Unified Government Clerk's Office

Bridgette D. Cobbins
Unified Government Clerk

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NOTICE OF SPECIAL MEETING

To the Members of the Governing Body of the
Unified Government of Wyandotte County/Kansas City, Kansas:

You are hereby notified that I have called a Special Meeting of the Unified Government of Wyandotte County/Kansas City, Kansas, to be held Thursday, June 4, 2020, at 5:00 p.m., for Zoning code changes to assist businesses recover due to COVID-19.

Due to COVID-19 the public will able to observe or listen to the meeting live on YouTube or UGTV; or though ZOOM by:

Please click the link below to join the webinar:
https://zoom.us/j/94385554569?pwd=OHNKRHNmS29TbDhzVTl5YzgzdjEvZz09
Password: 210825

Or iPhone one-tap :
US: +13462487799,,94385554569# or +16699009128,,94385554569#
Or Telephone:
Dial(for higher quality, dial a number based on your current location):
US: +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 or +1 301 715 8592 or +1 312 626 6799 or +1 646 558 8656 or 888 475 4499 (Toll Free) or 877 853 5257 (Toll Free)
Webinar ID: 943 8555 4569
International numbers available: https://zoom.us/u/aeqTXljAmV

Dated this 29th day of May 2020

ATTESTED *Bridgette D. Cobbins*
Bridgette D. Cobbins
Unified Government Clerk

David Alvey
Mayor/CEO

CONSENT TO MEETING

We, the undersigned, being all the members of the governing body of Wyandotte County/Kansas City, Kansas, hereby accept service of the foregoing notice, waiving all and any irregularities in such service and in such notice, and consent and agree that we, the governing body, shall meet at the time and place therein specified and for the purpose therein stated.

Dated this 29th day of May 2020

Published in the *Wyandotte Echo* on June 11, 2020

RESOLUTION NO. _____

WHEREAS, securing the health, safety and welfare of residents, businesses and visitors to Wyandotte County is the Unified Government's top priority; and

WHEREAS, Wyandotte County is facing a crisis—the pandemic and public health emergency of COVID-19—resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Wyandotte County citizens and businesses; and

WHEREAS, as a result of local and state orders pertaining to social distancing, many businesses face restrictions on the number of people who may be inside the business at any one time; and

WHEREAS, in order to accelerate the economic recovery plan set forth in *ReStart WyCo: Road to Recovery*, it is necessary to take certain actions in order to encourage customers to visit local businesses and in order to allow those local businesses to accommodate the number of customers that they need in order to be profitable; and

WHEREAS, the Unified Government has determined that due to the COVID-19 pandemic, and the public health, safety and welfare concerns associated therewith, that enforcement of certain provisions of the Unified Government Code of Ordinances should be suspended for a limited amount of time.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS:

1. Due to the COVID-19 pandemic, enforcement of the following ordinances or portions of ordinances under Chapter 32 of the Unified Government Code of Ordinances is temporarily suspended until 11:59 PM on December 31, 2020:

- §27-609(7)a – Mobile market vending for food access in residential districts *(suspend the annual agreement)*.
- §27-609(7)a.3 – Mobile market vending for food access in residential districts *(suspend dates/times for each stop)*.
- §27-609(7)a.3(i) – Mobile market vending for food access in residential districts *(suspend the requirement for the vending operation to take place at the furthest point from the nearest property line)*.

