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ORDINANCE NO. _____

AN ORDINANCE expanding the ability of farmers markets, mobile vending, and mobile markets to sell food, drinks and merchandise on public rights-of-way and parking lots, and making permanent many of the "Streets for People" changes previously approved and adding new language, amending **Sections 27-340, 27-608, 27-609, 27-610, 27-611, 27-612, 27-613, 27-614, 27-617, 27-618, 27-619, 27-620, and 27-621** and wholly adding **Section 27-622** to Chapter 27, Article VIII of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas.

**BE IT ORDAINED BY THE UNIFIED GOVERNMENT COMMISSION OF
WYANDOTTE/COUNTY/KANSAS CITY, KANSAS:**

Section 1. That Chapter 27, Planning and Development, Article VIII of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas, are hereby amended to read as follows:

Sec. 27-340. Definitions.

For the purpose of this article, certain terms and words are herewith defined as follows: Words used in the present tense include the future; words in the singular number include the plural and words in the plural number include the singular. The term "building" includes the term "structure." The term "shall" is mandatory and not directory. Definitions relating specifically to floodplain zoning, signs, and landscaping and screening are included elsewhere.

Accessory building means a detached building or an attached portion of the main building, the use of which is incidental and subordinate to that of the main building.

Accessory use, accessory structure means a use of land or structure which involves all of the following characteristics:

- (1) Subordinate to and serves a principal use or structure.
- (2) Subordinate in area, extent and purpose to the principal use or structure served.
- (3) Contributes to the comfort, convenience or necessity of occupants of the principal use or structure served.
- (4) Located on the same lot or lots, under the same ownership and in the same zoning district as the principal use or structure.

Adult book store or adult video store means an establishment having as a predominant part of its stock in trade or predominant portion of its revenues, books, magazines, photographs, pictures, periodicals, recordings or video tapes which are distinguished or characterized by their emphasis on matter depicting, describing or relating to specified sexual activities or specified anatomical areas and limited in sale of such sexual material to adults.

Adult nightclub or cabaret means any place serving food or drink, regardless of whether alcoholic beverages are served, which features topless dancers, go-go dancers, exotic dancers, strippers, male or female impersonators, similar entertainers, waitresses or waiters, or features material relating to specified sexual activities or specified anatomical areas.

Adult theater means a facility with a capacity of two or more persons used predominantly for presenting material distinguished or characterized by an emphasis on matters depicting, describing or relating to specified sexual activities or specified anatomical areas, for observation by patrons therein.

Agricultural use refers to the use of land where such land is devoted to the production of plants, animals or horticultural products, including, but not limited to, forages, grains and feed crops, dairy animals and dairy products, poultry and poultry products, beef cattle, sheep, swine and horses, bees and apiary products, trees and forest products, fruits, nuts and berries, vegetables, or nursery, floral, ornamental and greenhouse products. The term "agricultural use" shall not include use of land for recreational purposes, suburban residential acreage, rural home sites or farm homes sites and yard plots whose primary function is for residential or recreational purposes even though such properties may produce or maintain some of those plants or animals listed in the foregoing definition.

Alley means a public right-of-way no wider than 24 feet that affords only a secondary means of access to abutting property.

Alteration means any addition, removal, extension or change in the location of any exterior wall of a building.

Antenna means any structure or device used to receive or transmit electromagnetic waves.

Apartment house means any building or portion thereof that contains three or more dwelling units.

Applicant means a person who applies for a permit as provided in this section.

Building means a permanently erected structure having a roof supported by columns or walls.

Building, completely enclosed, means a building separated on all sides from the adjacent open spaces or from other buildings or structures by a permanent roof, and by exterior walls having only windows and normal entrance or exit doors, or by party walls.

Bulk means a composite characteristic of a given building as located upon a given lot, not definable as a single quantity, but involving all of the following characteristics:

- (1) Size and height of building.
- (2) Location of exterior walls at all levels in relation to lot lines, streets or to other buildings.
- (3) Gross floor area of the building in relation to lot area (floor area ratio).
- (4) All open spaces allocated to the building.
- (5) Amount of lot area provided per dwelling unit.

Campground means an area of land, including supporting sanitary and other facilities, for the overnight or temporary parking of recreational vehicles and other modes of camping while traveling by auto.

Children's day care and nursery centers means facilities where part-time lodging and meals are provided, excluding permanent or overnight lodging, for six or more children in return for compensation. For the purpose of this article, family day care homes under state regulations will not be included in this definition.

Collection facility means a designated, semi-permanent container intended for public use or public drop-off of recyclable materials such as glass or metal and periodically emptied by a recycling or waste management company or other designated organization. Collection facilities should be constructed of a durable material, such as metal or hard plastic, and are intended for materials undergoing further processing or refining.

Court means an open, unoccupied space, other than a yard, bounded on three or more sides by exterior walls of a building or by exterior walls of a building and lot lines on which walls are allowable.

Curb level means the level of the established curb in front of the building measured at the center of such front. Where no curb has been established, the high point of the crown of the street in front of the building shall be used.

Decibel means a unit of measurement of the intensity (loudness) of sound. In this article, decibel levels shall be measured on the A scale and referred to as dB(A).

Detached means a building that does not have a wall, roof or other structural member in common with or in contact with another building.

Dismantled means that a number of useful parts, including but not limited to, tires, batteries, doors, hoods, or windows, have been removed from the automobile as to render the automobile unsafe to operate.

Dog kennel means any premises where four or more dogs are boarded, bred and/or offered for sale.

Donation bin means a designated, semi-permanent container in which previously owned items, such as clothing, shoes, and books can be placed by the public and periodically emptied by a non-profit organization for resale or donation. A donation bin is distinct and separate from a collection facility.

Drive means an improvement which affords a means of vehicular access to or through an area and which is owned and maintained by the owner of the property it serves.

Drive-in or drive-through establishment means a place of business being operated for the retail sale of food and other goods, services, or entertainment wherein patrons may be served or otherwise conduct their business while remaining in their automobiles. A restaurant that does not provide at least 15 seats within the enclosed interior of the building shall be considered a drive-in establishment.

Dwelling means a building or portion thereof intended for occupancy for residential purposes but not including hotels, motels, rooming houses, nursing homes, temporary shelters, tourist homes, or trailers.

Dwelling house, condominium, means a building containing dwelling units, which dwelling units are separated by a party wall and which dwelling units are designed and intended to be separately owned in fee under the condominium statutes of the state.

Dwelling, multiple-family, means a dwelling, or portion thereof, containing three or more dwelling units.

Dwelling, single-family, means a dwelling containing one dwelling unit.

Dwelling, two-family means a dwelling containing two dwelling units, a duplex.

Dwelling unit means one or more rooms constituting all or part of a dwelling and which are arranged, designed, used or intended for use exclusively as a single housekeeping unit for one family, and which includes cooking, living, sanitation and sleeping facilities.

Exterior sales means the sale of goods outdoors on private property that is zoned for commercial retail. Examples include ice chests, propane, firewood, and other that are similar.

Family means one or more persons who are related by blood or marriage, including any foster children, a group of not more than five persons living together by joint agreement on a nonprofit cost sharing basis, or a combination of persons related by blood or marriage along with no more than two unrelated adults to a maximum number of five persons living together and occupying a single housekeeping unit with single kitchen facilities. In addition, up to ten persons, including eight or fewer persons with a disability or handicap and not to exceed two staff residents residing in a dwelling shall be considered to be a family. Handicapped persons are defined in Title VIII of the Civil Rights Act of 1968, as amended by the Fair Housing Amendments Act of 1988.

Farmers' market means a seasonal outdoor market where fresh produce, animal food products, homemade goods, or small craft items are sold from individual sellers and where each seller operates independently from other sellers. Fresh produce may include fruits and vegetables that have been recently harvested from the garden or farm of the seller or the seller's client, and must consist of the majority of the sales in both scope and dollars. Animal food products include meat, milk, eggs, and honey produced from the livestock, fowl, bees, or other animals kept on the property of the seller or seller's client. Homemade goods may include jams, jellies, and preserves, baked breads and pastries, and canning goods such as pickled fruits and vegetables, salsa. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular form of business and therefore subject to regulation.

Flea market means a market, indoors or out of doors, where new or used items are sold from individual sellers, where each seller operates independently from other sellers. Items sold include, but are not limited to, household items, antiques, rare items, decorations, used books and used magazines. The term "flea market" is interchangeable with and applicable to "swap meet," "indoor swap meet," or other similar terms regardless of whether these events are held inside a building. The primary characteristic is that these activities involve a series of sales sufficient in number, scope, and character to constitute a regular form of business and therefore subject to regulation.

