

ORDINANCE NO. 2488-2010

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CORPORATE LIMITS OF THE CITY OF GARDEN CITY, KANSAS; INCORPORATING BY REFERENCE THE STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES, EDITION OF 2010, WITH CERTAIN OMISSIONS, ADDITIONS, OR CHANGES; PRESCRIBING ADDITIONAL REGULATIONS; PROVIDING CERTAIN PENALTIES; AMENDING CODE SECTION 86-2; REPEALING EXISTING CODE SECTION 86-2; ALL TO THE CODE OF ORDINANCES OF THE CITY OF GARDEN CITY, KANSAS.

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

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

Section 86-2. Standard Traffic Ordinance.

(a) Incorporating Standard Traffic Ordinance. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Garden City, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2010, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, hereinafter referred to as Standard Traffic Ordinance, save and except such articles, sections, parts, or portions as are hereafter omitted, deleted, modified, added, or amended. No fewer than three copies of said Standard Traffic Ordinance shall be marked or stamped "Official Copy as Adopted by Ordinance No. ____-2010," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change and to which shall be attached a copy of this ordinance, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The police department, municipal judge, city attorney, city prosecutor, and all administrative departments of the city charged with enforcement of the ordinance shall be supplied, at the cost of the city, such number of official copies of such Standard Traffic Ordinance similarly marked, as may be deemed expedient. All references to the Standard Traffic Ordinance as adopted and incorporated into this Code shall be in a form designating section 86-2 followed in parenthesis followed by the section number of the Standard Traffic Ordinance, as incorporated. (For example, section 33 of the Standard Traffic Ordinance as incorporated shall be referred to as section 86-2(33).)

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

Section 30. Driving Under the Influence of Intoxicating Liquor or Drugs; Penalties.

(a) No person shall operate or attempt to operate any vehicle within this city while:

(1) The alcohol concentration in the person's blood or breath as shown by any competent evidence, including other competent evidence is .08 or more;

- (2) The alcohol concentration in the person's blood or breath, as measured within two (2) hours of the time of operating or attempting to operate a vehicle, is .08 or more;
 - (3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;
 - (4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or
 - (5) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.
- (b) No person shall operate or attempt to operate any vehicle within this city if the person is a habitual user of any narcotic, hypnotic, somnifacient, or stimulating drug.
- (c) If a person is charged with a violation of this section involving drugs, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.
- (d) Upon a first conviction of a violation of this section, a person shall be sentenced to not less than forty-eight (48) consecutive hours nor more than six (6) months imprisonment, or in the court's discretion two hundred (200) hours of public service, and fined not less than \$500.00 nor more than \$1,000.00. The person convicted must serve at least forty-eight (48) consecutive hours imprisonment or two hundred (200) hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. In addition, the court shall enter an order which requires that the person enroll in and successfully complete an alcohol and drug safety action education program or treatment program as provided in K.S.A. 8-1008, and amendments thereof, or both the education and treatment programs.
- (e) On a second conviction of a violation of this section, a person shall be sentenced to not less than ninety (90) days nor more than one (1) year's imprisonment and fined not less than \$1,000.00 or more than \$1,500.00. The person convicted must serve at least fourteen (14) consecutive days imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released. After fourteen (14) consecutive days have been served, the court may place the person convicted under a work release program provided such work release program requires such person to return to confinement at the end of each day in the work release program or under a house arrest program, pursuant to K.S.A. 21-4603b, and amendments thereto, to serve the remainder of the sentence. As a condition of any grant of probation, suspension of sentence or parole or of any other release, the person shall be required to enter into and complete an inpatient or outpatient treatment program for alcohol and drug abuse as provided in K.S.A. 8-1008, and amendments thereto. An alcohol or drug safety action education program shall not qualify as a treatment program under this subsection.
- (f) Any person convicted of violating this section who had one or more children under the age of fourteen (14) years in the vehicle at the time of the offense shall have such person's punishment enhanced by one (1) month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

