

Article 1 - Uniform Public Offense Code

4-101. Incorporating Uniform Public Offense Code. There is hereby incorporated by reference for the purpose of regulating conduct within the corporate limits of the City of Mission Hills, Kansas, that certain Uniform Public Offense Code known as the "Uniform Public Offense Code for Kansas Cities," Edition of 2019, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except those articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed, and with those additions thereto, as are made by this or any other ordinance of the City hereafter adopted. No fewer than one (1) copy of the Uniform Public Offense Code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1547," with all sections or portions thereof intended to be omitted, changed or added clearly marked to show any omission, change or addition and to which shall be attached a copy of Ordinance No. 1547, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Judge of the Municipal Court and all other administrative departments of the City charged with enforcement of the Uniform Public Offense Code shall be supplied, at the cost of the City, with the number of official copies of the Uniform Public Offense Code similarly marked, as may be deemed expedient.

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4-102. Article 5 Amendments. Sections 5.6 and 5.7 of the Uniform Public Offense Code are hereby amended to read as follows:

Section 5.6. Purchase or Possession of Cigarettes or Tobacco Products by a Minor.

- (a) It shall be unlawful for any person:
- (1) who is under twenty-one (21) years of age to purchase or attempt to purchase cigarettes, electronic cigarettes, liquid nicotine or tobacco products; or
 - (2) who is under eighteen (18) years of age to possess or attempt to possess cigarettes, electronic cigarettes, liquid nicotine or tobacco products. (K.S.A. 79-3321 to -3322, as amended).
 - (3) For the purposes of this Section 5.6, the terms are defined in K.S.A. 79-3301 and amendments thereto, except liquid nicotine which is the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine, whether by nasal spray, ingestion, smoking or other means, into the human body.
- (b) Violation of this Section 5.6 shall be an ordinance cigarette or tobacco infraction for which the fine shall be a minimum of Twenty-Five Dollars (\$25) and a maximum of One Hundred Dollars (\$100). In addition, the Judge may require a person charged with violating this Section 5.6 to appear in Municipal Court and/or may require completion of a tobacco education program.

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Section 5.7. Selling, Giving or Furnishing Cigarettes or Tobacco Products to a Minor.

- (a) It shall be unlawful for any person, directly or indirectly, to:
- (1) Sell, furnish or distribute cigarettes, electronic cigarettes, liquid nicotine or tobacco products to any person under twenty-one (21) years of age; or
 - (2) Buy any cigarettes, electronic cigarettes, liquid nicotine or tobacco products for any person under twenty-one (21) years of age.
- (b) It shall be a defense to a prosecution under this Section 5.7 if:
- (1) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;
 - (2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, liquid nicotine or tobacco products to the person under twenty-one (21) years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes, liquid nicotine or tobacco products; and
 - (3) To purchase or receive the cigarettes, electronic cigarettes, liquid nicotine or tobacco products, the person under twenty-one (21) years of age exhibited to the defendant a driver's license, Kansas non-driver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes, electronic cigarettes, liquid nicotine or tobacco products.
 - (4) For purposes of this Section 5.7, the person who violates this Section 5.7 shall be the individual directly selling, furnishing or distributing the cigarettes, electronic cigarettes, or tobacco products to any person under twenty-one (21) years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.
- (c) It shall be a defense to a prosecution under this Section 5.7 if:
- (1) The defendant engages in the lawful sale, furnishing or distribution of cigarettes, electronic cigarettes, or tobacco products by mail; and
 - (2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601 and amendments thereto, that the person was twenty-one (21) or more years of age.

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- (d) For the purposes of this Section 5.7, the terms are defined in K.S.A. 79-3301 and amendments thereto, except liquid nicotine which is the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine, whether by nasal spray, ingestion, smoking or other means, into the human body.
- (e) As used in this Section 5.7, "sale" means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration. (K.S.A. 79-3301, 79-3321 to -3322).
- (f) Violations of this Section 5.7 shall constitute a Class B violation punishable by a minimum fine of Two Hundred Dollars (\$200).

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4-103. Section 6.7 Amendment. Section 6.7 of the Uniform Public Offense Code is hereby amended to read as follows:

Section 6.7. Criminal Trespass.

- (a) **Prohibited Acts.** Unless a person is legally privileged to do so, is an invitee, or is on a sidewalk in the public right-of-way, no person shall enter or remain upon or in any land, structure, vehicle, aircraft or watercraft:
 - (1) if the person has been directed to leave that property by the owner thereof or an authorized person;
 - (2) if the premises or property are posted in a manner reasonably likely to come to the attention of intruders;
 - (3) if the premises are fenced or otherwise enclosed; or
 - (4) between sunset on any day and sunrise of the next day.
- (b) **Definition.** For the purpose of this Section 6.7, certain terms shall be interpreted as follows:
 - (1) "A person is legally privileged" if the person is the property owner; a person having legal authority over the property; a federal, state, county, City or other governmental agency officer, employee or agent acting in the course of their employment; a land surveyor, licensed pursuant to K.S.A. 74-7001 *et seq.*, and amendments thereto, and the surveyor's authorized agents and employees who enter upon lands, waters or other premises in the making of a survey; or an employee of a utility acting in the course of their employment and with regard to a utility located on, over or under the property at issue.

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- (2) "A person is an invitee" if the person has been invited onto or in the property by the property owner or a person having legal authority over the property or the property owner or a person having legal authority consents to the person's presence upon or in that property.
- (c) Violation of this Section 6.7 is a Class A violation.

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4-104. Section 6.27 Added. Section 6.27 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 6.27. Littering.

- (a) Littering is intentionally or recklessly depositing or causing to be deposited any object or substance into, upon or about:
- (1) any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water except by direction of some public officer or employee authorized by law to direct or permit such acts; or
 - (2) any private property without the consent of the owner or occupant of the property. (K.S.A. 21-5815(a)).
- (b) Violation of this Section 6.7 is a Class C violation.

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4-105. Section 6.28 Added. Section 6.28 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 6.28. Unlawful Posting of Pictures and Advertisements.

- (a) Unlawful posting of pictures and advertisements is:
- (1) the putting up, affixing or fastening of either or both to a traffic control signal or device or telephone, light, power, or other utility pole, but it is not unlawful to affix official traffic control devices to these poles;
 - (2) the placement of either or both on public property other than as prescribed in subsection (a)(3);
 - (3) the placement of either or both on the right-of-way without the consent of the landowner or the person in possession whose land lies along the right-of-way where that picture or advertisement is placed; or

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- (4) the placement of either on private property without the consent of the landowner or the person in possession of that property.
- (b) It is unlawful for any person within the City limits to tack, paste, paint, hang or place in any manner whatsoever, or cause to be tacked, posted, hung, or placed in any manner whatsoever, any handbills, dodgers, signs, or advertisements, written or unwritten, or printed matter, to or upon any telephone or telephone pole, sidewalk, or building in the City, or to throw, scatter or cause to be thrown or scattered, any handbills, dodgers or other advertisements or propaganda, or written or printed matter or paper of any kind upon any street, alley, sidewalk, vacant lot, City property, or yard within the City limits.
- (c) Violation of this Section 6.28 is a Class C violation.

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4-106. Section 6.29 Added. Section 6.29 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 6.29. Opening, Damaging or Removing Coin-Operated Machines.

- (a) Opening, damaging or removing coin-operated machines is willfully and knowingly opening, removing or damaging any vending machine dispensing goods or services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services or any part thereof, with intent to commit theft.
- (b) Violation of this Section 6.29 is a Class A violation.

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4-107. Section 6.30 Added. Section 6.30 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 6.30. Possession of Tools for Opening, Damaging or Removing Coin-Operated Machines.

- (a) Possession of tools for opening, damaging or removing coin-operated machines is the possession of any key, tool, instrument or other device, or any drawing, print or mold of a key or other device or any explosive specifically designed for or suitable for the use in opening or breaking into any vending machine dispensing goods or services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services with intent to commit theft.
- (b) Violation of this section is a Class B violation.

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4-108. Section 6.31 Added. Section 6.31 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 6.31. Use of Water from Ponds, Lakes and Watercourses.

- (a) It shall be unlawful for any person to use or cause to be used, in any manner whatsoever, water from any pond, lake, stream, creek or natural watercourse within the City:
 - (1) in connection with the spraying of trees, grass and other vegetation for the purpose of controlling insects or disease of any kind or nature;
 - (2) in connection with any business or commercial venture of any kind or nature; or
 - (3) in any manner that is likely to be harmful, detrimental, or injurious to public health, safety or welfare, or to plant, animal or aquatic life.
- (b) Violation of this Section 6.31 is a Class B violation.

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4-109. Section 6.32 Added. Section 6.32 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 6.32. Sources of Water Used.

- (a) It shall be unlawful for any person to use in connection with the spraying of trees, grass and other vegetation for the purpose of controlling insects or disease of any kind or nature within the City, water (or other fluid which has been combined with this water) that has been obtained from any source not approved by the City Administrator. Approved sources shall include the official water supply system of any incorporated city in the State of Kansas or the State of Missouri, and any other sources that the City Administrator may determine to be free of all substances that might be harmful, detrimental, or injurious to public health, safety or welfare, or to plant, animal, or aquatic life.
- (b) Violation of this Section 6.32 is a Class B violation.

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4-110. Section 6.33 Added. Section 6.33 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 6.33. Storing or Repairing of Vehicles.

- (a) No person shall park a vehicle in the driveway or front yard of any residence in the City for the purpose of storing that vehicle or making repairs or rebuilding of such vehicle, provided, however, that this prohibition shall not apply to emergency repairs which may be completed within twenty-four (24) hours.
- (b) Violation of this Section 6.33 is a Class B violation.

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4-111. Section 6.34 Added. Section 6.34 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 6.34. Signs.

