

**** AGENDA ****

City Commission Study Session

Wednesday, March 30, 2016

Conference Room 1AB

516 Mechanic Street

10:00 am

- Discuss Food Truck Zoning Provisions
- Towing Policy Update

No Luncheon

Tentative Agenda for April 6th City Commission Meeting

- Minutes
- Consent Agenda
- Set Bid date and Time for Installation of Ozone Equipment
- Set Bid Date and Time for Lift Station #6 Update
- Public Comment
 - Proclamation Naming April as National Child Abuse and Neglect Prevention Month
 - Award from the Kansas Rural Water Association
- Consideration of New Towing Policies
- Approve Agreement with KDOT for 2016 KLINK Project.
- Review & Accept Bid for Particle Demolition of 407 Commercial
- Accept Slurry Seal Bid
- Accept Sanitary Sewer Relining Project
- Ordinance Request for Beer Gardens
 - Dirty Kanza Bicycle Race Event
 - GBO
- Amendment for Breckinridge MOU
- Consider Change in Zoning at 1325 E. 6th Ave from High Density Residential District to General Commercial District for Storage Unit Facility
- Consider Zoning Provisions for Food Trucks
- Consider Zoning on Whittier Street
- Report From City Manager on City Activities
- City Commission Reports and Comments

**If you need accommodations due to a disability to participate in this event, meeting, or activity, or alternative format of written materials contact Patty Gilligan, City of Emporia ADA Coordinator at least 48 hours before the event at 620-343-4291 or email pgilligan@emporia-kansas.gov*

Memo

TO: City Commission

FROM: Jim Witt, Assistant City Manager

CC: Department Heads

DATE: March 16, 2016

SUBJECT: Towing Policy Update

The attached Towing Policy is the latest recommendation by the staff regarding this ongoing issue. The policy provides for a two tier system which all of the Commission favors but also provides for mandatory CDL requirements for drivers of the companies participating in the rotation system. Staff feels that the towing of a vehicle thru the streets of our community should require more than a standard drivers license. We realize there will be resistance to this recommendation. The policy also requires compliance with all applicable zoning regulations and building codes which also will impact some operators.

***3-21-16 Proposed Policy – changes and additions in bold and strikethrough,
changes since last week’s copy in red***

CITY OF EMPORIA, KANSAS

5.10 VEHICLE TOWING POLICY

A. BACKGROUND

The Chief of Police shall establish a **two tier** rotation list to call “qualified” towing companies for the purpose of **conducting non-preference** towing of motor vehicles which are disabled, inoperative or wrecked. The next towing company on the list is called by dispatch in the event that the owner or operator of such a vehicle is incapacitated, unavailable or leaves the procurement of wrecker services to the officer at the scene of the accident or the location of the disabled vehicle. The policy does not affect owner preference requests between a private citizen and their selected towing company, **nor does it affect tows initiated by the City in the course of City business.** A towing company is qualified to participate on the rotation list if it satisfies the provisions of this policy. The maintenance of the rotation list is at the sole discretion of the City of Emporia and may be terminated at any time. The rotation list is not intended to confer a property right. **A towing company may be suspended or removed from the list at any time if that towing company fails to adhere to the policy as adopted.** The rotation list is intended solely for the use of the City of Emporia as a guideline and the City is not responsible for its use for any other purpose or by any other entity.

B. PURPOSE

The purpose of this policy is to set the standards for a towing company that wants to be on the rotation list. It is not the policy of the City to regulate towing companies as to price, route or service. The City Commission finds that this policy is necessary to protect property, to speed recovery of wrecked vehicles from the public right-of-way, and to attract qualified towing companies on the rotation list so that sufficient emergency towing service is available on a 24-hour basis within the City of Emporia.