- (g) The court may establish the terms and time for payment of any fines, fees, assessments, and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than ninety (90) days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (h) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to the federal minimum hourly wage existing at the time for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one (1) year after the fine is imposed, or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero (0) the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (i)
 - (1) Except as provided in paragraph (5), in addition to any other penalty which may be imposed upon a person convicted of a violation of this section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one (1) year and that the convicted person pay all towing, impoundment, and storage fees or other immobilization costs.
 - (2) The court shall not order the impoundment or immobilization of a motor vehicle driven by a person convicted of a violation of this section if the motor vehicle had been stolen or converted at the time it was driven in violation of this section.
 - (3) Prior to ordering the impoundment or immobilization of a motor vehicle or vehicles owned by a person convicted of a violation of this section, the court shall consider, but not be limited to, the following:
 - (A) Whether the impoundment or immobilization of the motor vehicle would result in the loss of employment by the convicted person or a member of such person's family; and
 - (B) Whether the ability of the convicted person or a member of such person's family to attend school or obtain medical care would be impaired.
 - (4) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.
 - (5) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than one (1) year from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of the time remaining on the lease.
- (j)
 - (1) Except as provided in paragraph (5), in addition to any other penalty which may be imposed upon a person convicted of a violation of this section, the court may order that the convicted person's motor vehicle or vehicles be impounded or immobilized for a period not to exceed one (1) year and that the convicted person pay all towing, impoundment, and storage fees or other immobilization costs.

- (2) Any personal property in a vehicle impounded or immobilized pursuant to this subsection may be retrieved prior to or during the period of such impoundment or immobilization.
 - (3) As used in this subsection, the convicted person's motor vehicle or vehicles shall include any vehicle leased by such person. If the lease on the convicted person's motor vehicle subject to impoundment or immobilization expires in less than two (2) years from the date of the impoundment or immobilization, the time of impoundment or immobilization of such vehicle shall be the amount of time remaining on the lease.
- (k) The court shall report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings or a complaint alleging a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any motor vehicle laws of this state.
- (l) For the purposes of determining whether a conviction is a first or second conviction in sentencing under this section:
- (1) Conviction includes being convicted of a violation of this section or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of this section;
 - (2) Conviction includes being convicted of a violation of a law of any state or an ordinance of any city, or resolution of any county, which prohibits the acts that this section prohibits or entering into a diversion agreement in lieu of further criminal proceedings in a case alleging a violation of such law, ordinance, or resolution;
 - (3) Any convictions occurring during a person's lifetime shall be taken into account when determining the sentence to be imposed for a first or second offender, whichever is applicable;
 - (4) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and
 - (5) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, only once during the person's lifetime.
- (m) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
- (n) Upon conviction of a person of a violation of this section, the court may order the convicted person to pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

- (o) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 et seq., and amendments thereto, shall not constitute plea bargaining.
- (p) The alternatives set out in subsections (a)(1), (a)(2), and (a)(3) of this section may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.
- (q) For the purpose of this section:
 - (1) Alcohol Concentration means the number of grams of alcohol per 100 milliliters of blood or per 210 liters of breath.
 - (2) Drug includes toxic vapors as such term is defined in Section 1.
 - (3) Imprisonment shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the governing body of the city.
- (r) Upon every conviction of a violation of this section, the court shall order such person to submit to a pre-sentence alcohol and drug abuse evaluation pursuant to K.S.A. 8-1008, and amendments thereto. Such pre-sentence evaluation shall be made available, and shall be considered by the sentencing court.

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

Section 30.3. Ignition Interlock Devices; Tampering.

- (a) No person shall:
 - (1) Tamper with an ignition interlock device for the purpose of circumventing it or rendering it inaccurate or inoperative;
 - (2) Request or solicit another to blow into an ignition interlock device, or start a motor vehicle equipped with such device, for the purpose of providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device;
 - (3) Blow into or start a motor vehicle equipped with an ignition interlock device for the purpose of providing an operable motor vehicle to a person whose driving privileges have been restricted to driving a motor vehicle equipped with such device; or
 - (4) Operate a vehicle not equipped with an ignition interlock device during the restricted period.
- (b) Violation of this section shall be punished by a fine of not more than \$2,500 or by imprisonment for not more than one (1) year or by both such fine and imprisonment (K.S.A. 8-1017).

- (c) A person convicted of a violation of this section shall serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$500.

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

Section 33. Maximum Speed Limits.

- (a) Except when a special hazard exists that requires lower speed for compliance with Section 32, the limits specified in this section or established as hereinafter authorized shall be maximum lawful speeds, and no person shall drive a vehicle at speed in excess of such maximum limits:

- (1) In any central business district or school zone unless otherwise posted, 20 mph.
- (2) In any residence or urban district unless otherwise posted, 30 mph.
- (3) In any park, 20 mph.

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

- (b) Whenever any appropriate sign shall be placed by lawful authority along any street or parking or marked on any curb, or otherwise giving notice of any prohibited or special use of the street or highway adjacent thereto or limiting the speed of vehicles in such zones or controlling the use thereof, it shall be unlawful for any person to refuse or fail to comply with such signs or directions.