- (a) No person shall erect, maintain or display or cause to be erected, maintained or displayed, and no owner of any real property or occupant of any dwelling shall permit the erection, maintenance or display of any sign on any property that such person may own or occupy, except to the extent the erection, maintenance or display of a sign or signs is specifically permitted by Chapter V, Article 14 of the Code. The definitions for various types of signs in Section 5-1402 of the Code shall apply to this Section 6.34.
- (b) Violation of this Section 6.34 is a Class B violation.

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4-112. Section 9.9.2 Amendment. Section 9.9.2 of the Uniform Public Offense Code is hereby changed to read as follows:

Section 9.9.2. Possession of Drug Paraphernalia and Certain Drug Precursors.

- (a) No person shall use or possess with intent to use any drug paraphernalia, as designated in K.S.A. 21-5701, to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of the Uniform Controlled Substances Act, K.S.A. 65-4101 *et seq.*, and amendments thereto.
- (b) No person shall purchase, receive or otherwise acquire at retail any compound, mixture or preparation containing more than 3.6 grams of pseudoephedrine base or ephedrine base in any single transaction or any compound, mixture or preparation containing more than nine grams of pseudoephedrine base or ephedrine base within any thirty (30) day period.

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- (c) No person shall distribute, possess with intent to distribute or manufacture with intent to distribute any drug paraphernalia, knowing, or under circumstances where one reasonably should know, that it will be used to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance in violation of K.S.A. 21-5706, and amendments thereto.
- (d) No person shall use or possess with the intent to use 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.
- (e) Penalty.
 - (1) Violation of subsection (a) is a Class B violation.
 - (2) Violation of subsection (b) is a Class A violation.
 - (3) Violation of subsection (c) is a Class A violation.
 - (4) Violation of subsection (d) is a Class A violation.
- (f) In determining whether an object is drug paraphernalia, the finder of fact shall consider, in addition to all other logically relevant factors, the following:
 - (1) Statements of the owner or person in control of an object concerning its use;
 - (2) 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;
 - (3) The proximity of the object to controlled substances;
 - (4) The existence of any residue of controlled substances on the object;
 - (5) Direct or circumstantial evidence of the intent of an owner or person in control of an object, to deliver it to a person the owner or person in control of an object knows, or should reasonably know, intends to use the object to facilitate a violation of the Uniform Controlled Substances Act, K.S.A. 65-4101 *et seq.*, and amendments thereto. 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;
 - (6) Oral or written instructions provided with the object concerning its use;
 - (7) Descriptive materials accompanying the object which explain or depict its use;

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- (8) National and local advertising concerning the object's use; and
- (9) The method and manner in which the object is displayed for sale, if applicable.

(K.S.A. 21-5709 to -5711)

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4-113. Section 9.14 Added. Section 9.14 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.14. Loitering.

- (a) Loitering is loafing, wandering, standing or remaining idle, either alone or in concert with others, in a public place in a manner so as to:
 - (1) obstruct any public street, public highway, public sidewalk or public building or any other place of public access by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians; or
 - (2) committing in or upon any public street, public highway, public sidewalk or public building or any other place of public access any act or thing that is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any public street, public highway, public sidewalk or public building or any other place of public access, all of which prevents the free and uninterrupted ingress, egress, and regress therein, thereon, and thereto.
- (b) When any person causes or commits any of the conditions enumerated in this Section 9.14, a law enforcement officer shall order that person to stop causing or committing that condition and to move on or disperse. Any person who fails or refuses to obey this order is guilty of a violation of this Section 9.14.
- (c) Violation of this Section 9.14 is a Class C violation.

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4-114. Section 9.15 Added. Section 9.15 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.15. Solicitation, Peddling and Canvassing Regulations.

- (a) **Purpose.** The purpose of this Section 9.15 is to regulate peddling, solicitation and canvassing in a manner that promotes the general safety and well-being of the City's residents while affording appropriate protection of the constitutional rights of those

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who desire to engage in peddling, solicitation and canvassing within the City. This Section 9.15 is based on the following findings of the City Council:

- (1) **City's Substantial Interest in Safety and Security of its Residents.** A primary and substantial interest of the City is to secure the safety of residents and their homes. It is hereby found and determined by the City Council that a variety of frauds and misleading devices are sometimes employed by Peddlers, Solicitors and Canvassers. It is further found that crimes have been committed by persons posing as Peddlers, Solicitors and Canvassers and that some Peddlers, Solicitors and Canvassers present a continuing danger of fraud, burglary, robbery, and other crimes to the residents of the City. It is also found that crimes against City residents occur more frequently in the evening after dark.
 - (2) **City's Substantial Interest in Protecting the Well-Being, Tranquility and Privacy of Residents' Homes.** A primary and substantial interest of the City is to protect the well-being, tranquility and privacy of the home, which the United States Supreme Court has recognized as the "last citadel of the tired, the weary, and the sick." It is hereby found and determined by the City Council that residents of the City are subject to being disturbed and annoyed by Peddlers, Solicitors and Canvassers during the early morning, late evening and night time. In addition, one appropriate method by which residents may protect their privacy and prohibit peddling, solicitation and canvassing on their property is by the display of a "No Solicitors" sign and these signs are not easily visible to Peddlers, Solicitors and Canvassers in the late evening and after dark.
- (b) **Definitions.** For the purpose of these peddling, solicitation and canvassing regulations, certain terms and words shall be defined as follows:
- (1) **Canvasser** means any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of:
 - (A) attempting to enlist support for or against a particular religion, philosophy, ideology, political party, issue or candidate, even if incidental to that purpose the Canvasser accepts the donation of money for or against such cause;
 - (B) distributing a Handbill or flyer advertising a non-commercial event or service; or
 - (C) opinion sampling or poll-taking.
 - (2) **City** means the City of Mission Hills, Kansas.

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- (3) **Handbill** means any printed or written material, any sample or device, circular, leaflet, pamphlet, paper, booklet, or any other printed or otherwise reproduced original or copies of any matter of literature:
- (A) requesting the contribution of funds or anything of value, or advertising or selling or offering for sale or taking or attempting to take orders for any service, merchandise, product, commodity, meeting, performance, or event, of any kind, character, or description, for political, charitable, religious, commercial, or any other purposes; or
 - (B) which is used for canvassing, or which directs attention to any individual, organization, or activity, for the purpose of directly or indirectly promoting the interest thereof.

Notwithstanding the foregoing, "Handbill" shall not be construed to include mail delivered by the United States Postal Service, News Materials or any other material that has been requested by the recipient thereof.

- (4) **News Materials** means newspapers, shoppers, news circulars, magazines or similar written or printed material that specifically identify the name and address of the publisher.
- (5) **Peddler** means any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of attempting to sell a good or service. A Peddler does NOT include a person who distributes Handbills or flyers for a commercial purpose, advertising an event, activity, good or service that is offered to the resident for purchase at a location away from the residence or at a time different from the time of visit. Such a person is a Solicitor.
- (6) **Solicitor** means any person who attempts to make personal contact with a resident at his/her residence without prior specific invitation or appointment from the resident, for the primary purpose of:
- (A) requesting the contribution of funds or anything of value, or advertising or selling or offering for sale or taking or attempting to take orders for any service, merchandise, product, commodity, meeting, performance, or event, of any kind, character, or description, for political, philanthropic, charitable, religious, commercial, or any other purposes, while traveling from house to house, door to door, street to street, or from place to place in the City; or

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(B) distributing a Handbill or flyer advertising a commercial event or service.

(c) **Prohibited Acts.**

- (1) It is unlawful for any Peddler, Solicitor or Canvasser to ring the bell, or knock on the door, or otherwise attempt to solicit or canvass at a residence where a sign bearing the words "No Solicitors," "No Trespassers," or words of similar import indicating that these persons are not wanted at the residence, is painted, affixed, or otherwise displayed in a manner that it should be visible to persons approaching the front door of the residence; provided that this subsection (c)(1) shall not apply to any Peddler, Solicitor or Canvasser who gains admittance to a residence at the invitation or with the consent of the occupant thereof. For purposes of this Section 9.15, the "No Solicitors" decal issued by the City Clerk shall apply to and constitute sufficient notice to all Peddlers, Solicitors and Canvassers. However, other similar signs, as defined above, are also sufficient. All signs described in this Section 9.15 are deemed to be Government Signs under Section 5-1402(A) of the Code.
- (2) It is unlawful for any Peddler, Solicitor or Canvasser to remain upon any private property where a notice in the form of a sign or sticker is placed upon any door or entrance way leading into the residence or dwelling at which guests would normally enter, which sign contains the words "No Soliciting" or "No Solicitors" or "No Trespassers" and which is clearly visible to the Peddler, Solicitor or Canvasser.
- (3) It is unlawful for any Peddler, Solicitor or Canvasser to peddle, solicit or canvass prior to 10:00 a.m. or after 7:00 p.m., except that from April 1 to September 1, peddling, solicitation and canvassing may take place from 10:00 a.m. to 9:00 p.m.
- (4) It is unlawful for any Peddler, Solicitor or Canvasser to engage in peddling, soliciting or canvassing at any residence after having been asked by the owner or occupant to leave the residence.
- (5) It is unlawful for any Peddler, Solicitor or Canvasser to fail to provide, at the request of the individual being peddled, solicited, or canvassed, a written receipt for contributions and purchases exceeding Five Dollars (\$5) in cash or tangible property, which receipt shall be signed by the Peddler, Solicitor or Canvasser and shall set forth a brief description of the contribution received or the goods or services sold, the amount of cash contributed or paid, if any, the balance due and the terms of payment.