Floor area means the total floor area designed for tenant or owner occupancy measured from the exterior surfaces of outside walls and including mezzanines, unfinished floors and basements, but excluding loading docks and service corridors or any common areas not leasable to individual tenants.

Floor area, habitable, means the area of all floor space on all levels measured from the exterior surface of outside walls, but excluding garages, porches and nonhabitable basements as determined by the International Building Code, as adopted and amended by the unified government.

Food establishment means a business where prepared food is sold and distributed to the public, either for on-site consumption in a dining area provided by the business or for off-site consumption. Food sales by annual dollar volume must be the majority of the sales and cannot be exceeded in annual dollar volume by alcohol. Examples of a food establishment may include sit-down restaurants, fast-food restaurants, delis, smoothie bars, coffee and tea shops, and ice cream parlors. Food establishments shall not include vendor vehicles or prepared food vending vehicles such as food trucks, food trailer, and pushcarts.

Food trailer means an accessory trailer hitched to a car or truck, which, when parked, serves as a prepared food vending vehicle. A food trailer and operator of the car or truck to which the

food trailer is attached must meet all local, State, and federal requirements for vehicle safety and licensing; and must meet all State requirements for food safety and handling.

Food truck means a self-contained, motorized prepared food vending vehicle. A food truck and food truck operator must meet all local, State, and federal requirements for vehicle safety and licensing; and must meet all State requirements for food safety and handling.

Fowl shall mean those domestic birds commonly kept for the production of meat, eggs, or feathers. Fowl shall include, but not be limited to, chickens, ducks, turkeys, geese, swans, peafowl, guinea fowl, ostriches, and emus. Fowl shall not be permitted in any area of the city not zoned agricultural with the following exceptions:

- (1) Ducks.
- (2) Female chickens.

Garage, private, means a building or a portion of a building, not more than 1,000 square feet in area, in which only motor vehicles used by tenants of the building or buildings on the premises are stored or kept.

Gross vehicle weight rating or GVWR means the manufacturer's rating of the combined weight of the vehicle and the maximum load it is designed to carry. Where such information is not available, the following shall be used to make the determination:

- (1) Vehicles of no greater than 10,000 pounds GVWR: Pickup trucks and passenger vans, trucks considered one-ton rated capacity or less.
- (2) Vehicles of no greater than 30,000 pounds GVWR: Commercial-type trucks of wide variety, but excluding dump trucks, semitrailer trucks, trucks with tandem axles, and other similar heavy-duty trucks.

Group dwelling means a residential dwelling occupied as a residence by persons who do not constitute a family.

Halfway house means a facility, such as a community corrections center, serving temporary residents who have been released or diverted from an institution. A nonfamily residential dwelling that houses persons protected by the Fair Housing Act, such as the mentally ill or the mentally retarded, is a group dwelling, not a halfway house, so long as it is clearly the domicile of the residents and the typical length of stay is long enough to differentiate it from a motel or hotel.

Heavy automotive/truck service, repair, and mechanics means major mechanical repair shops including any of the following:

- (1) Body work and painting.
- (2) Tire recapping.
- (3) Engine and transmission repair.

Height of building or structure means the vertical distance from the average elevation of the ground abutting a building or structure to the highest point of a building or structure. Height, when not regulated in feet, shall be regulated by stories and a story shall be equal to 12 feet for purposes of measuring structures other than buildings.

Home occupation means an activity for gain customarily carried on in a dwelling or structure accessory to a dwelling, clearly incidental and secondary to the use of the dwelling for residential purposes. In general, a home occupation is an accessory use so located and conducted that the average neighbor under normal circumstances would not be aware of its existence. Such activity may employ only members of the immediate family residing on the premises.

Inoperable means that an automobile or truck which cannot be driven away in a safe condition.

Inoperable vehicles means vehicles missing major body, chassis, or engine components or not fit for street travel.

Light automotive service and maintenance means any of the following:

- (1) Tire and battery sales and installation.
- (2) Brakes and other similar diagnostic and repair services.
- (3) Auto detail shops, tune-up shops, upholstery shops, radiator repair shops, lubrications service, sound system shops, or alignment and suspension services.

Livestock means horses, mules, cattle, sheep, and goats.

Lot means a parcel of land occupied or to be occupied by one main building, or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under this article, and having its principal frontage upon a public street. A lot may consist of one or more platted lots, or tracts as conveyed, or parts thereof.

Lot or site area means the land area within the tract or lot lines and excluding street right-of-way.

Lot, corner means a lot abutting upon two or more streets at their intersection. A corner lot may be deemed to front on either street frontage.

Lot, depth means the horizontal distance from the front street line to the rear line.

Lot, interior means a lot whose side lines do not abut upon any street.

Lot line, front means the street line, which is the boundary between a lot and the street on which it fronts.

Lot line, rear means the boundary line that is opposite the most distant from the front street line, except that in the case of uncertainty, the building official shall determine the rear line.

Lot line, side means any lot boundary line not a front or rear line thereof. A side line may be a party lot line, a line bordering on an alley or place or a side street line.

Lot, through means an interior lot having frontage on two streets.

Lot width means the horizontal distance between side lines, measured at the front building line.

Mobile home means a structure, transportable in one or more sections, which has a body width of eight feet or more and a body length of 36 feet or more and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning and electrical systems contained therein and which was designed to comply with the Federal Manufactured Home Construction and Safety Standards in force at the time of manufacture. This term shall not include a recreational vehicle. A structure which otherwise falls within this definition shall be considered a mobile home even if it does not have the required dimensions so long as it is in place as of May 1, 1995, and has a model year of no later than 1969.

Mobile home park means a tract of land meeting the requirements of this article containing suitable drives, utilities and other supporting elements and devoted to the sole purpose of accommodating mobile homes on a permanent or semi-permanent basis.

Mobile home space means that area of land within a mobile home park set aside for use as a site for one mobile home, including the open spaces around the mobile home, as are required in this article.

Mobile market means the selling of food products, including, but not limited to: fresh produce, animal food products, and dry goods out of a bus, truck, trailer, or other mobile unit. At least 50 percent of the foods for sale must be a food item found on the package. Mobile market

vehicles must fall between grades 2—7 on the Federal Highway Administration trailer size guideline and must not be longer than 45 feet.

Mobile vendor vehicle means a self-propelled or motorized vehicle from which any non-food merchandise or service is sold, given away, performed, displayed, or offered for sale, at retail. Items for sale may include clothing, jewelry, souvenirs. Non-food merchandise also includes plant products that may be consumable, but are advertised and sold without immediate human consumption, such as vegetable seeds or potted plants, and treats intended for consumption by farm animals or household pets.

Nonvehicular open space means uncovered areas such as lawns, planting space, walks, terraces, sitting areas and balconies, one-half of covered nonvehicular open space, and clubhouses and indoor recreational areas. No paved areas for vehicular traffic or parking may be included as nonvehicular open spaces.

Open-air market means a retail space in a public right-of-way, demarcated from the public right-of-way itself through the use of tents, cones, temporary fencing, and other material. Distinct from a flea market, only one business can display and sell goods per open-air market.

Operator means any person who operates a vending vehicle or farmers' market stand for the purpose of vending food, beverage, product or service therefrom.

Outdoor cafe means an outdoor area located contiguous to a building wherein a food establishment is located and where food and beverages are taken for consumption by persons sitting or standing at tables in that area. Allowed outdoor cafes must abide by the requirements and limitations as determined by the unified government and the state department of revenue alcoholic beverage control.

Outdoor dining elements means all tables, chairs, fencing and other materials used for demarcating the outdoor café or outdoor tavern from the right-of-way; planters and plants; and any other privately-owned property comprising the-outdoor café or outdoor tavern.

Outdoor retail means advertising, displaying, distributing, giving away, promoting, selling, or vending, in a space outside but within the boundaries of the property, items normally advertised, displayed, distributed, given away, promoted, sold, or vended.

Outdoor tavern means an area associated with an establishment selling cereal malt and/or alcoholic beverages for consumption on the premises but outside of the structure in which the establishment operates.

Overlay district means a zoning district that acts in conjunction with the underlying zoning district or districts.

Parking lot, commercial means a paved area or structure intended or used for the off-street parking of operable motor vehicles on a temporary basis, other than accessory to a principal use.

Performance standards means criteria to control noise, odor, smoke, toxic or noxious matter, vibration, fire and explosive hazards or glare, heat or other effects generated by or inherent in uses of land or buildings.

Planned zoning district means the zoning of a lot or tract to permit that development as is specifically depicted on plans approved in the process of zoning that lot or tract.

Prepared food vending vehicle means a self-propelled, hitched trailer, or motorized vehicle from which any prepared food, beverage, merchandise, or product ready for immediate consumption is sold, given away, displayed or offered for sale, but shall not include a food vending vehicle transporting unprepared food for sale or delivery at wholesale or retail, or an ice cream product truck.