C. STRUCTURE

1. **The City will maintain a Two Tier Rotation List.**

- a. **Tier 1 shall be for small vehicles receiving towing services, including, but not limited to the following:**
 - i. **passenger cars,**
 - ii. **small pickup trucks,**
 - iii. **minivans,**
 - iv. **small sport utility vehicles (SUVs),**
 - v. **and other similarly sized small vehicles.**

vi. The following vehicles shall also included in Tier 1, but will require a two (2) ton rollback carrier to tow:

- a. Pickup trucks with a half-ton payload capacity,**
- b. full size vans; and**
- c. full size SUVs.**

b. Tier 2 shall be for large vehicles receiving towing services including, but not limited to the following:

- i. pickup trucks with a ~~half-ton~~ three-quarter (3/4) ton or larger payload capacity,**
- ~~**ii. large SUV's,**~~
- ~~**iii. full size vans,**~~
- iv. vehicles with three or more axles consisting of a straight truck power unit,**
- v. semi-tractor units and trailers commonly referred to as a semi tractor-trailers, and**
- vi. other large vehicles and equipment.**

- 2. Law enforcement officers on scene shall have full discretion in determining whether a call should be referred to a towing company from Tier 1 or Tier 2 of the rotation list.**
- 3. A towing company that meets the requirements to be included on Tier 2 of the rotation list shall also be included on Tier 1.**

D. STANDARDS

- 1. The towing company shall have towing and storage of vehicles available on a 24-hour basis, seven days a week including 24-hour telephone answering.**
- 2. The towing company shall have a properly zoned storage yard with a six foot or higher fence, having a visual density of at least eighty (80) percent, which meets all applicable city building, zoning, and business regulations, subject to inspection and approval by the City.**
- 3. The towing company shall comply with all Federal and State statutes and regulations; and all City ordinances.**
- 4. The towing company shall provide an annual rate sheet with maximum charges for towing service and storage fees for a 12 month period. Any charges in excess of the posted amounts may be cause for removal of the towing company from the rotation list after review by the Police Department.**
- 5. The towing company shall provide access to vehicles during normal working hours (at least 8 hours per day) for the release of vehicles.**

- a. **The towing company shall allow an owner of a towed vehicle to have access to personal property in such vehicle for 48 hours after such vehicle has been towed and such personal property shall be released to the owner in accordance with K.S.A. 8-1103(c).**
 - b. **Medical supplies shall be released to the owner upon request as required by K.S.A. 8-1103(a).**
 - c. **It shall be the vehicle owner's responsibility to contact the towing company to request access to personal property and medical supplies.**
6. **The towing company shall strive to reach the scene within 20 minutes of the notification that towing services are needed. Failure to arrive within 20 minutes authorizes the police to cancel the tow and assign it to the next company on the rotation list. A towing company that fails to respond to calls without good reason, or fails to respond to calls in a timely manner may be removed from the rotation list.**
7. **The towing company must provide proof of insurance required for storage and towing services, including insurance for damage or loss of property, which must be maintained at all times while on the rotation list. Towing service insurance shall be obtained and maintained throughout the term of this agreement by the towing company; insurance coverage shall be in the amount of no less than \$1,000,000 liability insurance in the form of tow service liability policy covering the operation of the owner's business, equipment or other vehicle for any bodily injury or property damage in accordance with FMCSA Regulations 387.9. Workers compensation insurance covering the employees of the towing company must be maintained as required by K.S.A. 44 Article 5. Any towing company exempt from the requirement of maintaining workers compensation insurance must provide proof of such exemption. The City of Emporia must be notified immediately in the event of cancellation or modification of insurance.**
8. **The towing company will provide the Police Department with a list of the towing company's employees and those employees will be subject to a background check for criminal activity or adverse driving records. The City reserves the right to suspend the company from the rotation list in the event that an employee of the towing company does not pass the background check or engages in criminal activity or poor driving activity.**
 - a. **In the event that the towing company elects to terminate the employee with the criminal record or poor driving record, the towing company may be returned to active rotation on the list.**
 - b. **Any new employee not yet on the list of employees on file with the City may not respond to any calls from the rotation list. The towing company shall provide an updated employee list to the City within five (5) business days of the hiring of any new employee.**

- c. **The towing company shall employ drivers holding a Commercial Drivers License (CDL) on their towing roster at all times, and shall send only CDL drivers to respond to calls from the rotation list. ~~will have a CDL Drivers on their towing roster at all times~~ as required by the KCC to tow anything $\frac{3}{4}$ ton and above with a wrecker **and shall utilize CDL Drivers in compliance with KCC requirements****
 - d. **All CDL drivers will be enrolled in the mandatory drug and alcohol testing programs and keep their medical cards and annual driving records current as required by KCC. Ref. 382.305(B), 391.35 and 391.41**
9. The towing company shall be responsible for collecting towing and storage charges directly from the owner or claimant of a stored vehicle.