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- (6) It is unlawful for any Canvasser to fail at the outset to disclose to the individual being canvassed the name of the political, charitable, religious, commercial or other entity that the Canvasser represents.
 - (7) It is unlawful for any Peddler, Solicitor or Canvasser to make any assertion, representation or statement that misrepresents the purpose of the peddling, solicitation or canvassing or to use any plan, scheme or ruse that misrepresents this purpose.
 - (8) It is unlawful for any Peddler, Solicitor or Canvasser to conduct business in a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay or constitute a hazard to traffic, life, or property or an obstruction to adequate access to fire, police or sanitation vehicles.
 - (9) It is unlawful for any Peddler, Solicitor or Canvasser to peddle, solicit or canvass if that person has been convicted of:
 - (A) a felony, misdemeanor, or ordinance violation involving force, violence, moral turpitude, deceit, fraud in this State or any other state of the United States, or
 - (B) the violation of any law regulating the act of soliciting within the past five (5) years in this State or any other state of the United States.
 - (10) It is unlawful for any Peddler, Solicitor or Canvasser to peddle, solicit or canvass or attempt to peddle, solicit or canvass at a place of residence at any entrance other than the front door of the residence.
 - (11) It is unlawful to remove any yard sign, door or entrance sign that gives notice to such person that the resident or occupant does not invite visitors.
- (d) **"No Visit" List.** The City Clerk may maintain a list of persons and their respective addresses within the City who restrict visits to their residences by Peddlers, Solicitors, and Canvassers. The City Clerk may provide a form to assist residents, and this form may allow the resident to select certain types of visits that the resident finds acceptable while refusing permission to others. If created, this "no visit" list shall be a public document, reproduced on the City's web site, and available for public inspection and copying. A copy of the "no visit" list shall be provided upon request to each Peddler, Solicitor or Canvasser wishing to conduct business within the City, and it is the responsibility of Peddlers, Solicitors and Canvassers to be aware of the contents of the City's current "no visit" list for purposes of compliance with this Section 9.15.

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- (e) **Penalty for Offenses.** Violation of this Section 9.15 is a Class B violation. Each day that violation continues shall constitute a separate violation.

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4-115. Section 9.16 Added. Section 9.16 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.16. Noise Disturbance.

- (a) **Findings.** The City Council finds that:
- (1) Excessive Sound is a serious hazard to the public health, welfare and safety, and quality of life;
 - (2) A substantial body of science and technology exists by which excessive Sound may be substantially abated; and
 - (3) The citizens of the City have a right to and should be ensured an environment free from excessive Sound that may jeopardize their health, welfare or safety, or degrade their quality of life.

It is the policy of the City to prevent excessive Sound which may jeopardize the health, welfare or safety of its citizens or degrade their quality of life.

- (b) **Definitions.** The following words and phrases when used in this Section 9.16 shall, for the purposes of this Section 9.16, have the meanings respectively prescribed to them in this subsection (b) unless otherwise defined:

A-Weighted Sound Level means the Sound pressure level in Decibels as measured on a Sound Level Meter using the A-weighted network. The level read is designated dB(A) or dBA.

Code Enforcement Officer means any public servant having both the power and duty to make arrests for violations of the laws of the City, county, and state, and federal law enforcement officers authorized to carry firearms and to make arrests for violations of the laws of the United States, or any other public servant authorized by the City to enforce the Uniform Public Offense Code.

dB(A) means A-Weighted Sound Level measured in Decibels by a general purpose, properly calibrated, Sound Level Meter complying with the provisions of the American National Standard Institute.

Decibel means a unit of measurement for Sound pressure level at a specified location.

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Emergency Motor Vehicle means a motor vehicle belonging to a fire department or certified private volunteer firefighter or firefighting association, partnership or corporation; an ambulance; or a motor vehicle belonging to a federal, state, county or municipal law enforcement agency, provided such vehicle is being used as an emergency vehicle by one authorized to use such vehicle for that purpose.

Plainly Audible means Capable of being heard by a person using his or her unaided hearing faculties of normal acuity. It is not necessary to distinguish words or melodies to be Plainly Audible. A Plainly Audible Sound may consist of bass alone, and the detection of the bass component of music, including reverberations and/or vibrations, is sufficient to verify Plainly Audible Sound. Measurement standards shall be by the auditory senses, based upon direct line of sight.

Property Boundary Line means the imaginary line including its vertical extension that separates one parcel of real property from another.

Sound means an oscillation in pressure, stress, particle displacement, particle velocity, etc., in a medium with internal forces (e.g., elastic, viscous), or the superposition of such propagated oscillation which evokes an auditory sensation (which, without limiting the foregoing, may consist of bass alone, and the detection of the bass component of music, including reverberations and vibration).

Sound Level Meter means any instrument certified to meet or exceed American National Standard Institute standards which includes an omnidirectional microphone, an amplifier, an output meter and frequency weighting network(s) for the measurement of Sound level.

Sound Amplification Devices or Similar Equipment means any radio, radio receiving set, television, phonograph, stereo, tape player, cassette player, compact disc player, "boom box," loudspeaker, drum, juke box, nickelodeon, musical instrument, Sound amplifier or other device which produces, reproduces, or amplifies Sound.

Sound Source Property means the property which is producing Sound or from which Sound is emanating.

(c) **Unlawful to Cause a Noise Disturbance.** It shall be unlawful to make or cause to be made a noise disturbance within the City. A noise disturbance shall include any or all of the following:

(1) **Sound Emission Standards and Limitations.** A Sound registered on a Sound Level Meter from any source not exempted or otherwise regulated by this Section 9.16 and which, when measured anywhere off of the Sound Source Property, is in excess of the dB(A) established for the time period listed below:

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9:00 a.m. to 11:00 p.m.	11:00 p.m. to 9:00 a.m.
60 dB(A)	55 dB(A)

- (2) **Horns or Signal Devices.** The sounding of any horn or signal device of any automobile, taxicab, motorcycle, bus, streetcar or other vehicle, whether or not in motion is a noise disturbance, except when necessary to give warning of threatened collision with another vehicle or with a pedestrian; provided, however, that nothing herein contained shall be deemed to apply to Emergency Motor Vehicles.

- (3) **Sound Amplification or Producing Device or Similar Equipment.** All Sound Amplification or Producing Devices or Similar Equipment shall meet the Sound emission standards and limitations set forth in Section 9.16(c)(1), except on Friday, Saturday, and any legal holiday, the hours for the sixty (60) dB(A) limitation are extended from 9:00 a.m. to 12:30 a.m. on the following day.

- (4) **Construction Sound.** All work on any property within the City that produces any Sound which is Plainly Audible to any person on any property other than the Sound Source Property and is associated in any manner with the construction, erection, alteration or repair of any structure is a noise disturbance on Sundays; the legal holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas; and all other days, except:
 - (A) from 8:00 a.m. to 8:00 p.m. on Monday, Tuesday, Wednesday and Thursday and during such time shall not be subject to the dB(A) limits set forth in Section 9.16 (c)(1);
 - (B) from 8:00 a.m. to 6:00 p.m. on Fridays and Saturdays and during such time shall not be subject to the dB(A) limits set forth in Section 9.16 (c)(1); or
 - (C) in case of urgent necessity or in the interest of public safety, and then only with a permit from the City Administrator.

- (5) **Sound Caused by Operation of Machinery, Equipment or Tools for any Purpose.**
 - (A) **Operation of Heavy Machinery, Equipment or Tools.** Except as provided in Section 9.16(c)(5)(B) and (C), the operation of heavy machinery or equipment, which includes, but is not limited to, the running or operation of any tractor, bulldozer, grader, cement mixer, dump truck, pile driver, fork lift, loader, crawler-tractor, pavement

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breaker, trencher, rotary drill or auger, crane or any other similar large piece of construction machinery, equipment or tool activity of any kind or nature is a noise disturbance if:

1. at any time, it is detrimental to the health, safety or general welfare of the public; or
2. it occurs on Sundays; the legal holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas; or any other day between the hours of 6:00 p.m. and 8:00 a.m. the following day; or
3. it occurs on Sundays, the legal holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving and Christmas; or any other day except:
 - a. from 8:00 a.m. to 6:00 p.m. on Monday, Tuesday, Wednesday, Thursday and Friday and during such time shall not be subject to the dB(A) limits set forth in Section 9.16 (c)(1); or
 - b. 8:00 a.m. to 6:00 p.m. on Saturday and during such time shall not be subject to the dB(A) limits set forth in Section 9.16 (c)(1).

(B) **Operation of Certain Lawn Maintenance Machinery.**

1. In Land Use District D-1 Restricted Golf Club District established in Section 5-104 of the Code, machinery used to mow, fertilize or aerate golf course grass or rake sand traps may be operated between sunrise and sunset on any day and during such time shall not be subject to the dB(A) limits set forth in Section 9.16 (c)(1);
2. In Land Use District C-1 Church and Public Building District established in Section 5-104 of the Code, gasoline powered lawn mowers, lawn edging equipment, leaf blowers, weed trimmers and rotary tillers may be operated between 8:00 a.m. and 8:00 p.m. on any day of the week and during such time shall not be subject to the dB(A) limits set forth in Section 9.16 (c)(1); and
3. In Land Use District R-1 One-Family and Group Home Dwelling District established in Section 5-104 of the Code, lawn maintenance equipment, which includes, but is not limited to, gasoline powered lawn mowers, lawn edging

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equipment, leaf blowers, weed trimmers and rotary tillers with Sound levels that exceed eighty-five (85) dB(A) at the source of the Sound may only be operated between 8:00 a.m. and 6:00 p.m. on Monday, Tuesday, Wednesday, Thursday, Friday and Saturday, excluding the legal holidays of New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving, and Christmas. Lawn maintenance equipment with Sound levels of eighty-five (85) dB(A) or less at the source of the Sound may be operated between 8:00 a.m. and 8:00 p.m. on any day of the week and shall not be subject to the dB(A) limits set forth in Section 9.16(c)(1).