Private club means an organization licensed hereunder to which the club members shall be permitted to resort for the purpose of consuming alcoholic liquor.

Public right-of-way means any public street, alley, pathway, roadway, sidewalk, walkway, highway, bicycle lane, or public way designed for vehicular, bicycle, or pedestrian travel that is dedicated to public use and/or publicly owned.

Pushcart means any non-self-propelled wagon, cart, trailer, kiosk or similar wheeled container, not a vehicle, as defined in state statutes, from which food, beverage, merchandise or product is offered for sale to the public.

Recreational vehicle means ~~is~~ a vehicle that is:

- (1) Built on a single chassis.
- (2) Four hundred square feet or less when measured at the exterior.
- (3) Self-propelled or permanently towable by a light duty truck.
- (4) Designed not as a dwelling, but as temporary living quarters for recreational camping, travel, or seasonal use.

Residentially zoned area means an area zoned A-G, R, R-1, R-1(B), R-2, R-2(B), R-3, R-4, R-5, R-6, R-M, or these districts' planned equivalents.

Ruined means that an automobile which is substantially damaged to the extent that it is valueless or useless as an operable automobile or truck or parts thereof are only useful as materials for reprocessing, melting, remanufacturing, or disposal for salvage or scrap material.

Seating area means open space within any enclosed structure used for purposes of seating numbers of people for any purpose, including all aisles necessary for circulation.

Self-contained recreational vehicle is a recreational vehicle that includes all of the following:

- (1) Heating and/or air conditioning.
- (2) A sink and shower.
- (3) Self-contained toilet.
- (4) Cooking facilities.
- (5) Refrigerator.

Site area means the land area within the tract or lot lines and excluding street right-of-way.

Specified anatomical area means any of the following:

- (1) Any less than completely or opaquely covered:
 - a. Human genitals, pubic region.
 - b. Buttocks.
 - c. Portion of the areola of the female breast.
- (2) Human male genitals in a discernibly turgid state, even if completely and opaquely covered.

Specified sexual activities means any of the following:

- (1) Human genitals in a state of sexual stimulation or arousal.
- (2) Acts of human masturbation, sexual intercourse or sodomy.
- (3) Fondling or other erotic touching of human genitals, pubic region, buttock or female breast.

Stable, riding means a structure and premises in which horses, ponies or mules, used exclusively for pleasure riding or driving, are housed, boarded, or kept for remuneration, hire or sale.

Storm protection areas means any new residential use, for multifamily residential development or single-family residential development for which a preliminary plan/plat

application is approved by the planning commission, shall contain an area of storm protection. Such area may be a room or space, such as a basement, a structure complying with Federal Emergency Management Agency Publication 320 ("Taking Shelter From the Storm") or Publication 361 ("Design and Construction Guidance for Community Shelters"), or subsequent updates thereto shall comply with this requirement. For residential uses designed specifically for occupancy by those age 55 and over, the basement, safe room, or community shelter must be within the structure where the particular dwelling unit is located or within 15 feet of the structure in question and accessed under roof.

Story means that part of a building included between the surface of one floor and the surface of the floor above, or if there is no floor above, that part of the building which is between the surface of a floor and the ceiling next above. A top-story attic is a half story when the main line of the eaves is not above the middle of the interior height of such story. The first story is a half-story when between 50 and 75 percent of the area of its exterior walls contain windows or doors permitting the entrance of daylight and outside air.

Street means a right-of-way that affords principal means of vehicular access to property abutting thereon.

Street line means the dividing line between the street right-of-way and the abutting property.

Street, private means a street which provides principal access to abutting property, but which is not maintained by the unified government. A private street may exist within dedicated public right-of-way.

Structural alteration means any change other than incidental repairs in the supporting members of a building, such as bearing walls, columns, beams or girders.

Structure means anything constructed or erected, the use of which requires permanent location on the ground or attachment to a permanent location on the ground, including, but not limited to, signs, and excepting customary utility poles, retaining walls and boundary fences.

Surplus off-street parking means any parking space that is not required by the Code of Ordinances or by state or federal law, such as the Americans with Disabilities Act (ADA).

Tavern means an establishment which sells cereal malt and/or alcoholic beverages for consumption on the premises; provided, however, this definition shall not include establishments whose sales of food for consumption on the premises exceed the sales of cereal malt and alcoholic beverages served.

Telecommunications tower means a tower constructed as a freestanding structure or in association with a building, other permanent structures or equipment, containing one or more antennas intended for transmitting or receiving television, radio, digital, microwave, cellular, telephone or similar forms of electromagnetic radiation.

Trailer means a vehicle, other than a mobile home, equipped with wheels and normally towed over the road behind a motor vehicle.

Trailer advertising means a trailer that carries or has attached thereto a sign, billboard or other media for advertising as the prime purpose and use of the trailer.

Trailer hauling means a trailer, as defined in this section, and designed and normally used for over-the-road transportation of belongings, equipment, merchandise, livestock and other objects, but not equipped for human habitation.

Trash container means a durable, rust-resistant, non-absorbent, leak-proof container of no more than 50 gallons that is made of metal or hard plastic and which is mounted on a stand

attached to the ground and which typically has a cover with openings on the side for where trash can be disposed.

Used car/truck lot means the use of a parcel of land, either with or without structures, for the purpose of offering for sale, rent, or lease, automobiles, light duty trucks or heavy duty trucks.

Variance means a variation from a specific requirement in this article, as applied to a specific piece of property, as distinct from rezoning.

Vending machine means a machine, stand, or dispenser that distributes, dispenses, or sells a physical product or good directly to a consumer using an automated payment system. Examples include but are not limited to soda machines, candy machines, video rental vending machines, snack machines, newspaper machines, and others that are similar. This definition does not include ATMs, gas pumps, air dispensers, or payphones.

Vending stand means a moveable temporary structure, tent, stand, or assembled contrivance located adjacent and contiguous to a duly licensed restaurant, vending food, beverage, or any product or merchandise; that can neither be pushed, wheeled, self-propelled or driven by use of a mechanical device but can be manually moved, stored and relocated from time to time and from which prepared food can be sold at retail.

Vending vehicle means a mobile market vehicle, mobile vendor vehicle, or prepared food vending vehicle.

Vendor means any person engaged in selling, or offering for sale, food, beverages, or other merchandise from a vending stand, vending vehicle, or from the vendor's person, on private property.

Walk-up market means an outdoor vending area located contiguous to a building wherein a food establishment is located and where food and beverages are taken for consumption off-site by customers. Allowed walk-up markets must abide by the requirements and limitations as determined by the unified government and the Kansas Department of Revenue Alcoholic Beverage Control.

Wrecked means those automobiles or trucks that have more than 25 percent of the vehicle in damaged condition externally as to render it unsafe to operate.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building shall be used. Where lots abut a street that is designated a major street on the major street plan, all yards abutting the street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On other lots, all yards abutting a street shall be measured from a line 25 feet from the centerline, or from the lot line, whichever provides the greater setback. On multibuilding projects where access is derived from private drives, the orientation of individual buildings shall be used to determine the type of yard along the project boundary.

Yard, front, means a yard across the full width of the lot extending from the front line of the main building to the front line of the lot.

Yard, rear, means a yard across the full width of the lot extending from the rear lot line to the rear line of the main building.

Yard, side, means a yard between the main building and the adjacent side line of the lot, and extending entirely from the front yard to the rear yard.

Sec. 27-608. District AG.

In the AG district, accessory uses are as follows:

- (1) Storage of equipment and machinery as necessary to raise crops and livestock, to carry out the farming business, and to maintain the property.
- (2) Sale of products raised on the premises, fruit stands, orchard sales, etc.
- (3) Accessory buildings such as barns, silos, other exclusively agricultural structures, roadside stands, etc., provided that such structures are set back at least 50 feet from any street line.
- (4) Farmers' markets.
 - a. See section 27-618 for additional farmers' market regulations.
- (5) Mobile markets.
 - a. A mobile market may only operate within the parking lot of a place of worship, a senior center, a senior living facility, a community center, a school, or other like facility with public access, subject to all additional parking lot regulations in the Code of Ordinances.
 - b. See section 27-619 for additional mobile market regulations.
- (6) Mobile vending: food trucks, pushcarts, and retail.
 - a. A vending vehicle may only operate within the parking lot of a place of worship, a senior center, a senior living facility, a community center, a school, or other like facility with public access, subject to all additional parking lot regulations in the Code of Ordinances.
 - b. See section 27-620 for additional mobile vending regulations.