E. EQUIPMENT AND TRUCK REQUIREMENTS

- 1. The towing company shall letter both sides of each vehicle with the name of the towing company.
- 2. Emergency lights ~~as authorized by state law~~ **in compliance with all State and Federal laws** shall be displayed **on towing vehicles** ~~subject to review by the Chief of Police.~~
- 3. The towing company shall be responsible for maintaining equipment for debris removal at accident scenes as directed by ~~the police officer~~ **public safety or emergency personnel.**
- 4. The towing company shall **the equipment necessary** to tow the subject vehicle within their rated capability. ~~The towing companies will no longer be required to be able to tow any vehicle with three or more axles consisting of a straight truck power unit and a trailer commonly referred to as a tractor trailer. In addition, because some passenger vehicles can be damaged by being towed with a hook~~ **All towing companies shall supply, at a minimum, the following equipment:**
 - a. **A tow truck equipped with a boom, winch, and cable; and**
 - b. **A truck commonly known as a two (2) ton rollback car carrier. ~~with sufficient capacity to carry passenger vehicles.~~**
- 5. **All towing companies on Tier 2 of the rotation list shall supply the following additional equipment:**
 - a. **A tow truck capable of safely towing a one ton dual wheeled pickup truck with a load; and**
 - b. **A tow truck with tandem rear axles for towing or lifting heavy trucks or equipment, capable of towing vehicles with three or more axles consisting of a straight truck power unit or a semi-tractor unit and trailer commonly referred to as a semi tractor-trailer.**

F. REGULATIONS

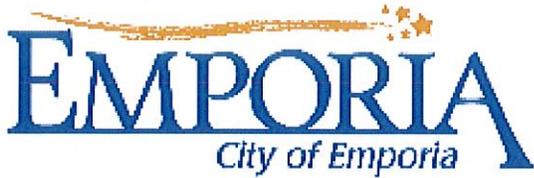
1. The Chief of Police is authorized to issue regulations governing towing as may be necessary, and no inconsistent with this Policy, including **to require an annual application and evaluation process in a standard format to be developed by the Police Department and approved by the City Manager or City Manager's designee.**
 - a. **The application process shall require the submission of proof of insurance, an Annual Rate Sheet, a list of all employees, verification of employee CDL status, and submission of appropriate background checks.**
 - b. **An initial application may be submitted at any time. Annual applications shall be made by December 15 of each year by towing companies wishing to remain on the rotation list during the following calendar year. Any towing company that does not submit an annual application by December 15th shall be removed from the rotation list on December 31st of that same year.**
2. **The towing company must notify the City immediately of any changes in insurance, employees, CDL status, or equipment. The towing company must provide written verification of any such change within five (5) business days.**
3. **The Chief of Police or the Chief of Police's designee is authorized to order inspection of the property, facilities, equipment, insurance records, and personnel records of any towing company on the rotation list, at any time, to ensure compliance with the provisions of this policy.**
4. A towing company may be suspended or removed from the rotation list for failure to meet any provision of this policy. Appeals from suspension or removal from the rotation list shall be filed within ten (10) days directly with the City Manager **or the City Manager's designee** who shall hold a hearing and render a decision within twenty (20) days. The decision of the City Manager maybe appealed to City Commission **by filing a notice of appeal with the City Clerk within five (5) business days of receipt of the City Manager's Decision.**
5. **Any towing company that undergoes a change in ownership due to sale, merger, or transfer of ownership must reapply for a spot on the rotation list under the new company owner and company name.**

G. DEFINITIONS

1. "Towing Company" means a person, company or corporation that owns, controls or has over a 49% financial interest in one or more emergency towing services.
 - a. If a person, company or corporation constituting a towing company owns or controls, directly or indirectly, 50% or more of another towing company, then only one towing company may be included in the rotation list.
 - b. A towing company shall operate from a single **business** location in the City **where all business transactions are conducted**; shall not be in

collusion with any other towing company; and shall own, lease or control all of the equipment required by this policy.