(C) **Operation of Certain Mechanical Equipment.** The operation or use of mechanical equipment which includes, but is not limited to, pool equipment, air conditioners, generators, Geothermal Heat Pump Systems (as defined in Section 5-103 of the Code), fountain pumps, or any other equipment or tools for residential use is a noise disturbance if:

1. At any time, it is detrimental to the health, safety, or general welfare of the public; or
2. In Land Use District R-1 One-Family and Group Home Dwelling District established in Section 5-104 of the Code, it produces Sound levels that exceed sixty-five (65) dB(A) at a distance of twenty-three feet (23') from the source of the Sound, except for equipment used during an emergency, such as a generator. Equipment used during an emergency when working at full capacity shall not exceed seventy (70) dB(A) at a distance of thirty feet (30') from the source of the Sound.

(d) **Measurement Techniques.**

- (1) Sound measurements shall be made by the investigating Code Enforcement Officer at the Property Boundary Line of the Sound Source Property. If measurement on private property is not possible or practical, Sound measurements may be made at the boundary of the public right-of-way which adjoins the Sound Source Property. Such Sound measurements shall be made at a height of approximately four feet (4') from the ground and at a point approximately ten feet (10') away from walls, barriers, obstructions (trees, bushes, etc.) on a Sound Level Meter operated on the A-Weighted Sound Level.
- (2) No individual other than the investigating Code Enforcement Officer shall be within ten feet (10') of the Sound Level Meter during the sample period.

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- (3) Sound measurements shall be conducted at that time of day or night when the suspect Sound Source Property is emitting Sound.
 - (4) It shall be unlawful for any person to interfere, through the use of Sound or otherwise, with the taking of Sound level measurements.
- (e) **Unlawful to Allow a Noise Disturbance; Responsibility for Abatement.**
- (1) It is unlawful for any person with control, occupancy, or possession of any real property, to allow or permit a person or group of persons to create any noise disturbance or Sound in violation of this Section 9.16 on said property.
 - (2) The person with control, occupancy, or possession of property, shall be responsible for abatement of noise disturbances or Sounds occurring on that property that are in violation of this Section 9.16, and failure to do so shall be a violation of this Section 9.16.
- (f) **Exemptions.** The following shall not be considered to be noise disturbances or Sounds in violation of this Section 9.16:
- (1) Sound from Emergency Motor Vehicles;
 - (2) Sound from vehicles or equipment belonging to the City, state, county, federal government, school or other governmental agencies or utilities engaged in preparing for or remedying a potentially hazardous situation, including, but not limited to, snow-clearing equipment;
 - (3) Sound that a person is making or causing to be made when such person has received and maintains a special event permit from the City, which specifically allows Sound levels in excess of those set forth in this Section 9.16;
 - (4) Transient Sounds from moving sources, including automobiles, trucks, airplanes and railroads unless otherwise specified within this Section 9.16;
 - (5) Activities hosted by or sanctioned by a governmental agency or school district, such as, but not limited to, sporting events, running events, community festivals;
 - (6) Reasonable activities conducted on public playgrounds and public or private school grounds, which are conducted in accordance with the manner in which such spaces are generally used, including but not limited to, school athletic and school entertainment events;
 - (7) Outdoor gatherings, public dances, shows and sporting events, and other similar events, provided that a permit has been obtained from the City; and

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- (8) The reasonable sounding of bells, chimes, carillon Sounds associated with religious worship.

(g) **Penalty for Noise Disturbance.**

- (1) Violation of this Section 9.16 is a Class C violation.
- (2) As an alternative to prosecution as a criminal offense, any violation of Section 9.16(c)(4) or (5) by general contractors required to have an occupation license from the City shall be subject to a civil penalty and the issuance of a stop work order. The penalty for the first violation during a calendar year shall be Five Hundred Dollars (\$500). The penalty for the second violation during a calendar year shall be One Thousand Dollars (\$1,000). The penalty for the third violation during a calendar year shall be Two Thousand Dollars (\$2,000) and revocation of the occupation license for the remainder of the calendar year. All such violations shall be the responsibility of the general contractor having overall charge of the construction project, and the general contractor shall be liable for the civil penalties and occupation license revocation even if the Sound is made by a subcontractor. If a stop work order is issued for any violation, no further work shall be done until the penalty has been paid. Continued work after a stop work order has been issued is a Class C violation.

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4-116. Section 9.17 Added. Section 9.17 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.17. Unsolicited Publications.

- (a) **Publication Deliveries.** No Publisher of a newspaper, shopper, news circular, magazine or similar written or printed material shall directly or indirectly deliver or cause the delivery of that material to a Dwelling in any Residential Area of the City if the occupant of the Dwelling gives notice requesting non-delivery of any such matter to the Publisher.
- (b) **Required Information.** Every Publisher of a newspaper, shopper, news circular, magazine or similar written or printed material shall plainly set forth thereon the identity and address of the Publisher, so that any occupant of a Dwelling can give notice requesting non-delivery, as permitted by subsection (a).
- (c) **Notice by Occupant.** An occupant of a Dwelling may give notice requesting non-delivery of any written or printed material, including but not limited to any newspaper, shopper, news circular, magazine or similar written or printed matter, by:

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- (1) so stating in writing to any Publisher thereof; or
 - (2) so stating orally or in writing to any person directly or indirectly delivering or causing the delivery of this matter in the event the Publisher is not identified as required by subsection (b).
- (d) **Exceptions.** The provisions of this Section 9.17 shall not apply to:
- (1) distributions made through the United States Postal Service; or
 - (2) solicitations made on behalf of Persons Not Organized for Profit.
- (e) **Definitions.** As used in this Section 9.17, the following definitions shall apply:
- (1) **Residential Area** means any area zoned for residential use.
 - (2) **Dwelling** means any building or structure used for human abode and the lot on which it is located.
 - (3) **Person Not Organized for Profit** means any individual, partnership, corporation, trust, estate, cooperative, association or other entity that does not have as its purpose the private gain, direct or indirect, of its members, partners, shareholders, beneficiaries or other constituent elements.
 - (4) **Publisher** means any person who holds himself out to be a publisher of any newspaper, shopper, news circular, magazine or similar written or printed material or who is responsible for or causes the preparation and printing of any newspaper, shopper, news circular, magazine or similar written or printed matter. The term Publisher, as used herein, shall not include any person who does no more than print or distribute this material.
- (f) **Construction.** This Section 9.17 shall not be construed to permit the distribution of any material otherwise prohibited by the ordinances of the City.
- (g) **Penalty for Unsolicited Publications.** Violation of this Section 9.17 is a Class C violation. Each day a violation or failure to comply is permitted to exist, after notification thereof, shall constitute a separate offense.

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4-117. Section 9.18 Added. Section 9.18 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.18. Residential Picketing.

- (a) **Purpose.** It is hereby declared that the protection and preservation of the home is the keystone of democratic government; that the public health and welfare and the

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good order of the community require that members of the community enjoy in their homes a feeling of well-being, tranquility and privacy, and when absent from their homes carry with them the sense of security inherent in the assurance that they may return to the enjoyment of their homes; that the practice of picketing before or about residences and dwelling places causes emotional distress to the occupants; that such practice has as its object the harassing of occupants; that this practice obstructs and interferes with the free use of public sidewalks and public ways of travel; and that without resort to residential picketing there exists and continues to exist full opportunity in the community for the exercise of freedom of speech and other constitutional rights; and that the provisions hereinafter enacted are necessary in the public interest to avoid the detrimental results set forth above.

- (b) **Residential Picketing.** It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the City.
- (c) **Penalty for Residential Picketing.** Violation of this Section 9.18 is a Class B violation.

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4-118. Section 9.19 Added. Section 9.19 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.19. Distribution of Handbills in Parked Vehicles or upon Pavement or Sidewalks.

- (a) It is unlawful for any person, firm or corporation to place or distribute, or cause to be placed or distributed within the City, any hand bills, circulars or signs for the advertisement of any business or merchandise in any vehicle whatsoever parked or left standing upon the public streets or public places within the City.
- (b) No handbill or flyer shall be left at, or attached to any sign, utility pole, transit shelter or other structure within the public right-of-way of the City. The police are authorized to remove any handbill or flyer found within the right-of-way.
- (c) Violation of this Section 9.19 is a Class C violation.

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4-119. Section 9.20 Added. Section 9.20 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.20. Hanging of Advertising Banners Across Street.

- (a) It shall be unlawful for any person, firm or corporation to suspend or hang any advertising banner, advertising any business or merchandise, across any street, boulevard or alley within the City.

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- (b) Violation of this Section 9.20 is a Class C violation.

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4-120. Section 9.21 Added. Section 9.21 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.21. Circulation of Unsigned Political Circulars.

- (a) Hereafter, whoever intentionally writes, prints, posts or distributes, or causes to be written, printed, posted or distributed, a circular or poster that is designed or tends to injure or defeat any candidate for nomination or election to any public office, by criticizing his personal character or political action, unless there appears upon that circular or poster in a conspicuous place either the names of the chairman and secretary or of two (2) officers of the political or other organization issuing the same, or some voter who is responsible therefor, with his or her name and residence, and the street and number thereof, if any, shall be punished by a fine of not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100) and/or by imprisonment for not more than six (6) months.
- (b) Violation of this Section 9.21 is a Class C violation.

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4-121. Section 9.22 Added. Section 9.22 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.22. Unauthorized Removal of Recyclable Items Prohibited.

- (a) It shall be unlawful for persons, firms or corporations not licensed by and under contract with the City to remove any recyclable items, including but not limited to newspapers, aluminum cans and glass, from private property on those days the City makes curbside collections of those items pursuant to its recycling project.
- (b) Violation of this Section 9.22 is a Class C violation.

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4-122. Section 9.23 Added. Section 9.23 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 9.23. Vehicles as Living Quarters.

- (a) No vehicle, motor home, camping trailer, pickup camper, recreational vehicle, or similar item shall be used as living quarters within the boundaries of the City.

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- (b) Violation of this Section 9.23 is a Class C violation.

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4-123. Section 10.29 Added. Section 10.29 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.29. Intoxicating Liquor and Cereal Malt Beverage – Consumption and Possession of Open Containers Prohibited at Certain Places.