Sec. 27-609. Districts R-1, R-1(B), R-2, R-2(B).

In the single-family (R-1; R-1(B)), two-family (R-2; R-2(B)) districts, accessory uses are as follows:

- (1) Home occupations. Customary home occupations may be allowed subject to the issuance of a home occupation permit by the planning division. The following conditions and restrictions shall apply to such customary home occupations:
 - a. No exterior advertising or signs will be erected and no outside display or activity that depicts other than residential activity will be allowed. Advertising shall not include any address, but only a telephone number.
 - b. Only members of the immediate family residing on the premises will participate in the home occupation on the premises.
 - c. No machinery or equipment will be used that will interfere with radio or television reception on nearby property.
 - d. No heavy equipment, trucks of greater than 10,000 pounds GVWR or other objects that are not typically residential in character will be stored on the premises.
 - e. No sales of merchandise will be conducted on the premises, and no service will be rendered that will require customer presence except on an irregular and incidental basis, but babysitting is excluded from the standard.
 - f. No inventory or storage, other than samples, is maintained on the premises.

Home occupations that do not meet the criteria of this subsection shall be permitted only by special use permit but must meet accessory use requirements regarding storage of equipment, material, or vehicles.

- (2) Accessory buildings (garages, carports, tool sheds, etc.). For any dwelling unit there may be permitted a detached accessory building. Such building shall not be located, in front of the house, less than two feet from any alley, nor closer than three feet to any side or rear property line. In the case of corner lots, a detached accessory building shall not be within 20 feet of the side street. The total area of such detached accessory building shall not exceed 1,000 square feet or cover more than 30 percent of the required rear yard. In any residential district on lots or tracts of less than three acres, the following conditions shall apply to any detached accessory building of greater than 120 square feet in floor area:
 - a. The exterior wall materials shall be limited to customary residential finish materials. These specifically include: horizontal clapboard siding of all materials; wood and plywood siding; stone and brick, both actual and artificial, and textured finishes such as stucco and stucco board which visually cover the underlying material regardless of the underlying material. These specifically exclude preformed, corrugated or ribbed metal, fiberglass or plastic sheets or panels. Also, excluded as an exterior material are standard concrete masonry units. Exception: Metal can be used for the walls of the unit provided they have a factory applied and painted finish closely matching the color of the primary structure. Also, excluded as an exterior material are standard concrete masonry units except when the walls of the building are painted the exact color of the primary structure.
 - b. The exterior roofing materials for roofs sloped more than two in 12 shall be shingles or tiles and not metal, fiberglass or plastic sheets. Exception: If using a metal roof the color must be a factory applied and painted finish that closely matches the roof color of the primary structure or the color of the primary structure itself if the roof and walls of the accessory structure are to be the same color.
 - c. Up to two accessory structures existing in a side or rear yard and not in the front yard of a single property prior to April of 2008 are exempt from these regulations. Kansas City, Kansas 2008 Aerial photography will be used to make this determination.
 - d. Accessory structures constructed after April of 2008 may be granted a variance upon written notarized approval from abutting neighbors impacted by the setback.
 - e. Any accessory structure located in a front yard must obtain a variance from the board of zoning appeals.
 - f. Any parcel with more than one accessory structure where the structures do not conform to subsection (c) of this section must obtain a variance from the board of zoning appeals.
- (3) Animals. Horses, ponies, cows, chickens, or other customary animals may be kept in accordance with the requirements of the public health department, except that on a lot or tract of less than five acres in size, a special use permit shall be required. If so approved, accessory barns or stables are permitted under the standards for accessory buildings.

- (4) Hobby activity. A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal enjoyment, amusement or recreation, provided that the articles produced or constructed are not sold either on or off the premises.
- (5) Additional uses. Such additional accessory uses as private swimming pools, television and radio antennae or dishes, wind power generators, solar collectors, flagpoles, play equipment, and tool sheds are permitted under the following conditions:
 - a. Swimming pools, television and radio antennae or dishes greater than two feet in diameter, wind power generators, and tool sheds are not permitted in the front yard or in required side yards.
 - b. Solar collectors shall not extend more than three feet above the highest point of the roof.
 - c. Television dishes shall not exceed 12 feet in diameter or more than 15 feet above grade.
 - d. No accessory use shall exceed 60 feet in height.
 - e. Any accessory use which exceeds ten feet in height shall be located a distance inside the property line at least equal to one-third its height, except that any wind power generator shall be set back a distance no less than its height.
- (6) Storage of equipment, material or vehicle. Only motor passenger cars, other operable domestic equipment, material or vehicles, or a truck of 10,000 pounds GVWR or less shall be kept, parked or stored for more than 48 hours in any 30-day period in a residential area. Only a single one of each of the following may be stored: truck other than customary vans or pickup trucks, camping trailer, hauling trailer, boat, or recreational vehicle. The parking of vehicles or equipment shall not occur on lawn areas, or other locations that tend to visually downgrade the property and neighborhood. Parking shall be limited to areas that have an improved surface and such areas shall generally be located in close relationship to the garage or an otherwise vehicle-oriented section of the premises or be located in the rear yard, so that the lawn areas upon which the living section of the dwelling faces can be attractively maintained with grass, trees and shrubs. Use of any yard area for commercial or any non-residential or ongoing non-resident parking purposes is prohibited.
- (7) Farmers' markets.
 - a. See section 27-618 for additional farmers' market regulations.
- (8) Mobile markets
 - a. A mobile market may only operate within the parking lot of a place of worship, a senior center, a senior living facility, a community center, a school, or other like facility with public access, subject to all additional parking lot regulations in the Code of Ordinances.
 - b. See section 27-619 for additional mobile market regulations.
- (9) Mobile vending: food trucks, pushcarts, and retail.
 - a. A mobile vendor vehicle may only operate within the parking lot of a place of worship, a senior center, a senior living facility, a community center, a school, or other like facility with public access, subject to all additional parking lot regulations in the Code of Ordinances.
 - b. See section 27-620 for additional mobile vending regulations.

Sec. 27-610. Districts R-3, R-4, R-5, R-6 and R-M.

In the townhouse (R-3), garden apartment (R-4), apartment (R-5), high-rise apartment (R-6), and mobile home park (R-M) districts, accessory uses are as follows:

- (1) Those accessory uses permitted in the R-1 district.
- (2) Parking areas.
- (3) Recreation areas including tenant-used swimming pools and minor recreational buildings.
- (4) Trash collection centers.
- (5) Power generators.
- (6) Vending machines for tenant use.
- (7) Necessary offices and maintenance facilities and other similar uses.
- (8) Farmers' markets.
 - a. See section 27-618 for additional farmers' market regulations.
- (9) Mobile market vending for food access.
 - a. See section 27-619 for additional mobile market regulations.
- (10) Mobile vending: food trucks, pushcarts, and retail.
 - a. A vending vehicle may only operate within the parking lot of a church, senior center, community center, school, or other like facility with public access, subject to all additional parking lot regulations in the Code of Ordinances.
 - b. See section 27-620 for additional mobile vending regulations.

Sec. 27-611. District C-0.

(a) In the C-0 district, accessory uses are as follows:

- (1) Parking areas.
 - (2) Food service and vending machines inside a building for tenants only.
 - (3) Private garages for motor vehicles.
 - (4) Low-level exterior lighting.
 - (5) Radio, television or microwave antennae not exceeding 60 feet in height.
 - (6) Flagpoles.
 - (7) Cooling towers and other similar uses.
 - (8) A pharmacy wherein retail sale only of prescription medicines, drugs, and pharmaceutical and orthopedic devices customarily incident to the practice of medicine occurs, shall be allowed as an accessory use in an office building provided that no less than five physicians occupy offices within the building. No direct exterior entrance to the pharmacy and no exterior sign or advertising relative to the pharmacy shall be permitted.
 - (9) Farmers' markets.
 - a. See section 27-618 for additional farmers' market regulations.
 - (10) Mobile markets.
 - a. See section 27-619 for additional mobile market regulations.
 - (11) Mobile vending: food trucks, pushcarts, and retail.
 - a. See section 27-620 for additional mobile vending regulations.
- (b) The accessory retail uses in district C-0 shall be limited to no more than 20 percent of the gross building area.

