered in this state. The notice shall be in the form prescribed by the police department containing the same information as required by section 14-304(a). The police department shall use reasonable diligence in determining the title owner, or if from a non-title state, the registered owner, of the vehicle, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in

this state, as to whether there are any lienholders of record. If the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed to be a resident of the state whose whereabouts are unknown and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

If the owner does not reside in the state, as appears from the motor vehicle registration and the owner cannot be served by certified mail at the address on the motor vehicle registration and there is no other known address of the owner, the owner shall be deemed a nonresident of the state and service shall be made on the Secretary of State as provided in K.S.A. 8-401.

(c) Failure or Refusal to Sign Notice. If any person required by this section to sign a notice of impoundment willfully fails or refuses to do so, or if such person cannot be found, the police department shall note this fact on the face of the notice, which shall constitute prima facie evidence of delivery or service of notice as required by this section.

(Code 1999)

14-305.

IMPOUNDMENT AFTER REQUEST TO LEAVE MOTOR VEHICLE. In all cases wherein the owner or operator of a motor vehicle which is on a public street has requested that the motor vehicle be left unattended at that location, in lieu of impoundment of the motor vehicle pursuant to section 14-302, the police department may honor said request for a period of time not exceeding 24 hours, after which time the motor vehicle shall either be removed from the location by the owner or operator or be impounded by the police department pursuant to section 14-304. The police department shall be immune from liability for any damage, loss or destruction of the motor vehicle occasioned by its being left unattended pursuant to the request of the owner or operator thereof, in lieu of impoundment. Nothing in this section shall be construed to limit the authority of the police department to order the removal of a motor vehicle by its owner or operator or to impound a motor vehicle pursuant to section 14-304 at any time whenever in his or her judgment the presence of the unattended motor vehicle constitutes a danger to the public safety. (Code 1999)

14-306.

RELEASE OF MOTOR VEHICLE FROM IMPOUNDMENT. (a) Generally. Unless the vehicle is impounded pursuant to section 14-302(b) herein, the owner of an impounded motor vehicle may secure the release of the motor vehicle from impoundment upon requesting such release and presenting proof of ownership satisfactory to the custodian of the place where the motor vehicle is stored. If the custodian is satisfied that the person making the request is the owner or his or her authorized agent, he or she shall release the motor vehicle to the owner or his or her agent. Nothing in the preceding sentence shall preclude the owner of the impounded motor vehicle or his or her agent from paying any towing and storage charges that may be assessed against the motor vehicle, but neither the police department nor the custodian of the storage space may require payment of any towing or storage charges as a condition precedent to such release. At the same time as the owner or his or her agent requests release of the impounded motor vehicle, and if such request is made with 40 days after the owner receives a copy of the notice of impoundment, the police department shall provide him or her an opportunity to make a request for a hearing on the propriety of the impoundment

and on the amount and his or her liability for the towing and storage charges occasioned by the impoundment; provided, that if the owner or his or her agent requests release of the impounded motor vehicle more than 40 days after the owner receives a copy of the notice of impoundment, no hearing may be requested on the impoundment or on the towing and storage charges and the owner shall be conclusively presumed to have consented to the impoundment and to the amount of and his or her liability for the towing and storage charges.

(b) Security for Payment of Charges. If the ownership of the impounded motor vehicle is evidenced by a title certificate issued by the Kansas Department of Highway Safety and Motor Vehicles, the owner or his or her agent may secure the release of the motor vehicle from impoundment without the payment of any towing or storage charges or the deposit of any security for the payment thereof. If the ownership of the impounded motor vehicle is evidenced by a foreign title instrument, or if the jurisdiction in which title is recorded is not evidenced from the document establishing ownership, the owner or his or her agent, before the custodian of the place where the motor vehicle is stored authorizes release of the motor vehicle from impoundment, shall deposit with the custodian cash in the amount of the towing and storage charges to the date of the request. If the owner or his or her agent refuses to provide the cash deposit, the custodian shall not authorize release of the impounded motor vehicle but if the request is timely made, a date shall be set for the hearing on the impoundment and charges.
(Code 1999)