- (a) It is unlawful for any person to drink, consume or possess an open container of alcoholic liquor or cereal malt beverage upon the public streets, alleys, roads or highways, or upon property owned by the City.
- (b) Violation of this Section 10.29 is a Class C violation.

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4-124. Section 10.30 Added. Section 10.30 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.30. Drunkenness.

- (a) It is unlawful for any person to be drunk on any highway, street or in any public place or building in the City.
- (b) Violation of this Section 10.30 is a Class B violation.

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4-125. Section 10.31 Added. Section 10.31 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.31. Impersonating an Officer.

- (a) It is unlawful for any person to exercise or to assume to exercise any of the powers conferred upon any police officer or to represent himself to be any such officer or to possess the power and authority thereof, unless that person is a duly authorized officer of the law.
- (b) Violation of this Section 10.31 is a Class B violation.

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4-126. Section 10.32 Added. Section 10.32 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.32. Vehicles in City Parks.

- (a) It is unlawful to run, stand or park any vehicle (including electric-assisted scooters) or motorized bicycle, as these terms are defined in the Standard Traffic Ordinance, on or through or across or over any City park, other than roadways or parking areas so designated.
- (b) Violation of this Section 10.32 is a Class C violation.

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4-127. Section 10.33 Added. Section 10.33 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.33. Fires or Oil on Paved Streets.

- (a) No person shall burn any combustible matter of any kind on any paved street within the City. No person shall throw or place any coal oil or any substance likely to injure any paved street upon any street within the City.
- (b) Violation of this Section 10.33 is a Class C violation.

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4-128. Section 10.34 Added. Section 10.34 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.34. Obstructing Watercourse.

- (a) If any person has placed or ordered to be placed or shall hereafter place or order to be placed, any obstruction of any kind in the channel of any natural watercourse or living stream, so as to in any way interfere with or impede the flowing of the water therein, that person shall be deemed guilty of a misdemeanor. Each and every day that obstruction shall be permitted to be and remain in the watercourse or natural stream shall constitute a separate and distinct offense.
- (b) Violation of this Section 10.34 is a Class C violation.

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4-129. Section 10.35 Added. Section 10.35 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.35. Sports Likely to Injure Passersby or Obstruct Travel – Ball Games.

- (a) No person shall play at or participate in any game of ball in or upon any street, sidewalk, public square or public park, except in such part of any park as may be designated for that purpose by the City Administrator.
- (b) Violation of this Section 10.35 is a Class C violation.

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4-130. Section 10.36 Added. Section 10.36 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.36. Sports Likely to Injure Passersby or Obstruct Travel – Coasting and Skating in Streets.

- (a) Coasting upon sled, wagon or cart, or in any other manner, and skating in or upon the public streets is prohibited, except upon those streets which are barricaded and used as supervised coasting or skating areas as part of the program of the City. When streets and areas are so designated, approval for the placing of barricades, lanterns and other warning devices must be obtained from the City Administrator and notices sent to the Police Department and Fire Department in order that those departments may redirect their vehicles around those streets and areas.

If coasting and skating areas are provided in public parks, those areas shall be operated under the rules and regulations of the City.

- (b) Violation of this Section 10.36 is a Class C violation.

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4-131. Section 10.37 Added. Section 10.37 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.37 Burning of Leaves, Trash, Refuse and Other Materials.

- (a) No person shall burn or cause to be burned in any street or on any public or private property within the limits of the City, with the exception of burning receptacles located within a residence, any leaves, brush, trash, rubbish, refuse, trimmings from trees or shrubs, grass clippings or other combustible or semi-combustible material.
- (b) Violation of this Section 10.37 is a Class C violation.

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4-132. Section 10.38 Added. Section 10.38 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.38. Burning of Materials Which Emit Odors.

- (a) No person shall burn or cause to be burned in any furnace, fireplace, incinerator or other receptacle, within any residence building within the limits of the City, any of the materials set forth that emits an offensive or noxious odor.
- (b) Violation of this Section 10.38 is a Class C violation.

Ord. 1547 10-14-19

4-133. Section 10.39 Added. Section 10.39 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.39 Smoking on Common Carrier Buses – Penalty.

- (a) No person shall smoke or carry in his or her hand a lighted cigar, cigarette or pipe, while in or upon any motorbus operated in common carrier passenger service upon the streets or public ways of the City.
- (b) Violation of this Section 10.39 is a Class C violation.

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4-134. Section 10.40 Added. Section 10.40 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 10.40. Window Peeping.

- (a) Window peeping is the going upon property owned or occupied by another, without such person's consent, for the purpose of looking into any window, door, skylight or other opening into a house, room or building.
- (b) Violation of this Section 10.40 is a Class A violation.

Ord. 1547 10-14-19

4-135. Section 11.17 Added. Section 11.17 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 11.17. Public Urination or Defecation.

- (a) No person shall urinate or defecate while exposed to public view or in any place open to the public, except while using appropriate fixtures in a restroom or other facility designed for the sanitary disposal of human waste.

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- (b) Violation of this Section 11.17 is a Class C violation.

Ord. 1547 10-14-19

4-136. Section 11.18 Added. Section 11.18 is hereby added to the Uniform Public Offense Code and shall read as follows:

Section 11.18. Public Nudity.

- (a) No person shall knowingly or intentionally appear in a state of nudity in a public place. Nudity is defined as the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible state of sexual excitement.

- (b) Violation of this Section 11.18 is a Class A violation.

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4-137. Severability. If any provision of this Uniform Public Offense Code is declared unconstitutional, or the application thereof to any person or circumstance is held invalid, the constitutionality or validity of the remainder of the Uniform Public Offense Code and the applicability thereof to other persons and circumstances shall not be affected thereby.

Ord. 1547 10-14-19

Article 2 - Fireworks

4-201. Definition. For the purpose of this Article, the term "fireworks" shall mean and include any combustible or explosive composition, or any substance or combination of substances or articles prepared for the purpose of producing a visible or audible effect by combustion, explosion, deflagration or detonation. The term "Division 1.3 Fireworks" shall mean those explosives (as defined in 49 C.F.R. 173.50(b)) that have a fire hazard and either a minor blast hazard or minor projection hazard or both, but not a mass explosion hazard.

Ord. 1306 12-13-10

4-202. Sale and Use of Fireworks.

- A. It shall be unlawful to sell any fireworks within the City of Mission Hills, Kansas.
- B. It shall be unlawful to use any fireworks within the City, except as expressly permitted by this Article.
- C. The Mayor shall have the authority and discretion to ban the discharge of all fireworks within the corporate limits of the City if the weather conditions make discharge of fireworks in the City hazardous to persons or property.

Ord. 1369 05-13-13

4-203. Exceptions for Certain Safety and Sporting Devices. The storage or use of signals, flares, fuses and similar devices to facilitate the safe movement of traffic and the storage and use of blank cartridges for use in sporting events are not prohibited by this Article.

Ord. 517 06-09-75

4-204. Exceptions for Certain Fireworks.

- A. The following types of fireworks may be used without a permit on July 3rd and July 4th of any year and, when July 4th falls on a Sunday and the succeeding Monday is the officially observed 4th of July holiday, such fireworks may also be used on July 5th: sparklers, flower pots, fountains, colored fire cones and boxes, nonpoisonous snakes, cap pistols and caps.
- B. The fireworks described in subsection A above may also be used on dates other than those set forth in subsection A provided that a permit has been obtained from the City Clerk for such use. Any resident desiring to obtain such a permit shall file with the City Clerk a written application setting forth the name, address and telephone number of the applicant, the date, time and place of the proposed use of such fireworks and such other information as the City Clerk shall request. Upon receipt of such application, the City Clerk shall issue the permit requested unless the City Clerk determines that such use does not comply with applicable law, would endanger the safety or general welfare of the public or would unduly disturb the residents of the City. The permit, issued by the City Clerk, may impose such

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conditions and restrictions upon the use of such fireworks as the City Clerk determines necessary to protect the safety and general welfare of the residents of the City.

Ord. 517 06-09-75

4-205. Exception for Exhibitions of Fireworks.

- A. Division 1.3 Fireworks, other than those specified in Section 4-204, may be used in a fireworks exhibition provided that a permit for such exhibition has been obtained from the City Clerk. All such exhibitions shall be conducted on property within District D-1 (Restricted Golf Club District), and may occur only on weekends or holidays. All exhibitions not related to the Fourth of July must be completed by 10:30 p.m., and shall last no longer than twenty (20) minutes. Fourth of July exhibitions may take place up to six (6) days before or two (2) days after the Fourth of July.
- B. Any person desiring a permit to hold a fireworks exhibition shall file with the City Clerk a written application and provide all of the documentation enumerated below including proof of insurance, together with the fee established in the then current Schedule of Fees and Charges adopted by the City Council, at least thirty (30) days prior to the date on which the applicant desires to hold the exhibition. The application shall contain the following information:
1. name of the individual, association, organization or corporation sponsoring the exhibition together with the names and the persons to be in charge of the exhibition;
 2. date and time of day at which the display is to be held;
 3. exact location planned for the exhibition;
 4. names, age, experience and residence of each person who will be handling or discharging the fireworks, along with a copy of their Alcohol, Tobacco, Firearms and Explosives permit for possession of Division 1.3 Fireworks;
 5. number and kinds of fireworks to be discharged, including their National Fire Protection Association (NFPA) division designation;
 6. manner and place of storage of such fireworks from the date the same are brought into the City until the time of the exhibition;
 7. diagram or sketch of the grounds on which the exhibition is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, improvements and public streets or thoroughfares within two hundred yards (200 yds.) and the lines behind which the public will be restrained; and
 8. such other information as the City Clerk may request.

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The application shall be accompanied by a certificate of insurance which evidences that the applicant has public liability insurance applicable to the exhibition with minimum limits of One Million Dollars (\$1,000,000.00) for any one occurrence, and One Million Dollars (\$1,000,000.00) for property damage.