Sec. 27-612. Districts C-1, C-D, C-2, and C-3

In the limited business (C-1), central business (C-D), general business (C-2), and commercial districts (C-3), accessory uses are as follows:

- (1) Those accessory uses permitted in district C-0.
- (2) Parking areas.
- (3) Storage buildings.
- (4) Signs as permitted by this article.
- (5) Low-level exterior lighting.
- (6) Vending machines on private property provided that:
 - a. Commercial uses with a continuous business license (occupation tax receipt) before December 31, 2008.
 1. The vending machines do not block an interior sidewalk.
 2. The vending machines do not block any exterior windows.
 3. The vending machines must be at least five feet away from all public doors.
 4. Vending machines are only permitted on private property unless it complies with chapter 32.
 5. The vending machines must leave adequate, ADA-compliant space for vending customers and those using the sidewalk.
 6. Video rental vending machines are not allowed in exterior locations except under the following circumstances:
 - i. The site does not have a drive-thru window or drive-up service.
 - ii. At least 15 percent of the facility traffic is generated by pedestrians walking from the surrounding neighborhood.
 - iii. The machine is located so as to not interfere with vehicular traffic.
 - iv. There is sufficient stacking area for pedestrians to wait on a sidewalk.
 - v. The area where the device is placed is monitored by a security camera.
 7. Any exterior sales area must remain neatly organized and free of litter.
 8. Any vending area must be flush with the facade of the building.
 9. No more than one vending machine is permitted per property except as follows:
 - i. If the vending machines area is located on a side of the building not facing a road or street then the number of allowed vending machines shall be increased to three.
 - ii. If the vending machines are screened by side walls, decorative fencing, shrubs, and other landscaping as approved by the director of planning then the number of allowed vending machines shall be increased to three.
 - iii. For every 200 feet that the façade on which the vending machine is located is set back from the nearest road or street right-of-way then the number of allowable vending machines shall be increased by one.
 - iv. In addition to the vending machine(s), one donation bin per property is allowed.
 10. No additional signage that would require a permit is allowed.
 11. No more than one propane exchange locker may be allowed per property, unless:

- i. The site for the propane exchange lockers is located at least 200 feet from the nearest street; and
 - ii. The propane exchange lockers are at least 20 feet away from the nearest public door; and
 - iii. The retailer offering the propane exchange service on its premises also sells gas grills of the type that typically use propane as a fuel.
- 12. No signage is allowed beyond the surface of the vending machine.
- (7) Donation bins are permitted, provided that:
 - a. Bins must be located on an improved, paved surface.
 - b. The bins are located at within 20 feet of the rear property line, or as far from a public street as the site design will allow.
 - c. The placement of the bins does not reduce parking under the number required by this chapter or by approved entitlements associated with the property.
 - d. Overflow dumping around the donation bin(s) is not allowed.
 - e. Bins must remain neatly painted. Bins that are damaged, rusty or significantly faded paint are not permitted.
 - f. The donation bin(s) must remain neatly organized and free of litter, broken glass, and other debris.
 - g. No more than two donation bins are allowed on the property.
- (8) Collection facilities are permitted, provided:
 - a. Facilities must be located on an improved, paved surface.
 - b. The facilities are located at within the side yard or rear yard of the property.
 - c. The placement of the bins does not reduce parking under the number required by this chapter or by approved entitlements associated with the property.
 - d. Facilities are screened from view of residences and/or residentially zoned properties.
 - e. Overflow dumping around the facility is not allowed.
 - f. Facilities must remain neatly painted. Facilities that are damaged, rusty or significantly faded paint are not permitted.
 - g. The collection facility must remain neatly organized and free of litter, broken glass, and other debris.
 - h. No more than one collection facility is allowed on the property.
- (9) Farmers' markets.
 - a. See section 27-618 for additional farmers' market regulations.
- (10) Mobile markets.
 - a. See section 27-619 for additional mobile market regulations.
- (11) Mobile vending: food trucks, pushcarts, and retail.
 - a. See section 27-620 for additional mobile vending regulations.

Sec. 27-613. Districts M-1; M-2 and M-3.

In the light industrial and industrial park (M-1), general industrial (M-2), and heavy industrial districts (M-3), accessory uses are as follows:

- (1) Parking and loading areas.
- (2) Storage facilities.
- (3) Security and screen fencing.
- (4) Radio and microwave towers to heights as set out in this division.

- (5) Gatehouse.
- (6) Loading equipment.
- (7) Employee recreation and other similar uses.
- (8) Power generating wind turbines that do not exceed 100 feet in height to the tip of the tallest turbine blade and where they are set back from the property line at least twice the diameter of the turbine rotors.
- (9) Donation bins are permitted, provided that:
 - a. Bins must be located on an improved, paved surface.
 - b. The placement of the bins does not reduce parking under the quantity required by this chapter or by approved entitlements associated with the property.
 - c. Overflow dumping around the donation bin(s) is not allowed.
 - d. Facilities must remain neatly painted. Facilities that are damaged, rusty or significantly faded paint are not permitted.
 - e. The donation bin(s) must remain neatly organized and free of litter, broken glass, and other debris.
- (10) Collection facilities are permitted, provided:
 - a. Facilities must be located on an improved, paved surface.
 - b. The placement of the bins does not reduce parking under the number required by this chapter or by approved entitlements associated with the property.
 - c. Facilities are screened from view of residences and/or residentially zoned properties.
 - d. Overflow dumping around the collection facilities is not allowed.
 - e. Facilities must remain neatly painted. Facilities that are damaged, rusty or significantly faded paint are not permitted.
 - f. The collection facilities must remain neatly organized and free of litter, broken glass, and other debris.
- (11) Farmers' markets.
 - a. See section 27-618 for additional farmers' market regulations.
- (12) Mobile markets.
 - a. See section 27-619 for additional mobile market regulations.
- (13) Mobile vending: food trucks, pushcarts, and retail.
 - a. See section 27-620 for additional mobile vending regulations.

Sec. 27-614. District TND.

In the traditional neighborhood design (TND) district, accessory uses are as follows:

- (1) Those accessory uses permitted in district agricultural (AG) through districts C-1, C-D, C-2, and C-3 districts.
- (2) Farmers' markets.
 - a. See section 27-618 for additional farmers' market regulations.
- (3) Mobile markets.
 - a. See section 27-619 for additional mobile market regulations.
- (4) Mobile vending: food trucks, pushcarts, and retail.
 - a. See section 27-620 for additional mobile vending regulations.

Sec. 27-617. Findings, purpose, applicability, and enforcement of outdoor sales.

- (a) Finding and purpose. It is found and declared that:

- (1) Farmers' markets, mobile markets, mobile vending, vending stands, outdoor service, and outdoor retail may promote the public interest by contributing to an active and attractive outdoor, local, and mobile vending environment. The purpose of accommodating farmers' markets, mobile markets, mobile vending, outdoor service, and outdoor retail in all zoning districts is to provide additional space for sales of goods in an open-air environment while contributing to activity, attracting patrons, extending their visits, reaching underserved neighborhoods, and enhancing overall community quality of life.
 - (2) Reasonable regulation of the sale of food and wares through farmers' markets, mobile markets, mobile vending, outdoor service and outdoor retail is necessary to protect the public health, safety, and welfare.
- (b) Applicability and enforcement.
- (1) Businesses. Any persons or entity operating a farmers' market, mobile market, mobile vendor vehicle, outdoor service or outdoor retail under this article must conduct such operation under a valid and current occupation tax number, unless such entity is a non-profit as defined in this section.
 - (2) Non-profits. All non-profit organizations that operate a farmers' market, mobile market, mobile vendor vehicle, outdoor dining or outdoor retail must meet the following conditions:
 - a. Status as a 501(c)(3) organization remains current and in good standing with the State of Kansas; and
 - b. May set up a temporary structure for the purposes of distributing information in addition to operating the farmers' market, mobile market, mobile vendor vehicle, outdoor service, or outdoor retail. A non-profit organization may also take donations on-site.
 - (3) All right-of-way permits otherwise required for work or activities allowed by sections 27-617 to 27-622 are waived.
 - a. Nothing in this article shall be construed to allow any gathering, celebration, festival, street fair, or special occasion to operate in a manner that violates any ordinance in chapter 6 of the Unified Government Code of Ordinances.
 - b. No open flames shall be allowed under any use in the article, except for any open flame on a vending vehicle allowed by another ordinance.
 - (4) Enforcement.
 - a. Power of local health officer.
 1. The local health officer, deputy local health officer, health department director and/or their designee(s) have the ability to address and enforce violations of public health ordinances, including violations of any portions of the provisions set forth in section 16-2, section 17-3, sections 27-608—27-614, and sections 27-617—27-220.
 2. This subsection may be construed to give the same power and authority to the local health officer, deputy local health officer and/or their designee(s) than is granted to them under local and state law.
 3. This subsection shall not be construed to affect the policies and procedures of the state department of health and environment regarding licensure and inspection of restaurants, street vendors, or food trucks.
 - b. Zoning and code enforcement.