2. "Call" A call **from dispatch** to a specific location for a single wrecked or abandoned vehicle shall be considered as one call and only one qualified towing company will be called **for each vehicle**. ~~provided that~~ The **law enforcement** officer at the scene shall have discretion to ~~call~~ **request calls for** additional companies if more than one vehicle needs to be recovered.



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ZONING DEPARTMENT

MEMO

TO: Mark McAnarney, Jim Witt, City Commissioners
FROM: Joe Foster
RE: Proposed text change: Mobile Food Vendors
DATE: March 30, 2016

The topic of Mobile Food Vendors (food trucks, trailers, or carts) has recently been brought to my attention by multiple parties, including possible mobile merchants and concerned residents regarding the health and safety of such vendors within the City of Emporia. Having regulations for Mobile Food Vendors would help protect the health, safety and welfare of the community by verifying that vendors are in compliance with state and local health code requirements. Currently, the zoning regulations allow vendors a Temporary Use Permit (Section 20-6). This gives all merchants a maximum of 40 days (4 separate, ten consecutive day permits) to sell goods within Emporia. By specifically tailoring the Mobile Food Vendors regulations there will be better accountability and safety for the community.

Staff has reviewed a range of material and case studies on Mobile Food Vendors and found that they offer more than just a unique dining experience. They have even been known to revive struggling and blighted areas, and add culture and attraction to a community. They can also help entrepreneurs establish businesses that can turn into a permanent location.

Staff suggests adopting a text change that would allow mobile food vendors a 30-day renewable permit, with a \$50 fee per 30 days. The permit would allow for 12 continuous hours of operation per day, and vendors would be allowed in Commercial and Industrial Zoning districts. Vendors must stay at least 50 feet from an established restaurant, without written permission. Vendors must have a valid KDA Food Service License and food handler card before a permit would be issued.

It is important that any revision to the regulations do not circumvent the zoning or other regulations; the regulations would not give the Mobile Food Vendors unfair advantage over traditional merchants; the regulations would not discourage investment in permanent buildings; and the regulation would protect neighborhood character.

Respectfully,

Joe Foster
Zoning Department



MOBILE FOOD PERMIT APPLICATION
THE CITY OF
EMPORIA
PLANNING AND ZONING DEPARTMENT

**AN APPLICATION FORMS MUST BE SUBMITTED FOR EACH MOBILE FOOD VENDOR.
ATTACH A COPY ALL VALID STATE HEALTH LICENESES AND PERMITS.
PERMIT GOES WITH THE VENDOR, NOT THE LOCATION.**

VENDOR OWNER/OPERATOR: _____
NAME OF OPERATION/BUSINESS: _____
PHONE: _____ ADDRESS: _____
EMAIL: _____

ADDRESS OF LOCATION *: _____ ZONING DISTRICT: _____
PROPERTY OWNER NAME: _____ NAME OF BUSINESS: _____
PHONE: _____ ADDRESS: _____

ADDRESS OF LOCATION *: _____ ZONING DISTRICT: _____
PROPERTY OWNER NAME: _____ NAME OF BUSINESS: _____
PHONE: _____ ADDRESS: _____

ADDRESS OF LOCATION *: _____ ZONING DISTRICT: _____
PROPERTY OWNER NAME: _____ NAME OF BUSINESS: _____
PHONE: _____ ADDRESS: _____

ADDRESS OF LOCATION *: _____ ZONING DISTRICT: _____
PROPERTY OWNER NAME: _____ NAME OF BUSINESS: _____
PHONE: _____ ADDRESS: _____

DATE(S) AT LOCATION: _____

***MUST HAVE PROPERTY OWNER APPROVAL PRIOR TO SUBMITTING PERMIT**

*Property Owners Signature: _____



MOBILE FOOD PERMIT APPLICATION
THE CITY OF
EMPORIA
PLANNING AND ZONING DEPARTMENT

Applicant Signature:

I _____, the applicant, of lawful age, state that upon signing this application, understand and agree upon the provision set forth in Section 20-6.a.4.4a of the Emporia-Lyon County Zoning Regulations, and certify that the information and answers contained are complete and true to the best of my knowledge.