- (c) The maximum speed limits in this section or as may otherwise be established may be altered as authorized by K.S.A. 8-1560, and amendments thereto.

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

Section 107. Unattended Motor Vehicle; Ignition; Key and Brakes.

- (a) No person driving or in charge of a motor vehicle shall permit it to stand unattended on any street or highway, or upon the premises of any childcare facility, as defined by K.S.A. 65-503, or any family day care home, as defined by K.S.A. 65-517, without first stopping the engine, locking the ignition, removing the key from the ignition and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway.

- (b) For the purpose of this section, unattended shall not be construed to mean a motor vehicle with an engine that has been activated by a remote starter system, when the motor vehicle is locked and when the ignition keys are not in the motor vehicle.

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

Section 147. Tail Lamps.

- (a) Every motor vehicle, trailer, semi trailer and pole trailer, and any other vehicle which is being drawn at the end of a combination of vehicles, shall be equipped with at least two (2) tail lamps mounted on the rear, which, when lighted as required in Section 144, shall emit a red light plainly visible from a distance of 1,000 feet to the rear, except that passenger cars manufactured or assembled prior to July 1, 1959, shall have at least one (1) tail lamp. On a combination of vehicles, only the tail lamps on the rearmost vehicle need actually be seen from the distance specified. On vehicles equipped with more than one (1) tail lamp, the lamps shall be mounted on the same level and as widely spaced laterally as practicable.
- (b) Every tail lamp upon every vehicle shall be located at a height of not more than 72 inches or less than 15 inches.
- (c) Either a tail lamp or a separate lamp shall be so constructed and placed as to illuminate with a white light the rear registration plate and render it clearly legible from a distance of fifty (50) feet to the rear. Any tail lamp or tail lamps, together with any separate lamp for illuminating the rear registration plate, shall be so wired as to be lighted whenever head lamps or auxiliary driving lamps are lighted.

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

Section 182. Child Passenger Safety Restraining System.

- (a) Every driver who transports a child under the age of fourteen (14) years in a passenger car on a highway shall provide for the protection of such child by properly using:
 - (1) For a child under the age of four (4) years a child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213;
 - (2) For a child four (4) years of age, but under the age of eight (8) years and who weighs less than 80 pounds or is less than 4 feet 9 inches in height, an appropriate child passenger safety restraining system that meets or exceeds the standards and specifications contained in federal motor vehicle safety standard no. 213; or
 - (3) For a child eight (8) years of age but under the age of fourteen (14) years or who weighs more than 80 pounds or is more than 4 feet 9 inches in height, a safety belt manufactured in compliance with federal motor vehicle safety standard no. 208.
- (b) If the number of children subject to the requirements of subsection (a) exceeds the number of passenger security locations available for use by children affected by such requirements, and all of these security locations are in use by children, then there is not a violation of this section.
- (c) If a security location only has a lap safety belt available, the provisions of subsection (a)(2) shall not apply and the child shall be secured in accordance with the provisions of subsection (a)(3).

- (d) It shall be unlawful for any driver to violate the provisions of subsection (a) and upon conviction such driver shall be punished by a fine of \$60. The failure to provide a child safety restraining system or safety belt for more than one (1) child in the same passenger car at the same time shall be treated as a single violation. Any conviction under the provisions of this subsection shall not be construed as a moving traffic violation for the purposes of K.S.A. 8-255, and amendments thereto.
- (e) Ten dollars of the \$60 fine provided for in subsection (d), and court costs, shall be waived if the driver convicted of violating subsection (a)(1) or (a)(2) provides proof to the court that such driver has purchased or acquired the appropriate and approved child passenger safety restraining system. At the time of issuing the citation for a violation of subsection (a)(1) or (a)(2), the law enforcement officer shall notify the driver of the waiver provisions of this subsection.
- (f) No driver charged with violating the provisions of this section shall be convicted if such driver produces in the office of the arresting officer or in court proof that the child was fourteen (14) years of age or older at the time the violation was alleged to have occurred.
- (g) Evidence of failure to secure a child in a child passenger safety restraining system or a safety belt under the provisions of this section shall not be admissible in any action for the purpose of determining any aspect of comparative negligence or mitigation of damages.
- (h) As used in this section passenger car means a motor vehicle, manufactured or assembled after January 1, 1968, or a motor vehicle manufactured or assembled prior to 1968 which was manufactured or assembled with safety belts, with motive power designed for carrying ten (10) passengers or fewer, including vans, but does not include a motorcycle or a motor-driven cycle.