1. Any zoning enforcement officer, code enforcement officer, director of planning and/or their designee(s) has the ability to address and enforce zoning and other code violations, including violations of any portions of this article.
 2. This subsection may be construed to give the same power and authority to a zoning enforcement officer, code enforcement officer, director of planning, and/or their designee(s) than is granted to them under local and state law.
- c. Fire safety.
1. Power of fire department.
 - i. The Kansas State Fire Marshal's Office (KSFMO) jurisdiction over inspections of the food establishments, and the power to conduct such inspections has been granted by the KSFMO to the Kansas City Kansas Fire Department (KCKFD).
 - ii. Any deviation from the state's adopted International Fire Code requirements for these inspections must remain unless the state fire marshal specifically waives these requirements.
 2. Inspection of mobile vending.
 - i. Mobile vending must be compliant with the inspection standards and requirements of the Heart of America Fire Chiefs Council.

Sec. 27-618. Farmers' markets.

This section is for farmers' markets on private property. For farmers' markets in the public right-of-way, see chapter 32-186. Farmers' markets are allowed on private property, subject to the following conditions:

(1) Administrative review.

- a. Any persons or entity operating a farmers' market must conduct such operation under a valid and current business license or be a non-profit as defined in section 27-617. All other persons or entities vending, distributing, or otherwise operating within a farmers' market must conduct such operation under one of the following standards:
 1. A valid and current business license specific to the person(s) or entity; or,
 2. Status as a 501(c)(3) organization remains current and in good standing with the State of Kansas.
- b. Written permission from the property owner(s) or their designee(s).
- c. A farmers' market may operate for no more than three consecutive days, and no more than four days per week at one location.
- d. Hours of operation for the farmers' market begin no earlier than 6:00 a.m. and end no later than 8:00 p.m.
- e. Farmers' market events may not occur for more than six hours per day, run consecutively, at any one site. This time limit does not include the allowed time to set up and take down temporary structures.
- f. The applicant must submit a site plan for approval by the director of planning for all proposed farmers' market locations. The site plan must contain the following for each proposed location:
 1. The address of the property on which the farmers' market is located;

2. Proposed hours of operation of the farmers' market;
 3. The location of vendors' stalls, other temporary structures, and the ADA-compliant pedestrian pathways;
 4. The location of proper trash and recycling receptacles;
 5. Location of parking spaces for vendors and customers;
 6. Any and all maintenance of traffic plans and signage;
 7. Nearby rights-of-way with pedestrian and vehicular access points; and,
 8. North arrow or other method of orientation.
- f. The applicant must make the approved site plan(s) and written permission from the property owner(s) or their designee(s) available to any enforcement officer upon request. The administrative review of the site plan can be reviewed for revocation at any time during the year if evidence and/or complaints of non-compliance are submitted.
- g. The operator of the farmers' market is responsible for removing the trash and recycling associated with the operation of the farmers' market. Any and all signage, temporary or other structures, and other elements of the farmers' market must be removed at the end of each farmers' market event and the site returned to a UG-standard parking lot.
- (2) Allowed areas. The entirety of the farmers' market must take place within the boundaries of a paved parking lot built to UG standards or other paved public space with an improved surface.
- a. Any parking spaces in a parking lot may be used for a farmers' market subject to the following standards:
1. All ADA parking spaces and access aisles, and fire lanes, must remain clear and unencumbered by any and all farmers' market activity.
 2. Any additional regulations to improve traffic flow, as required by the director of planning and county engineer.
 3. No farmers' market stand, structure, or related infrastructure is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.
 4. Subject to any additional zoning district standards in sections 27-608 to 27-614.
- b. Farmers' market activity includes the use of the farmers' market stalls, structures, related infrastructure, areas for queueing, vending, and eating, signage, and trash and recycling receptacles. All farmers' market activity must comply with the following conditions:
- i. All sidewalks or pedestrian ways must be kept clear and unencumbered so that the sidewalk or pedestrian pathway remains ADA-compliant.
 - ii. Vehicular and personal access to all ADA-compliant parking spaces and access aisles must remain clear and unencumbered.
 - iii. All fire lanes must remain clear and unencumbered.
 - iv. There is sufficient stacking area for pedestrians to queue on a sidewalk or on site.
 - v. Proper trash and recycling receptacles must be made available and utilized. The operator is responsible for removing the trash and recycling associated with the operation of the farmers' market. Any and all signage, temporary or

other structures, and other elements of the farmers' market must be removed at the end of each farmers' market event.

- c. No item(s) for sale or on display may obstruct the sidewalk to a degree that a four-foot width cannot be maintained at all times, nor may said items hang over the air space of said four-foot width on the sidewalk or pathway.
 - d. All pedestrian pathways that connect the farmers' market stalls must remain clear and unencumbered, and ADA-compliant.
 - e. Unless otherwise provided by this chapter, operation of a farmers' market in the public right-of-way shall be subject to section 32-186.
- (3) Temporary structures.
- a. Temporary structures that provide shade for retailers and customers may be erected. Use of umbrellas is encouraged.
 - b. No temporary structure may be secured in any manner that damages public or private property. Weights are encouraged to be used to secure temporary structures.
 - c. Temporary structures may be erected in the parking lot up to one hour before the start of hour of operations as and must be taken down within one hour after the end of hours of operation.
- (4) Signage.
- a. Signs otherwise compliant with the sign code in regard to size, material, and presentation can be safely attached to temporary structures.
 - 1. All signs allowed under this subsection may not be used outside of the hours of operation or used in a manner that violates any other ordinance.
 - 2. Signs cannot be attached to public infrastructure or facilities.
 - b. Exceptions. The following exceptions from the sign code are allowed:
 - 1. One sandwich board is allowed for each farmers' market stall. The sandwich board must be placed adjacent to the farmers' market stall which it is serving.
 - 2. There is no limit on the number of temporary signs nor the total square feet of sign face allowed on the farmers' market stand or associated temporary structure. No temporary sign may extend taller than eight feet or the top of the associated temporary structure, whichever is shorter.
 - 3. One temporary sign may be maintained at the property where the farmers' market is held during the farmers' market season. This sign must be posted in the ground, and shall be held to the standards of a temporary sign except for the time limit allowed.

Sec. 27-619. Mobile markets.

This section is for mobile markets on private property. For mobile markets in the public right-of-way, see section 32-187.

- (1) Administrative review.
- a. Any persons or entity operating a mobile market must conduct such operation under a valid and current business license or be a non-profit as defined in section 27-617. The business license can be reviewed for revocation at any time during the year if evidence and/or complaints of non-compliance are submitted.

- b. Mobile market operators must have written permission from the property owner(s) or their designee(s) to operate on site. The operator must make said written permission available to any enforcement officer upon request.
 - c. Mobile markets must display either a temporary sign (as defined by section 27-729(b)(1)) or signage attached to the vehicle indicating proof of business license.
 - d. Mobile markets may operate from 8:00 a.m.—7:00 p.m. Sunday through Thursday and 8:00 a.m.—8:00 p.m. Friday and Saturday.
- (2) Allowed areas.
- a. Mobile markets are allowed within the boundaries of a designated property of any zoning district upon obtaining a business license or non-profit status as addressed in section 27-617.
 - b. All mobile market vehicles must comply with the following conditions:
 - 1. The vehicle must be parked on a paved surface.
 - 2. The vehicle is not parked in a designated ADA parking space or in an access aisle.
 - 3. The vehicle is not parked in a no-parking zone.
 - 4. No mobile market vehicle is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.
 - 5. Mobile markets may not park for more than four hours per day, run consecutively, at any one site.
 - c. Mobile market activity includes the use of the mobile market vehicles, areas for queueing, vending, and eating, signage, and trash and recycling receptacles. All mobile market activity must comply with the following conditions:
 - 1. All sidewalks or pedestrian ways must be kept clear and unencumbered so that the sidewalk or pedestrian pathway remains ADA-compliant.
 - 2. Vehicular and personal access to all ADA-compliant parking spaces and access aisles must remain clear and unencumbered.
 - 3. All fire lanes must remain clear and unencumbered.
 - 4. There is sufficient stacking area for pedestrians to queue on a sidewalk or on site.
 - 5. Proper trash and recycling receptacles must be made available and utilized. The operator is responsible for removing the trash and recycling associated with the operation of the mobile market. Any and all signage, temporary or other structures, and other elements of the mobile market must be removed at the end of each mobile market event.
 - d. Unless otherwise provided by this section, operation of a mobile market in the public right-of-way shall be subject to section 32-187.
- (3) Temporary structures.
- a. No permanent structure or improvement shall be installed.
 - b. No temporary structure may be secured in any manner that damages public or private property. Weights are encouraged to be used to secure temporary structures.
 - c. No mobile market vehicle, structure, or related infrastructure is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.
- (4) Signage.