- C. A copy of such application shall be sent to the Fire Marshal who shall make or cause to be made an investigation of the site of the proposed exhibition and the competence and skill of the persons in charge of the handling and discharge of the fireworks and such other matters as the Fire Marshal considers relevant. The Fire Marshal shall make a report of his or her investigation to the City Clerk and shall include in the report any conditions and restrictions upon the exhibition which the Fire Marshal determines necessary in order to protect the safety and general welfare of the residents of the City. The Fire Marshal shall approve the application unless he or she shall determine from his or her investigation that the exhibition will not be conducted in accordance with applicable law or that the manner in which the exhibition is to be conducted would endanger the safety or general welfare of the public or would unduly disturb the residents of the City.
- D. If the Fire Marshal and Police Chief approve the application and if the application complies with the requirements of this Article, the City Clerk shall issue the permit requested. Such permit shall impose such conditions and restrictions upon the exhibition as recommended by the Fire Marshal and Police Chief in the reports of their investigations.

Ord. 1397 06-09-14

4-206. Conduct of Fireworks Exhibitions. All fireworks exhibitions permitted pursuant to Section 4-205 shall be conducted in accordance with the provisions of the NFPA 1123 Code for Fireworks Display 2010 Edition, as incorporated by Section 4-207.

Ord. 1306 12-13-10

4-207. Incorporation of NFPA 1123 by Reference. Pursuant to the provisions of K.S.A. 12-3009, 12-3010, 12-3301 and 12-3302, there is hereby incorporated by reference, for the purpose of providing regulations governing public displays of fireworks within the City, the "NFPA 1123 Code for Fireworks Display 2010 Edition," prepared and published in booklet form by the National Fire Protection Association, Quincy, Massachusetts. No fewer than one copy of the NFPA 1123 Code shall be marked or stamped "Official Copy as Incorporated by Ordinance No. 1305" and such copy shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable business hours, provided that such official copy may not be removed from City Hall. All City officials requiring the use of the NFPA 1123 Code shall be supplied, at the expense of the City, such number of official copies as may be deemed expedient.

Ord. 1305 12-13-10

Article 3 - Estate Sales

4-301. Estate Sales. No estate sale shall be conducted in the City unless:

- A. a permit has been obtained therefor; and
- B. the estate sale is conducted in accordance with the terms of the permit.

Ord. 466 09-11-72

4-302. Permit.

- A. Any person may file with the City Clerk a written application for a permit to conduct an estate sale, which application shall be in duplicate duly subscribed and sworn to by the applicant that the statements therein contained are true. The application shall set forth the following information:
 - 1. name of the person applying for the permit, address and the purpose for the estate sale;
 - 2. name of the person, if any, who will be in charge of the estate sale;
 - 3. date(s) and time of day at which the estate sale is to be conducted;
 - 4. manner in which the sale is to be conducted, whether by auction or otherwise; and
 - 5. exact location of the dwelling where the estate sale is to be conducted.
- B. The City Clerk shall approve the application and issue a permit if the following conditions have been satisfied:
 - 1. The estate sale is scheduled for no more than two (2) consecutive days;
 - 2. The estate sale is not scheduled to take place on any Saturday, Sunday or legal holiday;
 - 3. The estate sale is not scheduled for any time other than between the hours of 9:00 a.m. and 5:00 p.m.;
 - 4. The location of the estate sale is one at which an estate sale may be conducted;
 - 5. The purpose of the estate sale is one for which an estate sale may be conducted;
 - 6. The applicant has paid all fees required by this Article for the conduct of estate sales; and
 - 7. No permit has been issued and no estate sale has been conducted at the proposed location within the preceding twelve (12) month period.

Article 3 – Estate Sales

- C. Application for a permit to conduct an estate sale must be filed at least seven (7) days prior to the day on which the estate sale is to be conducted. Once issued, a permit shall be valid for a period not to exceed two (2) days.
- D. The permit shall set forth the conditions under which the estate sale is to be conducted, namely the approved location, time, day(s) and purpose.

Ord.1360 01-14-13

4-303. Fees. A permit fee shall be paid in the amount listed in the then current Schedule of Fees and Charges adopted by the City Council.

Ord. 1382 12-09-13

4-304. Definitions. In the operation of this Article, the following definitions shall be applied:

- A. **Estate Sale** means: (1) the sale of all or substantially all of the personal property owned by any owner or occupant of a dwelling where the sale is to be conducted; or (2) any owner or occupant has died and his executor, administrator, survivors or heirs have undertaken to dispose of the deceased's personal property through sale at the dwelling owned or occupied by the deceased.
- B. **Sale** means the transfer of personal property for value.
- C. **Dwelling** means any building or structure used for human abode.
- D. **Purpose** means either or both of the factors enumerated in subsection A above.
- E. **Location** means the dwelling or premises thereof specified in subsection A above.

Ord. 466 09-11-72

Article 4 - Public Safety in Times of Emergency

4-401. Proclamation of Emergency. Whenever the Mayor or, in the event of his or her absence or inability to act, the President of the City Council in his or her judgment determines that there exists a time of crisis resulting from disaster, mob action, rioting, catastrophe or other public emergency, or reasonable apprehension of immediate danger thereof, and that, because of such emergency, the public peace and safety is imperiled, human life or property is endangered and the normal and ordinary processes of state and local government are inadequate to safeguard the public peace and safety and the lives and property of citizens, the Mayor or President of the City Council shall have the power to proclaim a state of emergency.

Ord. 383 04-08-68

4-402. Rules and Regulations. Following such proclamation, the Mayor or, in the event of his or her absence or inability to act, the President of the City Council may promulgate such reasonable orders, rules and regulations as he deems necessary to protect life and property or to bring the emergency situation under control. Without limiting the scope thereof, such orders, rules and regulations may provide for the control of traffic, including public and private transportation; the designation of specific zones within the City in which occupancy and use of buildings and ingress and egress of persons and vehicles may be prohibited or regulated; the control of places of amusement and assembly, and of persons on public streets and thoroughfares; the establishment of a curfew; the control of the sale, transportation and use of alcoholic beverages and liquors and cereal malt beverages; and the control of the storage, use and transportation of explosives or inflammable materials or liquids deemed to be dangerous to public safety.

The Mayor or, in the event of his or her absence or inability to act, the President of the City Council shall have the authority to call upon regular and auxiliary law enforcement agencies and organizations within the City to assist in preserving and keeping the peace within the City.

Ord. 1382 12-09-13

4-403. When Effective. The proclamation of emergency provided herein and all orders, rules and regulations pursuant thereto shall become effective upon issuance thereof and dissemination to the public by appropriate news media.

Ord. 383 04-08-68

4-404. Termination. Any emergency proclaimed in accordance with the provisions of this Article shall terminate after forty-eight (48) hours from the issuance thereof, or upon the issuance of a proclamation determining that the emergency no longer exists, whichever occurs first; provided, however, that such emergency may be extended for such additional periods of time as determined necessary by a resolution of the City Council.

Ord. 383 04-08-68

Article 5 - Garage Sales

4-501. Garage Sales. No garage sale may be held unless the person or persons intending to hold such sale shall have first obtained a permit, as provided herein, authorizing such sale from the City Clerk, and the sale is conducted according to the terms of such permit, and in accordance with the regulations contained in Section 4-503.

Ord. 608 08-13-79

4-502. Definitions. For the purpose of the regulation of garage sales, certain terms and words used herein shall be defined as follows:

- A. **Person** means any individual, organization, firm, partnership, association or corporation.
- B. **Garage Sale** means any public display and offering for sale of more than three (3) items of personal property.

Ord. 608 08-13-79

4-503. Regulations. All garage sales are subject to the following regulations:

- A. Garage sales may not be scheduled for more than two (2) consecutive days;
- B. Garage sales may not take place on any Saturday, Sunday, or legal holiday;
- C. Garage sales may be held only between the hours of 9:00 a.m. and 5:00 p.m.;
- D. Garage sales may be held only at the residence of the person to whom the permit for such sale is issued, or, if the permit is issued to a church, at the property on which the church is located;
- E. If a permit is issued to an individual, only property belonging to individuals who reside at the same address as the person to whom the permit is issued may be offered for sale;
- F. If a permit is issued to a church, only property belonging to members of such church may be offered for sale; and
- G. Within any period consisting of twelve (12) consecutive months, no more than one (1) garage sale may be held at any particular location and no more than one (1) permit may be issued to any particular person.

Ord. 608 08-13-79

4-504. Permit.

- A. Any person may file with the City Clerk a written application for a permit to conduct a garage sale, which application shall be duly subscribed and sworn to by the applicant that the statements therein contained are true. The application shall set forth the following information:

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1. name of the person applying for the permit, address and the purpose for the garage sale;
 2. name of the person who will be in charge of the garage sale;
 3. date(s) and time of day at which the garage sale is to be conducted; and
 4. location where the garage sale is to be conducted.
- B. The City Clerk shall approve the application and issue a permit if the conditions of this Article are satisfied and the fees prescribed below have been paid.
- C. The permit shall set forth the conditions under which the garage sale is to be conducted, including the approved location, time, day(s), and the name of the person to whom the permit is issued. Such permit shall be conspicuously displayed at the sale for which it was issued.

Ord. 608 08-13-79

4-505. Fees. A permit fee shall be paid in the amount listed in the then current Schedule of Fees and Charges adopted by the City Council.

Ord. 1382 12-09-13

Article 6 - Storage of Flammable Liquids

4-601. Storage of Flammable Liquids. No person shall store in a residential area within the City at any one time more than ten gallons (10 gal.) of flammable liquids, in the aggregate, except flammable liquids which are stored for use in heating a building located on the property at which such flammable liquids are stored.