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

Section 192. Driver's License.

- (a) No person, except those expressly exempted, shall drive or operate any motor vehicle or motorized bicycle upon any highway in this city unless such person has a valid driver's license. Violation of this section is punishable by a fine of not more than \$1,000 or by imprisonment for not more than six (6) months or by both such fine and imprisonment.
- (b) On a second conviction of a violation of this section, a person must serve at least five (5) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$300.
- (c) On a third conviction of a violation of this section, a person must serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$500.
- (d) On a fourth conviction of a violation of this section, a person must serve at least sixty (60) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$700.

- (e) On a fifth conviction of a violation of this section, a person must serve at least ninety (90) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$1000.
- (f) On a sixth or subsequent conviction of a violation of this section, a person must serve at least one hundred twenty (120) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$1,500.
- (g) For the purposes of determining whether a conviction is a first, second, third, fourth, fifth, sixth or subsequent conviction in sentencing under this section, "conviction" includes a conviction of a violation of any ordinance of any city, or resolution of any county, or a law of any state which is in substantial conformity with this section. It is irrelevant whether an offense occurred before or after conviction for a previous offense.

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

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

- (a) (1) Any person who drives a motor vehicle on any street or highway at a time when such person's privilege so to do is canceled, suspended, or revoked, or while such person's privilege to obtain a driver's license is suspended or revoked, shall upon a first conviction be punished by imprisonment for not more than six (6) months or fined not to exceed \$1,000, or both such fine and imprisonment. On a second or subsequent conviction of a violation of this section, such person shall be punished by imprisonment for not more than one (1) year or fined not to exceed \$2,500, or both such fine and imprisonment.
- (2) No person shall be convicted under this section if such person was entitled at the time of arrest under K.S.A. 8-257 and amendments thereto, to the return of such person's driver's license.
- (3) Except as otherwise provided in this section, every person convicted under this section shall be sentenced to at least five (5) days' imprisonment and fined at least \$200.
- (4) If a person (A) is convicted of a violation of this section, committed while the person's privilege to drive was suspended or revoked for a violation of Section 30 or K.S.A. 8-1567, and amendments thereto, or any ordinance of any city, or resolution of any county, or a law of another state, which ordinance or law prohibits the acts prohibited by Section 30 or K.S.A. 8-1567, and amendments thereto; and (B) is or has been also convicted of a violation of Section 30 or K.S.A. 8-1567, and amendments thereto, or any ordinance of any city, or resolution of any county, or a law of another state, which ordinance or law prohibits the acts prohibited by Section 30 or K.S.A. 8-1567, and amendments thereto, committed while the person's privilege to drive was so suspended or revoked, the person shall not be eligible for suspension of sentence, probation or parole until the person has served at least ninety (90) days' imprisonment, and any fine imposed on such person shall be in addition to such a term of imprisonment.

- (b) Upon a second conviction of a violation of this section, a person must serve at least five (5) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$300.
- (c) On the third conviction of a violation of this section, a person must serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$500.
- (d) On the fourth conviction of a violation of this section, a person must serve at least sixty (60) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$700.
- (e) On the fifth conviction of a violation of this section, a person must serve at least ninety (90) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$1,000.
- (f) On the sixth or subsequent conviction of a violation of this section, a person must serve at least one hundred twenty (120) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$1,500.
- (g) On a third or subsequent conviction of a violation of this section, a person shall be sentenced to not less than ninety (90) days imprisonment and fined not less than \$1,500 if such person's privilege to drive a motor vehicle is canceled, suspended, or revoked because such person:
 - (1) Refused to submit and complete any test of blood, breath, or urine requested by law enforcement excluding the preliminary screening test as set forth in K.S.A. 8-1012, and amendments thereto;
 - (2) Was convicted of violating the provisions of K.S.A. 40-3104, and amendments thereto, relating to motor vehicle liability insurance coverage;
 - (3) Was convicted of vehicular homicide, K.S.A. 21-3405, and amendments thereto, involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 2006 Supp. 21-3442, and amendments thereto, or any other murder or manslaughter crime resulting from the operation of a motor vehicle; or
 - (4) Was convicted of being a habitual violator, K.S.A. 8-287, and amendments thereto.
- (h) Any person convicted of a violation of this section when such person's privilege to drive a motor vehicle is canceled, suspended, or revoked because such person, (a) refused to submit and complete any test of blood, breath, or urine requested by law enforcement, excluding the preliminary screening test as set forth in K.S.A. 8-1012; (b) failed a test of blood, breath, or urine; or (c) as a result of an alcohol or drug related conviction as defined by K.S.A. 8-1013(b), must serve at least thirty (30) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released, and be fined at least \$500.