- a. Signs otherwise compliant with the sign code in regard to size, material, and presentation can be safely attached to temporary structures.
 - 1. All signs allowed under this subsection may not be used outside of the hours of operation or used in a manner that violates any other ordinance.
 - 2. Signs cannot be attached to public infrastructure or facilities.
- b. Exceptions. The following exceptions from the sign code are allowed:
 - 1. One sandwich board in connection with the mobile vendor activity is allowed within five feet of the mobile vendor vehicle. The sign shall not interfere with the flow of pedestrian or automobile traffic.
 - 2. There is no limit on the number of temporary signs nor the total square feet of sign face allowed on the mobile market vehicle.
 - i. All signage must be attached flush to the side of the vehicle.
 - ii. No temporary sign may extend beyond the top of the vehicle.
 - iii. All attached signage must be removed before the vehicle is driven off the property.

Sec. 27-620. Mobile vending.

This section is for mobile vending on private property. For mobile vending in the public right-of-way, see section 32-188.

(1) Administrative review.

- a. Any persons or entity operating a mobile vendor vehicle or prepared food vending vehicle must conduct such operation under a valid and current business license or be a non-profit as defined in section 27-617. The business license can be reviewed for revocation at any time during the year if complaints of non-compliance are submitted.
- b. Operators must have written permission from the property owner(s) or their designee(s) to operate on site. The operator must make said written permission available to any enforcement officer upon request.
- c. Mobile vendors must display either a temporary sign (as defined by section 27-729(b)(1)) or signage attached to the vehicle indicating proof of business license.
- d. Mobile vendor vehicles or prepared food vending vehicles may operate from 8:00 a.m.—7:00 p.m. Sunday through Thursday and 8:00 a.m.—8:00 p.m. Friday and Saturday.

(2) Allowed areas.

- a. Mobile vending is allowed within the boundaries of a designated property of any zoning district upon obtaining a business license or non-profit status as addressed in section 27-617.
- b. All mobile vendor vehicles and prepared food vending vehicles must comply with the following conditions:
 - 1. The vehicle must be parked on a paved surface.
 - 2. The vehicle is not parked in a designated ADA parking space or in an access aisle.
 - 3. The vehicle is not parked in a no-parking zone.
 - 4. No mobile vendor vehicle is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.

5. Mobile vendor vehicles may not park for more than four hours per day, run consecutively, at any one site.
 - c. Mobile vending activity includes the use of the mobile vending vehicles, areas for queueing, vending, and eating, signage, and trash and recycling receptacles. All mobile market activity must comply with the following conditions:
 1. All sidewalks or pedestrian ways must be kept clear and unencumbered so that the sidewalk or pedestrian pathway remains ADA-compliant.
 2. Vehicular and personal access to all ADA-compliant parking spaces and access aisles must remain clear and unencumbered.
 3. All fire lanes must remain clear and unencumbered.
 4. There is sufficient stacking area for pedestrians to queue on a sidewalk or on site.
 5. Proper trash and recycling receptacles must be made available and utilized. The operator is responsible for removing the trash and recycling associated with the operation of the mobile market. Any and all signage, temporary or other structures, and other elements of the mobile market must be removed at the end of each mobile market event.
 - d. Unless otherwise provided by this section, operation of a mobile market in the public right-of-way shall be subject to section 32-188.
- (3) Temporary structures
- a. No permanent structure or improvement shall be installed.
 - b. No temporary structure may be secured in any manner that damages public or private property. Weights are encouraged to be used to secure temporary structures.
 - c. No mobile vendor vehicle or prepared food vending vehicle, structure, or related infrastructure is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.
- (4) Signage.
- a. Signs otherwise compliant with the sign code in regard to size, material, and presentation can be safely attached to temporary structures.
 1. All signs allowed under this subsection may not be used outside of the hours of operation or used in a manner that violates any other ordinance.
 2. Signs cannot be attached to public infrastructure or facilities.
 - b. Exceptions. The following exceptions from the sign code are allowed:
 1. One sandwich board in connection with the mobile vendor activity is allowed within five feet of the mobile vendor vehicle. The sign shall not interfere with the flow of pedestrian or automobile traffic.
 2. There is no limit on the number of temporary signs nor the total square feet of sign face allowed on the mobile vendor vehicle.
 - i. All signage must be attached flush to the side of the vehicle.
 - ii. No temporary sign may extend beyond the top of the vehicle.
 - iii. All attached signage must be removed before the vehicle is driven off the property.

Sec. 27-621. - Outdoor service.

- (a) Applicability.

- (1) The following designated areas may be used for outdoor, on-site dining and drinking, and walk-up food sales:
 - a. Outdoor cafés. For any food establishment which has successfully received an occupation tax number with the business license division and which remains current and in good standing with all occupation tax payments, no permit is required to operate an outdoor café.
 - b. Walk-up markets. For entities that fulfill the following conditions, no permit is required to operate a walk-up market:
 1. A food establishment which has successfully received an occupation tax number with the business license division and which remains current and in good standing with all occupation tax payments; or
 2. An entity which is registered as a 501(c)(3) organization with the state and whose status as a 501(c)(3) organization remains current and in good standing, and has the permission of the property owner.
 - c. Outdoor taverns. For businesses that fulfill the following conditions, a permit is not required to serve cereal malt and/or alcoholic beverages outside the building of the designated place of business. This section applies to all businesses that:
 1. Has received a license from the Kansas Department of Revenue Alcoholic Beverage Control (ABC) for the sale of cereal malt and/or alcoholic beverages for consumption on the premises, including consumption within the outdoor tavern;
 2. Sales of food for consumption on the premises do not exceed the sales of cereal malt and alcoholic beverages served; and,
 3. Has received a special use permit for a drinking establishment, if a special use permit has been applied for after 1988.
- (2) Additional standards.
 - a. All outdoor cafés, walk-up markets, and outdoor taverns must comply with all Kansas Department of Revenue ABC regulations.
 - b. Unless otherwise provided by this chapter, operation of an outdoor café, walk-up market, or outdoor tavern in the public right-of-way shall be subject to section 32-102.
- (b) Allowed areas.
 - (1) One or more of the following areas may be utilized for a food establishment or tavern as an outdoor café or walk-up market and/or outdoor tavern:
 - a. Building-to-boundary area. From the building to the property boundary line, subject to the following conditions:
 1. All sidewalks or pedestrian ways must be kept clear and unencumbered so that the sidewalk or pedestrian pathway remains ADA-compliant.
 2. Vehicular and personal access to all ADA-compliant parking spaces and access aisles must remain clear and unencumbered.
 3. All outdoor dining elements must be at least four feet from street furniture and designated fire lanes.
 - b. Any surplus parking spaces in an off-street parking lot that serves the building, so long as all ADA parking spaces and access aisles remain clear and unencumbered by the outdoor dining service or its supporting structures or activities.

- c. Unless otherwise provided by this chapter, outdoor service in the public right-of-way shall be subject to section 32-102.
- (2) The food establishment or tavern operating under this section shall be responsible for maintaining the required four-foot pedestrian pathway, and keeping the pathway free of trash and debris.
- (c) Required setbacks and clearances
 - (1) No building-to-boundary area nor surplus parking space(s) is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.
 - (2) No display may obstruct the sidewalk to a degree that a four-foot width cannot be maintained at all times, nor may said items hang over the air space of said four-foot width on the sidewalk.
 - (3) No sightlines or sight distance triangles at street corners and intersections may be obstructed as per Code.
 - (4) No outdoor café, walk-up market, or outdoor tavern shall be located within 15 feet of a fire hydrant or bus stop, or a greater distance if required by state law. Fire hydrants, fire department connections (FDCs) and appurtenances shall remain unobstructed and visible from the street and/or require fire access road.
 - (5) No outdoor café or other area designated for customer dining shall be located within 30 feet of a dumpster, nor within ten feet of a trash container, located on private property.
- (d) Public health
 - (1) All food establishments and outdoor taverns are responsible for ensuring compliance with any and all local, state or federal restrictions.
 - (2) All food establishments and taverns must maintain and promote clean and sanitary premises, especially the outdoor spaces that the general public may come in contact with. Failure to actively maintain and promote cleanliness and sanitation may result in the prohibition of a food establishment or tavern from operating an outdoor café, walk-up market, or outdoor tavern.
 - a. The business property, or any private area utilized by the business for the purposes of an outdoor café, walk-up market, and/or outdoor tavern, including but not limited to, the building-to-boundary area or off-street surplus parking, shall be kept free of trash and debris at all times. Confirmed reports of littering and/or unkempt conditions shall be prima facie evidence of the business's failure to comply with this section.
 - b. Public urination by current or recent patrons of a food establishment or tavern, conducted in close proximity of time and distance to such business, is prohibited. Confirmed reports of public urination may result in a prohibition of any outdoor café, walk-up market, and/or outdoor tavern operated by the business.
- (e) Structures
 - (1) Temporary or semi-permanent structures may remain in allowed building-to-boundary areas or surplus off-street parking at all times. Temporary, semi-permanent, or permanent structures may be used for building-to-boundary areas. Temporary or semi-permanent structures may be used for surplus parking spaces.
 - a. Temporary or semi-permanent structures that provide shade for retailers and customers made be erected. "Pop up" tents are allowed, so long as they are at least ten feet from the curb and do not interfere with any building or its functions, including drainage and access to light. The use of umbrellas are encouraged.