Ord. 612 09-10-79

4-602. Definitions. For the purpose of this Article, certain terms and words used herein shall be defined as follows:

- A. **Flammable Liquid** means any liquid having a flash point below one hundred forty degrees Fahrenheit (140°F) and having a vapor pressure not exceeding forty pounds per square inch (40psi) (absolute) at one hundred degrees Fahrenheit (100°F).
- B. **Flash Point** means the temperature at which a liquid gives off vapor sufficient to form an ignitable mixture with the air near the surface of the liquid or within the vessel in which such liquid is contained.
- C. **Vapor Pressure** means the pressure, measured in pounds per square inch (absolute) exerted by a liquid.

Ord. 612 09-10-79

Article 7 - Home Tour Events

4-701. Definitions. For purposes of this Article, the following terms and phrases shall have the meaning set forth below:

- A. **Home** means a principal building or portion thereof used for residential occupancy. For the purposes of this Article, "home" shall also include any yard, as that term is defined in Section 5-103 of the Code, which is a component of the lot containing the home.
- B. **Home tour event** means an event, which has as its primary purpose the display of a home or homes.
- C. **Bike tour event** means an organized tour of the community involving ten participants or more utilizing public streets or other public space over a designed course in which the participants ride bicycles.
- D. **Other tour event** means an organized event involving ten (10) participants or more other than a home tour event or a bike tour event.
- E. **Net revenue** means the total revenue generated by an event less the following types of costs and expenses: application fee, publicity and advertising, security and traffic regulation, and production and operation of the event.
- F. **Not-for-profit entity** means a religious society, literary, charitable or benevolent association or other entity organized pursuant to K.S.A. 17-1701 to 17-1775.
- G. **Person** means any person, firm, partnership, association, corporation, company or organization or entity of any kind.

Ord. 1416 03-09-15

4-702. Home tour events. No home tour events shall be conducted in the City, unless:

- A. a permit for a home tour event has been issued therefor as provided in this Article;
- B. the event is conducted in accordance with the terms of the permit;
- C. the tour event is sponsored by a not-for-profit entity or, in the case of a home tour event, by the owner of the home proposed to be the subject of the tour; and
- D. ninety percent (90%) of the net revenue generated by the event shall be donated to a not-for-profit entity within ninety (90) days of the last day of the event. (A copy of the donation letter, including the amount of the donation, shall be simultaneously provided to the City).

Ord. 1416 03-09-15

Article 7 – Home Tour Events

4-703. Regulations.

- A. No home shall be displayed on any home tour event more than once in any calendar year, and for no more than three (3) consecutive days.
- B. No tour event shall take place on any public property more than once in any calendar year and for more than one (1) day.
- C. Events may not take place on any Sunday or any legal holiday.
- D. Home tour events may only take place during an interval of time beginning at 10:00 a.m. and ending at 9:00 p.m.
- E. Tour events other than home tour events may only take place between the hours of 9:00 a.m. and 4:00 p.m.
- F. Home tour events, whether for a single home or multiple homes, shall not include in the tour any home that is within two thousand five hundred feet (2,500') of another home on that home tour event or any other home tour event, for the same day or days; provided, however, that this requirement may be waived at the City Council's discretion, in accordance with Section 4-705.A.8. The foregoing distance requirement of two thousand five hundred feet (2,500') shall be measured as a radius from the property line of any home for which a home tour event permit has been issued or for which a home tour event permit application has been received by the City.
- G. The home must have a valid certificate of occupancy at the time of application for the home tour event permit.
- H. The home must be occupied at the time of application for the home tour event permit and at the time of the home tour event.
- I. Tour events other than home tour events shall be limited to walks or tours of bicycles propelled solely by human power. No motorized vehicles may participate in a street or other tour event.

Ord. 1416 03-09-15

4-704. Application.

- A. Any person may file with the City Clerk a written application, on a form provided by the City Clerk, for a permit to conduct an event, provided that the person is also an owner of property upon which at least a portion of the event will be conducted or the person is an official representative of the not-for-profit entity that will be the sponsor of the event. The application shall be in duplicate and shall be duly subscribed and sworn to by the applicant that the statements it contains are true. The application shall set forth the following information:

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1. name of the applicant, address and the purpose for which the home tour event will be conducted;
 2. if the applicant is an official representative of the sponsor of the event, the written authorization of the owners of all homes to be included in the case of a home tour event;
 3. the name of the person who will be primarily responsible for conducting the event, who shall also be the emergency contact person for the home tour event;
 4. the date(s) and time of day the applicant proposes for conducting the event;
 5. in the case of a home tour event, the address(es) of the home(s) proposed to be included on the home tour event; in the case of a street event or other event, the route of the event;
 6. a reasonable estimate of the anticipated attendance and the number of vehicles or participants that can be anticipated for the event in the City and for the event generally;
 7. if sponsored by a resident of the City, a statement that the event is not designed to generate a profit;
 8. entity sponsoring the tour event, if sponsored by other than a resident of the City, and documentation sufficient to establish that the entity is a not-for-profit entity, as that term is defined in Section 4-701.F; and
 9. name and an attached copy of the Section 501(c)(3) certification of the not-for-profit entity to which ninety percent (90%) of the event's net revenue will be donated.
- B. In addition to the application, the applicant shall also submit a tour or event itinerary showing the neighborhoods and locations that will be affected, and which addresses the applicant's plan for controlling the flow of traffic, accommodations for additional security during the event and measures to mitigate the impact of the event to the area adjacent to the event.
- C. If the application relates to a home tour event and a home that is within two thousand five hundred feet (2,500') of another home proposed to be or approved by the City Council to be in a home tour event that will occur on the same date or dates, the applicant shall provide a written statement identifying all impacts that could result from homes on a tour or tours being closer than two thousand five hundred feet (2,500') apart and explaining how all such impacts will be addressed. The statement shall include, but not be limited to, impacts related to parking, vehicle traffic, pedestrian ingress and egress, litter, damage to property, and other potential impacts on the health, safety and welfare of the residents of the affected neighborhoods.

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- D. The City Clerk, during regular business hours, shall receive the application and, upon verifying its completeness and that the applicant has paid all fees required by this Article for the application for an event permit, shall add consideration of the application to the agenda for the next regularly scheduled meeting of the City Council. The City Clerk shall document the date and specific time of receipt of the application. Applications shall be placed on the agenda by the City Clerk in the order in which they are received, and shall be considered by the City Council in the same order. Nothing in this subsection D shall be construed to cause the City Clerk to submit a matter to a City Council agenda in contravention of the Kansas Open Meetings Act, K.S.A. 75-4317 *et seq.*, as amended.
- E. The City Clerk may deny an event permit application if it is incomplete, or may notify the applicant of a potential conflict, consistent with the respective situations, as follows:
1. If the City Clerk determines that the application fails to satisfy all of the requirements established in Section 4-704, or does not comply with the regulations established in Sections 4-703.A-C, the City Clerk shall deny the application and notify the applicant of the deficiencies.
 2. If the application includes a home that is within two thousand five hundred feet (2,500') of another home included on a home tour event application that has been received by the City Clerk and is pending, or for which a permit has been issued, the City Clerk shall notify the applicant of this fact and that, if the City Council approves the earlier application, the latter application will be denied by the City Council for failure to comply with Section 4-703.D, unless the necessary findings for a waiver of this requirement are made by the City Council in accordance with Section 4-705.A.8. Upon receiving notice of that situation, the applicant shall have the option of keeping its permit application on the City Council agenda, or withdrawing its application and requesting a refund of the paid portion of the permit fee.
- F. An application for a permit to conduct an event must be filed at least forty-five (45) business days prior to the proposed date for the event. Applications filed less than forty-five (45) business days prior to the proposed date for the event will be subject to additional administrative fees related to an expedited review process. Applications received five (5) business days or less before the next regularly scheduled meeting of the City Council will not be considered at that meeting.

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4-705. Review and Approval.

- A. The City Council shall consider each application for a permit to conduct a home tour event in the order received by the City Clerk, and may approve, approve with modifications or conditions or deny the event application, based upon its determination that the following guidelines have been satisfied, and may approve a waiver of the two thousand five hundred

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foot (2,500') separation requirement based upon the findings set forth in this subsection A.8:

1. The event will satisfy all of the applicable regulations established in Section 4-703;
2. The applicant has made sufficient accommodations for extra security for the duration of the permit, as necessary;
3. The applicant has taken action to ensure that only authorized busses will enter the City according to City ordinance requirements, for the purpose of transporting individuals to or from the event;
4. The event itinerary sufficiently outlines the applicant's plan for addressing the inflow and outflow of traffic, impact of noise and litter on the neighborhood or public areas affected and availability of parking;
5. The applicant has taken action to ensure that the emergency contact person will be present during the time that the event is conducted and that the contact person will provide a method that allows the City to make immediate contact with him or her during the event;
6. The City's services will not be overburdened in light of the number or size of events previously approved for the date and time specified on the application;
7. The event is reasonable in terms of its disruption of the character of the neighborhood in which it is conducted and will not impede the health, safety and general welfare of the City; and
8. If the home tour application involves a home that does not meet the two thousand five hundred foot (2,500') separation requirement established in Section 4-703.F, that requirement may be waived, on a case-by-case basis, if the applicant's statement satisfies a majority of the City Council that:
 - a. homes on the tour event are substantially separated by geographic, physical, street configurations, or other features or conditions, so as not to cause traffic or parking problems in the affected neighborhood or otherwise in the City;
 - b. it would not increase crime or reduce safety in the City;
 - c. it would not result in excessive littering or damage to real or personal property in the City; and
 - d. granting of an exception would not, based on the information provided to the City Council, result in adverse impacts to the public health, safety or welfare of the residents of the City.

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- B. Applications for tour events other than a home tour event shall be considered for approval administratively by City staff. In determining whether to approve or deny an application for such a tour event, City staff shall take into account the guidelines set forth above in subsection A.1 through 7 above, as appropriate to the proposed tour event.

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4-706. Permit.