14-307. **HEARING.** If the owner of an impounded motor vehicle or his or her agent timely requests the release of the motor vehicle from impoundment and a hearing on the impoundment and charges, as provided in section 14-306, a date shall be set, not more than five days after the date of request, for the hearing. The city attorney shall provide a hearing examiner to conduct the hearings required by this section. At the hearing, the owner, his or her agent, or his or her attorney shall be afforded an opportunity to present, by oral testimony or documentary evidence, his or her objections to (a) the impoundment of the motor vehicle and (b) (1) the amount of the towing and storage charges and (2) his or her liability for the payment thereof. If the owner or his or her agent requested the hearing more than five days but not more than 40 days after the owner received a copy of the notice of impoundment, the owner, his or her agent or his or her attorney shall be required at the hearing, as a condition precedent to the presentation of any objections by the owner, to show good cause for the delay in making the request more than five days after the owner received a copy of the notice of impoundment: if good cause cannot be shown, the hearing officer shall dismiss the hearing and make the finding stated in subsection (b) below; otherwise, the hearing examiner shall proceed to hear the owner's objections. At the conclusion of the hearing on the owner's objections, the hearing examiner shall render his or her decision if the hearing examiner:

(a) Finds that the impoundment was improper, he or she shall:

(1) Find that the owner is not liable for any towing or storage charges occasioned by the impoundment and

(2) Determine whether and to what extent the city shall be the expense of the towing and storage charges; or

(b) Finds that the impoundment was proper, he or she shall establish:

(1) The amount of the towing and storage charges to be assessed against the impounded motor vehicle and

(2) The extent of the liability of the owner for payment of the towing and storage charges so established. The decision of the hearing examiner shall be final, and a copy of the decision shall be furnished to the owner of the impounded motor vehicle, to the custodian of the place where the motor vehicle is stored and to the city attorney.

In the event that the impoundment was pursuant to K.S.A. 8-1102(b), the owner or occupant of the real property upon which the abandoned vehicle was located shall not be assessed the costs of towing and storage of the vehicle. Further, nothing within this article shall be construed to modify or effect the validity of the possessory lien of the person removing such vehicle from the real property established by K.S.A. 8-1102(b). (Code 1999)

14-308.

CHARGES CONSTITUTE A LIEN. The towing and storage charges occasioned by the impoundment of a motor vehicle pursuant to section 14-302 shall be and constitute a lien upon the impounded motor vehicle, except as provided in this section. If the hearing examiner finds pursuant to section 14-307 that the impoundment was improper and if he or she determines that the city shall bear part or all of the towing and storage charges, the lien created by this section shall be discharged. If the hearing examiner finds pursuant to section 14-306 that the impoundment was proper but that the towing and storage charges should be in an amount less than the amount of the lien, the lien created by this section shall be discharged to the extent that it exceeds the amount established by the hearing examiner. The holder of a lien created by this section may perfect such lien in any manner provided by law, but he or she may not retain possession of the motor vehicle when it has been released pursuant to section 14-306(a). In the event that the impounded motor vehicle is released from impoundment and the owner or his or her agent has provided security for payment of charges as required by section 14-306(b), the lien created by this section shall also be a lien against the security so provided, subject to being wholly or partially discharged as provided in this section. (Code 1999)

14-309.

SATISFACTION OF LIEN; NOTICE OF PUBLIC SALE. The holder of a lien against a motor vehicle created by section 14-308, to the extent that such lien has not been discharged as provided in section 14-308 or otherwise satisfied, may enforce such lien in any manner provided by law after 60 days from the date the motor vehicle is impounded by the police department. If the owner of the motor vehicle or his or her agent has provided security for the payment of the lien as provided in section 14-306(b), the lien shall first be satisfied out of the security so provided and, if any portion of the lien remains unsatisfied and undischarged, may then be enforced in any manner provided by law. If the motor vehicle against which the lien is created pursuant to section 14-308 is still under impoundment 60 days from the date it is impounded by the police department and the owner has not requested release of the motor vehicle from impoundment nor paid the towing and storage charges that are the basis for the lien, the motor vehicle shall be sold at public sale to the highest and best bidder for cash to satisfy the lien. Notice of the sale shall be given in accordance with K.S.A. 8-1102. Publication, required by

K.S.A. 8-1102, may be made before the termination of the 60 day period for a sale thereafter. (Code 1999)

14-310. REDEMPTION. If the city is to conduct the sale:

(a) Any holder of a recorded lien or retained title on a motor vehicle to be sold by the city under the provisions of section 14-309 may claim and take possession thereof, upon payment of accrued charges and estimated costs of publication of the notice of sale to the police department and the deposit with the police department of sufficient assurance by surety bond or otherwise, approved by the city attorney, that the motor vehicle will be forthcoming for public sale thereof or upon claim of the rightful owner prior to the sale. The police department shall, within three days, make a report to the city treasurer and deliver the charges and costs so paid to the city treasurer, taking a receipt therefor and filing it, together with a duplicate copy of the report to the city treasurer, with the records in his or her office. The funds shall be held in a trust account until final disposition of the motor vehicle. Not less than five days before the date for sale of the motor vehicle, the police department shall notify the lienholder or retained titleholder of the time and place for the sale, and the lienholder or retained titleholder shall deliver such motor vehicle to the police department at or before 12:00 noon of the day before the sale. At the sale the amount paid shall be credited on the bid of the lienholder or retained titleholder. If the lienholder or retained titleholder is the successful bidder for the motor vehicle, the police department shall report this fact to the city treasurer and then the funds previously paid by the lienholder or retained titleholder shall be relieved of the trust previously impressed and become the same as other funds received by the city for storage and costs of impounded motor vehicles. If the motor vehicle is sold for a higher bid to any person other than the lienholder or retained titleholder, the police department shall report this fact to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him out of the trust account.