- b. No temporary or semi-permanent structure may be secured in any manner that damages public or private property. Weights are encouraged to be used to secure temporary or semi-permanent structures.
- (2) Any permanent/semi-permanent structure constructed or erected in the building-to-boundary area is subject to an administrative review by the director of planning.
 - a. For purposes of this administrative review, a structure is considered permanent or semi-permanent if:
 - 1. A foundation is installed; or
 - 2. Poles are installed for than four inches in the ground, whether for structural support or to hold up a sign; or
 - 3. A hard-sided roof is installed; or
 - 4. Construction of the structure would require a building permit outside of this section.
 - b. For an administrative review, applicant must provide the following:
 - 1. Site plan of the property, including the permanent/semi-permanent structure; and,
 - i. Setbacks and ADA-compliant pedestrian ways must be marked, and measurements provided.
 - ii. For an outdoor tavern, applicant must prove conformance with ABC regulations and demonstrate a safe and convenient path from the tavern building to the outdoor tavern.
 - 2. Elevations of the structure, drawn to scale or any other information requested by the director of planning.
- (f) Signage. Signs otherwise compliant with the sign code in regard to size, material, and presentation can be safely attached to temporary or semi-permanent structures.
 - (1) Signs cannot be attached to public infrastructure or facilities.
 - (2) Sandwich boards allowed in all commercial zoned districts, subject to all other sign code regulations.
 - a. One sandwich board is allowed for each temporary or semi-permanent structure.
 - b. The sandwich board must be placed adjacent to the temporary or semi-permanent structure which it is serving.
- (g) Hours of operations.
 - (1) Food establishments shall not operate an outdoor café or walk-up market outside of the business's published hours of operation.
 - (2) Outdoor taverns with associated parking areas or other outside customer-oriented areas within 100 feet of any residence shall restrict hours of operation to between 6:00 a.m. and 1:00 a.m. of the following day.
- (h) Alcohol sales. Outdoor cafes and outdoor taverns may serve alcohol under the following conditions:
 - (1) No alcohol may be sold or served before the applicant has successfully obtained an alcohol license from the state department of revenue.
 - (2) All alcohol must be served to the customer in an open container.
 - (3) Alcohol may only be sold or served to customers by a food establishment in the areas allowed by section 32-102(h)(2). Alcohol must be served in compliance with all Kansas Department of Revenue Alcoholic Beverage Control (ABC) regulations. No portion of this subsection may be construed to supersede ABC regulations. If any

- portion of this section is directly contrary to state law or another ABC policy, state law or the ABC policy supersedes.
- (4) Under this section, alcohol sales must total less in daily dollar volume than the sale of food, in addition to maintaining the definition of a food establishment. If the business fails to qualify as a food establishment, then the subsection regulating outdoor taverns applies.
 - (i) Lighting. Outdoor lighting may be provided if a business continues to operate outside.
 - (1) Lighting must be facing downward toward the customers and directed away from the right-of-way. The lighting scheme should avoid projecting a glare onto other buildings.
 - (2) Lighting should be arranged in a manner and at an intensity that the light does not exceed one foot-candle as measured from the furthest demarcated edge of the outdoor café, walk-up market, and/or outdoor tavern.
 - (j) Noise levels and noise disturbance.
 - (1) No music shall be played or produced through external or amplified speakers in any outside area.
 - (2) No music shall be played or produced through amplified speakers, or otherwise played or produced inside the business building, to a level that it can be heard off the premises after hours of operation or 10:00 p.m., whichever time is earlier.
 - (3) Any food establishment or tavern which exceeds the allowed decibels for the zoning district or is found in violation of the noise disturbance ordinance in section 22-128 of the Code of Ordinances is subject to loss of use of outdoor space as an outdoor sidewalk café, walk-up market, and/or outdoor tavern.

Sec. 27-622. - Outdoor retail.

- (a) Applicability. For businesses that fulfill the following conditions, no permit is required to operate outdoor retail. This section only applies to any business that:
 - (1) Sells items and/or services typically and regularly sold at the establishment;
 - (2) Does not engage in any installation or repair work outside of the structure in which the business is located; and.
 - (3) Has successfully received an occupation tax number with the business license department and remains current and in good standing with all occupation tax payments.
 - (4) Unless otherwise provided by this chapter, operation of outdoor retail in the public right-of-way shall be subject to section 32-186.
- (b) Types of retail allowed. The following items may be sold in an open-air market, subject to the regulations of performance standards in the Code:
 - (1) Food and beverages, subject to section 27-621;
 - (2) Books and other paper goods;
 - (3) Potted plants, cut or arranged flowers, or gardening seeds;
 - (4) Visual works of art that have been transcribed onto a physical backing such as paper or canvas;
 - (5) Jewelry and other wearable accessories;
 - (6) Homemade goods and crafts;
 - (7) Clothing; and,
 - (8) Office services.
- (c) Allowed areas.
 - (1) One or more of the following areas may be utilized for outdoor retail:

- a. Building-to-boundary area. From the building to the property boundary line, subject to the following conditions:
 - 1. All sidewalks or pedestrian ways must be kept clear and unencumbered so that the sidewalk or pedestrian pathway remains ADA-compliant.
 - 2. Vehicular and personal access to all ADA-compliant parking spaces and access aisles must remain clear and unencumbered.
 - 3. All outdoor dining elements must be at least four feet from street furniture and designated fire lanes.
 - b. Any surplus parking spaces in an off-street parking lot that serves the building, so long as all ADA parking spaces and access aisles remain clear and unencumbered by the outdoor dining service or its supporting structures or activities.
- (2) The business operating under this section shall be responsible for maintaining the required four-foot pedestrian pathway, and keeping the pathway free of trash and debris.
- (3) Required setbacks and clearances
 - a. No building-to-boundary area nor surplus parking space(s) is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.
 - b. No display may obstruct the sidewalk to a degree that a four-foot width cannot be maintained at all times, nor may said items hang over the air space of said four-foot width on the sidewalk.
 - c. No sightlines or sight distance triangles at street corners and intersections may be obstructed as per Code.
 - d. No outdoor café, walk-up market, vending stand, or outdoor tavern shall be located within 15 feet of a fire hydrant or bus stop, or a greater distance if required by state law. Fire hydrants, fire department connections (FDCs) and appurtenances shall remain unobstructed and visible from the street and/or require fire access road.
 - e. No outdoor café or other area designated for customer dining shall be located within 30 feet of a dumpster nor within ten feet of a trash container, located on private property.
- (d) Structures. Temporary or semi-permanent structures may remain in allowed building-to-boundary areas or surplus off-street parking at all times. Temporary, semi-permanent, or permanent structures may be used for building-to-boundary areas. Temporary or semi-permanent structures may be used for surplus parking spaces.
 - (1) Temporary or semi-permanent structures that provide shade for retailers and customers made be erected. "Pop up" tents are allowed, so long as they are at least ten feet from the curb and does not interfere with any building or its functions, including drainage and access to light. The use of umbrellas is encouraged.
 - (2) No temporary or semi-permanent structure may be secured in any manner that damages public or private property. Weights are encouraged to be used to secure temporary or semi-permanent structures.
 - (3) Outside the defined hours of operation no structures may be in the right-of-way or used in a manner that violates any other ordinance in the Code.
- (e) Signage. Signs otherwise compliant with the sign code in regard to size, material, and presentation can be safely attached to temporary or semi-permanent structures.

- (1) Signs cannot be attached to public infrastructure or facilities.
- (2) Sandwich boards allowed in all commercial zoned districts, subject to all other sign code regulations.
 - a. One sandwich board is allowed for each temporary or semi-permanent structure.
 - b. The sandwich board must be placed adjacent to the temporary or semi-permanent structure which it is serving.
- (f) Hours of operation shall be the business's regular published hours.
- (g) Outdoor retail spaces must follow crime prevention through environmental design (CPTED) best practices.

PASSED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, THIS 30TH DAY OF JUNE, 2022.

Tyrone A. Garner, Mayor/CEO

Attest:

Unified Government Clerk