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

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

Section 200. Motor Vehicle Liability Insurance.

(a) Every owner of a motor vehicle shall provide motor vehicle liability insurance coverage in accordance with the Kansas Automobile Injury Reparations Act, K.S.A. 40-3101 *et seq.*, for every motor vehicle owned by such person, unless such motor vehicle is included under an approved self-insurance plan as provided in K.S.A. 40-3104(f) or is otherwise expressly exempted under the laws of this state.

(b) An owner of an uninsured motor vehicle shall not permit the operation thereof upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from said requirements pursuant to the laws of this state.

(c) No person shall knowingly drive an uninsured motor vehicle upon a highway or upon property open to use by the public, unless such motor vehicle is expressly exempted from said requirements pursuant to the laws of this state.

(d) Any person operating a motor vehicle upon a highway or upon property open to use by the public shall display, upon demand, evidence of financial security to a law enforcement officer. The law enforcement officer shall issue a citation to any person who fails to display evidence of financial security upon such demand. The law enforcement officer shall attach a copy of the insurance verification form prescribed by the secretary of revenue to the copy of the citation forwarded to the court.

No citation shall be issued to any person for failure to provide proof of financial security when evidence of financial security meeting the standards of subsection (e) is displayed upon demand of a law enforcement officer. Whenever the authenticity of such evidence is questionable, the law enforcement officer may initiate the preparation of the insurance verification form prescribed by the secretary of revenue by recording information from the evidence of financial security displayed. The officer shall immediately forward the form to the department of revenue, and the department shall proceed with verification in the manner prescribed in the following paragraph. Upon return of a form indicating that insurance was not in force on the date indicated on the form, the department shall immediately forward a copy of the form to the law enforcement officer initiating preparation of the form.

(e) Unless the insurance company subsequently submits an insurance verification form indicating that insurance was not in force, no person charged with violating subsections (b), (c), or (d) shall be convicted if such person produces in court, within ten (10) days of the date of arrest or of issuance of the citation, evidence of financial security for the motor vehicle operated, which was valid at the time of arrest or of issuance of the citation. For the purpose of this subsection, evidence of financial security shall be provided by a policy of motor vehicle liability

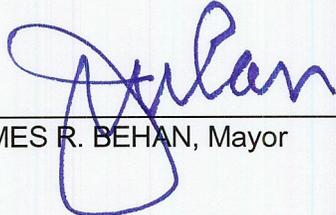
insurance, an identification card or certificate of insurance issued to the policyholder by the insurer which provides the name of the insurer, the policy number and the effective and expiration dates of the policy, or a certificate of self-insurance signed by the commissioner of insurance.

- (f) Any person violating any provision of this section shall be guilty of a violation of this ordinance and subject to a fine of not less than \$300 or more than \$1,000 or by imprisonment for a term of not more than six (6) months, or both such fine and imprisonment, except that
- (g) any person convicted of violating any provision of this section within three (3) years of any such prior conviction shall be guilty of a violation of this ordinance and subject to a fine of not less than \$800 nor more than \$2,500 or by imprisonment for a term not to exceed one (1) year, or both such fine and imprisonment.
- (h) Upon a second conviction of a violation of this section, a person must serve at least five (5) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (i) Upon a third conviction of a violation of this section, a person must serve at least twenty (20) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (j) Upon a fourth or subsequent conviction of a violation of this section, a person must serve at least sixty (60) consecutive days' imprisonment before the person is granted probation, suspension, or reduction of sentence or parole or is otherwise released.
- (k) For the purposes of determining whether a conviction is a first, second, third, fourth or subsequent conviction in sentencing under this section, conviction includes a conviction of a violation of any ordinance of any city, or resolution of any county, or a law of any state which is in substantial conformity with this section. It is irrelevant whether an offense occurred before or after conviction for a previous offense.

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

SECTION 3. That this ordinance shall be in full force and effect from and after October 1, 2010, and following its publication in the Garden City Telegram, the official city newspaper.

APPROVED AND PASSED by the Governing Body of the City of Garden City, Kansas, this 7th day of September, 2010.



JAMES R. BEHAN, Mayor

ATTEST:


STACEY L. FRIZZELL
City Clerk