(b) And if the rightful owner of the motor vehicle claims the same before the sale by payment of the accrued charges, the police department shall immediately notify the lienholder or retained titleholder in possession of the motor vehicle and he or she shall return the same to the police department within 12 hours. The police department shall report this redemption by the rightful owner to the city treasurer and the lienholder or retained titleholder shall be refunded the amount previously paid by him or her out of the trust account. (Code 1999)

14-311. SALE PROCEEDS. The proceeds of a public sale held pursuant to section 14-308 whether such sale was conducted by the city or by any other person, after payment of the towing and storage charges and costs and expenses incident to the sale, shall be deposited with the city treasurer, if the owner of the motor vehicle is absent from the sale, for credit to the trust account. The funds deposited in the trust account pursuant to this section shall remain in the account subject to the order of the person legally entitled thereto, but if no claim is made for these funds within a period of one year after the sale, the funds shall become the property of the city, be released from the trust account and be paid into the general fund as miscellaneous revenues. (Code 1999)

14-312. **STATUTORY PROCEDURES.** Nothing in this article shall be construed to augment, diminish, supersede or otherwise interfere with any statutory procedure established by the legislature for the collection of unpaid towing and storage charges. The procedures in this article are supplementary and cumulative to any statutory procedures. (Code 1999)

14-313. **IMPLEMENTATION OF ARTICLE.** The police department and city treasurer are authorized to make rules for the implementation and administration of this article. (Code 1999)

14-314. **REIMBURSEMENT FOR DISCHARGED LIENS.** If a lien created by section 14-308 and held by a private wrecker or towing firm is discharged by section 14-308 pursuant to a determination by a hearing examiner that an impoundment was improper and that the city shall bear part or all of the towing and storage charges, the city shall pay to the firm the amount determined by the hearing examiner. No payment shall be made until it is authorized by the city attorney. (Code 1999)

ARTICLE 4. HAZARDOUS MATERIALS

14-401. **HAZARDOUS MATERIAL DEFINED.** As used in this article, the term hazardous material shall mean any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, radioactive material or any substance that due to its nature may cause death, disability or injury upon contact therewith. (Code 1999)

14-402. **SAME; EXCEPTIONS.** The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. These provisions shall also not apply to vehicles, trailers, containers or tanks containing anhydrous ammonia or other material primarily used by farmers for fertilizer purposes when such vehicles, trailers, containers or tanks are parked or housed upon property designated for the placement of such vehicle, trailer, container or tank by any farmers cooperative, elevator company or farm supply store located within the city limits. (Code 1999)

14-403. **TRANSPORTATION OF HAZARDOUS MATERIALS.** Except as provided in section 14-404 it shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any other public right-of-way in the city. (Code 1999)

14-404. **HAZARDOUS MATERIALS ROUTES.** The provisions of section 14-403 shall apply to all streets, avenues, highways, roadways, alleys or other public right-of-ways within the city except those specified within this section where transportation of hazardous materials shall be allowed. Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways:

- (a) (Reserved)
- (b) (Reserved)

ARTICLE 5 OPERATION OF WORK-SITE UTILITY AND OTHER SMALL VEHICLES

14-501 Definitions

"Small vehicles" shall include all of the following vehicles:

An "***all-terrain vehicle***" means any motorized non-highway vehicle which is Fifty inches (50") or less in width, having a dry weight of Fifteen Hundred pounds (1500 lbs.) or less, traveling on three or more non-highway tires, having a seat designed to be straddled by the operator. As used in this section, "non-highway tire" means any pneumatic tire six inches (6") or more in width, designed for use on wheels with a rim diameter of Fourteen inches (14") or less and utilizing an operating pressure of ten pounds (10 lbs.) per square inch or less as recommended by the vehicle manufacturer;