Applicant's Signature: _____ Date: _____

Zoning Administrator Signature: _____

Fee: \$50.00 per 30 days Receipt #: _____ Date: _____

Applicant - include the following with the application:

- Proof of a current sales tax license from the State of Kansas or proof of exempt status from state sales tax
- Proof of a current licenses to operate
- A sketch or drawing of the proposed sales site showing the approximate dimensions of the area being used, the proximity to buildings, parking lots, right-of-ways or other such areas.
- A description of any structure, stand, display prop, or other such item used for the activity, including signs, banners or other attention-getting devices.
- The name, address, telephone number and written permission of the owner, or tenant in possession of the location described in the application, upon which the applicant intends to sell products.
- This permit needs to be displayed in public view, along with state licenses, and inspections.

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF EMPORIA, KANSAS, AMENDING ARTICLE 20 OF THE ZONING REGULATIONS FOR THE CITY OF EMPORIA AND THE METROPOLITAN PLANNING AREA OF LYON COUNTY, KANSAS AS ADOPTED BY ORDINANCE NO. 00-08 OF THE CITY OF EMPORIA, KANSAS AND REPEALING THE EXISTING SECTIONS

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

Section 1. That Article 20, Section 20-601.a.4.4.a of the Zoning Regulations for the City of Emporia and the Metropolitan Planning Area of Lyon County, Kansas as adopted by Ordinance No. 00-08 are hereby amended to read as follows:

~~Article 20-601.a.4 Outdoor temporary sales on private property and not incorporated or in partnership with the existing business located on this property in a commercial or industrial zone, including commercial sales, swap meets or similar activities providing they do not operate for more than ten (10) consecutive days and there are no more than four (4) such sales on any one property in any calendar year.~~

4a. Mobile Food Vendor, located within industrial and commercial zoning districts are allowed a renewable 30 day permit, with a \$50 fee per 30 days. All Mobile Food Vendors must comply with all state health codes, City of Emporia ordinances, and zoning regulations before a permit is issued. The permit is issued for the mobile food unit, not the location.

Hours of operation: Mobile Food Vendor may operate at the primary establishment where they are parked for no more than 12 continuous hours of operation per day.

Utilities and sanitation: All plumbing utilities shall be portable and self contained, with proper treatment and containment for greywater, grease, and wastewater holding and disposal. All safety equipment must be up to date. Electrical or other utility connections must be safe and in compliance with electrical and applicable codes and regulations.

Location: Vendors must be at least 50 feet from an established brick and mortar restaurant, unless there has been prior written approval from the established restaurant. Vendors cannot use public property for sales.

Maintenance: No extra storage trucks, trailers, sheds, containers, or canopies shall be allowed to be located on site of vendors location. Vendor is responsible to keep the location clean and orderly, and provide trash/recycle receptacles, and to clean up all trash, litter, spills within a twenty-foot radius or apparent operating area, whichever is greater.

Signs: One temporary sign is allowed and shall not block traffic or be placed in the public right-of-way.

The zoning administrator may issue a certificate of temporary use upon the payment of the mobile food vendor permit fee, imposed by the fee ordinance, and upon finding that all requirements have been met.

Section 2. Section 20-601.a.4.4 as existed prior to the adoption of this ordinance are hereby repealed.

Section 3. This ordinance shall become effective upon publication in the official City newspaper.

PASSED AND APPROVED this _____ day of _____, 2016.

DANNY GIEFER, Mayor

ATTEST:

KERRY SULL, City Clerk