- A. Upon an affirmative vote of a majority of the City Council members present and voting, the City Council may approve an application for a home tour event permit and cause the City Clerk to issue the permit within two (2) working days after the approval is granted.
- B. Applications for tour events other than a home tour event shall be considered for approval administratively by City staff. In determining whether to approve or deny an application for such a tour event, City staff shall take into account the guidelines set forth above in Section 4-705.A.1 through 7, as appropriate to the proposed tour event.
- C. The person responsible for conducting a home tour event shall keep a copy of the permit with him or her during the duration of the tour and shall produce the permit for inspection by a City official, if requested to do so.
- D. The event, and all activities in any way related thereto, shall comply, in all aspects, with the provisions of the Code.

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4-707. Fees.

- A. One-half (1/2) of the permit fee, as established by the then current Schedule of Fees and Charges adopted by the City Council, shall be paid to offset the initial administration costs of processing each application, including the costs of administrative review and public notice and mailings. In the case of a home tour event, if the City Clerk notifies the applicant that the subject home is within two thousand five hundred feet (2,500') of another home for which either a home tour event permit has been previously issued or a previously submitted complete application has been received by the City Clerk, the applicant may request a refund of the originally submitted portion of the permit fee if the public notice process has not yet commenced.
- B. The remaining one-half (1/2) of the permit fee shall be paid upon approval by the City Council to offset the administration costs of processing of each application that has been submitted at least forty-five (45) business days prior to the proposed first date of the event.
- C. An expedited permit fee, as established by the then current Schedule of Fees and Charges, shall be paid to offset the administration costs of the expedited processing of an application that has been filed less than forty-five (45) business days prior to the proposed first date of the event.

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- D. If a permit is issued, a service fee shall be paid to compensate the City for services performed by it in the regulation of the tour event. The amount of the service fee shall be determined by the City Clerk at the time the permit is issued. The service fee shall be based on the Schedule of Fees and Charges, which shall reflect the costs of services anticipated to be performed by the City in the regulation of the event, including, but not limited to, the costs of traffic regulation.
- E. Any person who has paid a service fee to obtain a permit for an event may be reimbursed to the extent the fee is not expended for services performed by the City in the regulation of the event. The permittee must file a written application for reimbursement with the City Clerk within seven (7) calendar days of the last scheduled day of the event.

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4-708. Placement of Parking Controls. If necessary, the City shall assume responsibility for placing emergency "No Parking" signs to restrict parking to one side of the street during the home tour event.

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Article 8 - Unmanned Aerial Vehicles

4-801. Statement of Purpose. The unregulated use of unmanned aerial vehicles (UAVs) and other remote controlled devices (RC Devices) throughout the City poses a threat to the public health, safety and welfare and has created public health, safety and welfare concerns, including, but not limited to, privacy, nuisance and trespass concerns. Accordingly, this Article is based on the following legislative intent and findings:

- A. The City Council has studied various alternatives for the regulation of safety, privacy, nuisance, trespass, and related police power and zoning issues raised by UAVs and RC Devices, and taken into account the approaches adopted by cities across the nation.
- B. The difficulty of identifying operators of UAVs and RC Devices raises concerns regarding enforcement of existing laws and connecting operators with their UAVs and RC Devices.
- C. The City has exclusive authority over land use and zoning decisions within the City, and multiple court precedents protect the ability of cities to regulate such activities that take place upon City land, including the take-off and landing of aircraft. The Federal Aviation Administration (FAA) has also declared that state and local governments have historically been able to regulate the take-off and landing of aircraft within their boundaries.
- D. The FAA has declared that laws traditionally related to state and local police power, including land use, zoning, privacy, trespass, and law enforcement operations, generally are not subject to federal regulation.
- E. The FAA has declared that it lacks the resources and willingness to investigate UAV-related accidents involving less than Five Hundred Dollars (\$500) worth of damage or injuries that do not require hospitalization.
- F. The National Telecommunications and Information Administration best practices for UAV transparency and accountability recommend that UAV operators make a reasonable effort to minimize UAV operations over or within private property without consent of the property owner or without appropriate legal authority.
- G. Public safety professionals have expressed significant concerns regarding the risks posed by UAVs and RC Devices to, and the difficulty of identifying operators of UAVs and RC Devices who interfere with, public safety operations.

Ord. 1546 12-09-20

4-802. Definitions. For purposes of this Article, the following terms and phrases shall have the meaning set forth below:

- A. **Operate** or **Operation** means to pilot, steer, direct, fly or manage a UAV or RC Device on the ground or through the air whether from within the UAV or RC Device or remotely. The term "Operate" or "Operation" includes managing or initiating a computer system that pilots, steers, directs, flies or manages a UAV or RC Device.

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- B. **Public Aircraft** has the meaning ascribed to the term in Section 40102 of Title 49 of the United States Code.
- C. **RC Device** means any vehicle that is Operated without the possibility of direct human intervention from within or on the vehicle. For illustrative purposes only, RC Device includes, but is not limited to, remote controlled cars, trucks, and robots.
- D. **Surveillance** means the gathering, without permission, of visual images, physical impressions, sound recordings, data or other information involving the private, personal, business, or familial activities of another person, business or entity, or that otherwise intrudes upon the privacy , solitude or seclusion of another person, business or entity, regardless of whether a physical trespass onto real property owned, leased or otherwise lawfully occupied by such other person, business or other entity, or into the airspace above real property owned, leased or otherwise lawfully occupied by such other person, business or other entity, occurs in connection with such surveillance.
- E. **Toy Aircraft** means (1) a glider or hand-tossed small unmanned aircraft that is not designed for and is incapable of sustained flight; or (2) a small unmanned aircraft that is capable of sustained flight and is controlled by means of a physical attachment, such as a string or wire.
- F. **UAV** means an aircraft that (1) is Operated without the possibility of direct human intervention from within or on the aircraft, and (2) weighs less than fifty-five (55) pounds at the time of Operation, including the weight of any payload or fuel, but does not include "Public Aircraft" or "Toy Aircraft".
- G. **Weapon** means any instrument, article or substance that, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury.

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4-803. Operating Regulations. Except as otherwise provided in Section 4-804, the following regulations shall apply to the Operation of any UAV or RC Device within the City:

- A. No person shall take off or land a UAV on property that the operator does not own, or Operate an RC Device on property that the operator does not own, without the consent of the property owner or such other person lawfully occupying the property, and subject to any restrictions that may be placed on the Operation by the property owner or such other person lawfully occupying the property. Violation of this Section 4-803.A shall be a Class C violation.
- B. No person shall take off or land a UAV on public property without first notifying the City of the intended UAV Operation by submitting a completed form (to be provided by the City Clerk) containing the following information:

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1. The name, address, and telephone number of the person or corporation filing the notice and the telephone number at which the UAV operator can be contacted during the Operation of the UAV;
2. The take-off and landing location for the Operation of the UAV;
3. The expected start and end times and date of the Operation of the UAV (if the operator intends to take off and land multiple times in the same location, one notice for multiple Operations may suffice, so long as the duration of the combined Operations does not exceed four (4) hours, after which a new notice must be filed);
4. The purpose of the Operation of the UAV;
5. The FAA registration number assigned to the UAV;
6. The FAA-approved safety guidelines that the operator will use while Operating the UAV;
7. A statement affirming that the UAV operator has consulted relevant City ordinances and intends to abide by them; and
8. Such other information as the City Administrator shall deem reasonably necessary to inform the City whether the take-off, landing, or Operation of the UAV will endanger the health, safety, or welfare of persons located within the City, and if such use is inconsistent with this Article.

Notice pursuant to this Section 4-803.B shall not be required for the Operation of RC Devices or the take-off, landing, and Operation of UAVs that takes place from the UAV operator's own private property. Such Operation shall still be subject to state and local laws regulating nuisance, privacy and trespass law violations. Violation of this Section 4-803.B shall be punishable by a fine of not less than Ten Dollars (\$10) nor more than One Hundred Dollars (\$100).

- C. No person shall Operate a UAV or RC Device within the City:
1. Between sunset on any day and sunrise on the next day;
 2. while under the influence of alcohol, or other drug or drugs, that renders the operator incapable of Operating the UAV or RC Device;
 3. for the purpose of conducting Surveillance, unless expressly permitted by law;
 4. that is equipped with a firearm or other Weapon;
 5. with intent to use such UAV or RC Device, or anything attached to the UAV or RC Device, to cause harm to persons or property; or

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6. in a reckless or careless manner so as to create a substantial risk of serious physical injury to another or damage to the property of another.

Violation of this section 4-803.C.1 through 2 shall be a Class C violation. Violation of this Section 4-803.C.3 through 6 shall be a Class A violation.

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4-804. Limitations on Operating Regulations.

- A. **Operations Authorized by the FAA.** Notwithstanding the provisions of Section 4-803, nothing in this Article shall be construed to prohibit, limit or otherwise restrict any person who is authorized by the FAA to Operate a UAV pursuant to Section 333 of the FAA Modernization and Reform Act of 2012 or a certificate of waiver, certificate of authorization or airworthiness certificate under Section 44704 of Title 49 of the United States Code or other FAA grant of authority for a specific flight Operation(s), from conducting such operations(s) in accordance with authority granted by the FAA.
- B. **Operations Prohibited by FAA – Clarification.** Nothing in this Article shall be construed to authorize the Operation of UAVs in violation of any federal statute or rules promulgated thereunder, including, but not limited to, any temporary flight restrictions or notices to airmen issued by the FAA.
- C. **Operations Authorized by State of Kansas – Exception.** Notwithstanding the provisions of Section 4-803, nothing in this Article shall be construed to prohibit the use of a UAV or RC Device by a law enforcement agency in accordance with Kansas statutes.

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4-805. Severability. Severability is intended throughout and within the provisions of this Article. If any section, subsection, sentence, clause, phrase or portion of this Article is held to be invalid or unconstitutional by any court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Article.

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