A "***work-site utility vehicle***" means any motor vehicle which is not less than Forty-eight inches (48") in width, has an overall length, including the bumper, of not more than One Hundred Thirty-five inches (135"), has an un-laden weight, including fuel and fluids, of more than Eight Hundred pounds (800 lbs.) and is equipped with four (4) or more low pressure tires, a steering wheel and bench or bucket-type seating allowing at least two (2) people to sit side-by-side, and may be equipped with a bed or cargo box for hauling materials. "Work-site utility vehicle" does not include a micro utility truck;

A "***micro utility truck***" means any motor vehicle which is not less than Forty-eight inches (48") in width, has an overall length, including the bumper, of not more than One Hundred Sixty inches (160"), has an un-laden weight, including fuel and fluids, of more

than Fifteen Hundred pounds (1500 lbs.), can to exceed Forty miles per hour (40 mph) as originally manufactured and is manufactured with a metal cab. A "micro utility truck" does not include a work-site utility vehicle;

A "**golf-cart**" means any motor vehicle that has not less than three wheels in contact with the ground, an un-laden weight of not more than Eighteen Hundred pounds (1800 lbs.), is designed to be operated at not more than Twenty-five miles per hour (25 mph) and is designed to carry not more than four (4) persons, including the driver; and

"Operation" shall mean the operation of a small vehicle upon the streets and roads of the City of Cherokee, Kansas.

ORDINANCE NO. 496

14-502

Operation of Small Vehicles

- a) The operation of all small vehicles shall be prohibited as provided in K.S.A. §§ 8-15,100; -101; 106, except as provided for in this section.
- b) The operators of small vehicles are authorized to operate such vehicles on all streets and roads of City of Cherokee, except no such vehicle shall be operated on any state highway, including Smelter Street/Highway K-7 and U.S. Highway 400.
- c) The operators of small vehicles are required to comply at all times with all applicable traffic regulations.
- d) Any vehicle described in § 14-501 shall only be operated between the hours of 6:00 am and 10:30 pm.
- e) Every owner of a small vehicle shall provide liability coverage in accordance with the Standard Traffic Ordinance as

incorporated into the City Code, and amendments thereto, and the Kansas Automobile Injury Reparations Act, K.S.A. 40-310 1, et seq., and amendments thereto.

- f) No person shall operate a small vehicle on any street, road, or alley within the corporate limits of the City unless such person has a valid driver's license. All applicable restrictions to these licenses still apply.
- g) Any person operating a small vehicle shall ride only upon the permanent and regular seat attached thereto, and each passenger in the vehicle must be seated in their own permanent and regular attached seat. When carrying a package, bundle, or other article, no person shall operate a small vehicle in a manner which prevents such person from keeping both hands on the handlebars or steering wheel of the vehicle.
- h) Before operating any small vehicle on any public street, road, or alley within the corporate limits of the City, the vehicle must bear a City permit affixed to the rear of the small vehicle at all times. The permit may to be issued by the Police Department if:
 - 1. the vehicle generally appears to be roadworthy.
 - 2. proof of insurance is given.
 - 3. after the payment of a Five Dollar (\$5.00) application fee.An application for a permit must be made each year before December 31 for the following calendar year. In the event an application for a permit is completed for the purpose of operating a small vehicle during the same year in which the request is made, the inspection fee shall be as stated

immediately above, and such fee shall not be prorated.

- i) The following vehicles are not included in the foregoing definition of small vehicles and shall not be operated on any street, road, or alley within the corporate limits of the City of Cherokee:
 - 1. all-terrain vehicles with 2-cycle engines.
 - 2. all small vehicles designed or modified for racing.
- j) All small vehicles are entitled to full use of a lane, and no motor vehicle shall be driven in such a manner as to deprive any small vehicle of the full use of a lane. The operator of a small vehicle shall not overtake and pass in the same lane occupied by the vehicle being overtaken. No person shall operate a small vehicle between lanes of traffic or between the adjacent lines or rows of vehicles. No small vehicles shall pass any other vehicles upon the streets of the City.

ORDINANCE NO. 496

14-503

Penalties for Violations

No person shall knowingly operate a small vehicle, as described above, within the corporate limits of the City of Cherokee, Kansas, in violation of the terms of this Article 5 of Chapter 14 of the Code of the City of Cherokee, Kansas. Violation of the terms hereof shall constitute the offense of "Unlawful Operation of a Small Vehicle" and shall be punished as follows:

- 1. first offense within any twelve (12) month period will result in a \$50.00 fine;
- 2. second offense within any twelve (12) month period will result in a \$100.00 fine;
- 3. third offense within any twelve (12) month period will result

in a \$200.00 fine; and

4. greater than three (3) offenses within any twelve (12) month period will result in a fine of no less than \$250.00 nor more than \$500.00 or six (6) months imprisonment.

ORDINANCE NO. 496