# ORDINANCE NO. 1157

## AN ORDINANCE AMENDING CITY CODE CHAPTER 4, ARTICLE 4, SECTION 4-505 ALLOWING FOR TOWING OF RECREATIONAL VEHICLE UPON CONVICTION OF THIRD OFFENSE FOR USING A RECREATIONAL VEHICLE AS A RESIDENTIAL STRUCTURE

**BE IT ORDAINED** by the Governing Body of the City of Yates Center, Kansas:

**SECTION 1**: Yates Center Municipal Code Article 4, Sections 4-505 is hereby amended as follows:

**4-505 Penalties**

Any person, firm or corporation violating any part of the provisions of this article shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violation of any of the provisions of this article is committed or permitted. Upon conviction of any such violation, such person shall be guilty of a misdemeanor and punished by up to a $500 fine plus court costs, a maximum of 30 days in jail, or both. Upon third conviction, camper or recreational vehicle may be impounded. Should a recreational vehicle be impounded under this section, it shall be impounded under the following conditions:

**a. Storage.**

The police department may authorize storage of such impounded recreational vehicles at any location, public or private, which is zoned for the storage of motor or recreational vehicles.

**b. Notice of impoundment; storage of recreational vehicle.**

(1) When Owner Present. When the police department intends to impound a recreational vehicle pursuant to section 4-505 and the owner of the recreational vehicle is then present, the police department shall before the recreational vehicle is removed, provide the owner with a notice, in the form prescribed by the police department that the recreational vehicle is being impounded, that towing and storage charges will be assessed against the impounded recreational vehicle, that the owner may claim and regain possession of the impounded recreational 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 recreational 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 recreational vehicle for the towing and storage charges without further notice to the owner; and that the recreational 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 recreational 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.

(2) When Owner not Present. When the police department impounds and remove a recreational vehicle pursuant to section 4-505 and the owner of the recreational vehicle is not present at the time of the impoundment, the police department shall, if such recreational 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 4-505(b)(1). The police department shall use reasonable diligence in

determining the title owner, or if from a non-title state, the registered owner, of the recreational 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 recreational 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 recreational vehicle registration and the owner cannot be served by certified mail at the address on the recreational 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.

(3) 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.

**SECTION 2:** This Ordinance shall take effect and be in full force and effect following the date of its first publication on the City's website, as allowed by law.

Passed by the Governing Body of the City of Yates Center, Kansas, this 22nd day of February 2022, and approved by the Mayor on such date.

Justin Weston, Mayor

ATTEST:

Wynona B. Boice, City Clerk

APPROVED AS TO FORM:

Brian P. Duncan, City Attorney