- §27-609(7)a.3(ix) – Mobile market vending for food access in residential districts may not operate within 500 feet of a business offering similar products.
- §27-609(7)a.3(xi) – Mobile market vending for food access in residential districts *(suspend proof of annual agreement).*
- §27-609(7)a.3(xii) – Mobile market vending for food access in residential districts limited to four hours per week per location.
- §27-612(6)a – Exterior sales on private property in commercial districts *(suspend the requirement for the business license to be before 2009).*
- §27-612(6)a.8 – Exterior sales on private property in commercial districts *(suspend the requirement for the vending area to be flush with the façade of the building).*
- §27-612(6)a.9 – Exterior sales on private property in commercial districts, sales displays and vending machine *(suspend the limitation of one exterior sales display)*.
- §27-612(6)a.11 – Exterior sales on private property in commercial districts, vending areas shall not exceed 24 square feet.
- §27-612(6)b – Exterior sales in on private property commercial districts *(suspend prohibition on exterior sales in the commercial district overlay or in planned districts).*
- §27-612(8)a – Farmers' markets in commercial districts.
- §27-612(9)a – Food truck and mobile vending in commercial districts *(suspend the annual agreements and Special Use Permit requirements).*
- §27-612(9)a.8 – Food truck and mobile vending in commercial districts may not operate within 500 feet of a business offering similar products.
- §27-613(9)a – Farmers' markets in industrial districts.
- §27-613(10)a – Food truck and mobile vending in industrial districts *(suspend the annual agreements and Special Use Permit requirements).*
- §27-613(10)a.8 – Food truck and mobile vending in industrial districts may not operate within 500 feet of a business offering similar products.
- §27-614(2)a – Farmers' markets in TND districts.
- §27-614(3)a – Food truck and mobile vending in TND districts *(suspend the annual agreements and Special Use Permit requirements)*
- §27-614(3)a.8 – Food truck and mobile vending in TND districts may not operate within 500 feet of a business offering similar products.

2. Due to the COVID-19 pandemic, enforcement of the following ordinances or portions of ordinances under Chapter 32 of the Unified Government Code of Ordinances is temporarily suspended until 11:59 PM on December 31, 2020:

- §32-93 – Food vending license fee.
- §32-97(w) – Vending vehicle standards and conditions, no food or merchandise may be sold to any occupant of any vehicle.
- §32-127(a) – Special events license, application to vend at special event.
- §32-127(c) – Special events license, license fee.
- §32-127(d) – Special events license, license for vending vehicle in a park.
- §32-180 – Duration of sidewalk vending license.
- §32-182 – Pedestrian traffic set aside of 72 inches.

- §32-183 – Fee for sidewalk vending license.

3. The Mayor, the County Administrator, and the Unified Government's other officers, agents, and employees are hereby authorized and directed to take such further action, and execute such other documents, certificates, and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

4. This Resolution shall become effective upon passage by the Unified Government Board of Commissioners.

ADOPTED BY THE COMISSION OF THE UNIFIED GOVERNMENT OF
WYANDOTTE COUNTY/KANSAS CITY, KANSAS
THIS 4th DAY OF JUNE, 2020.

_____
Davis Alvey, Mayor/CEO

ATTEST:

_____
Unified Government Clerk

(Published _____)

ORDINANCE NO. _____

AN ORDINANCE expanding the ability of businesses and individuals to sell food, drinks and merchandise on sidewalks, streets, parking lots and parklets, adding new **Sections 32-100 to 32-104 and new Sections 32-185 to 32-186** to Chapter 32, Article III of the 2008 Code of Ordinances and Resolutions of the Unified Government of Wyandotte County/Kansas City, Kansas.

WHEREAS, securing the health, safety and welfare of residents, businesses and visitors to Wyandotte County is the Unified Government's top priority; and

WHEREAS, Wyandotte County is facing a crisis–the pandemic and public health emergency of COVID-19–resulting in illness, quarantines, school closures, and temporary closure of businesses resulting in lost wages and financial hardship to Wyandotte County citizens and businesses; and

WHEREAS, as a result of local and state orders pertaining to social distancing, many businesses face restrictions on the number of people who may be inside the business at any one time; and

WHEREAS, in order to accelerate the economic recovery plan set forth in *ReStart Wyco: Road to Recovery*, it is necessary to take certain actions in order to encourage customers to visit local businesses and in order to allow those local businesses to accommodate the number of customers that they need in order to be profitable; and

WHEREAS, vending on the public streets and sidewalks may promote the public interest by contributing to an active and attractive pedestrian environment for businesses and customers. The purpose of accommodating vending carts, sidewalk sales, newspaper dispensers, vendor persons and sidewalk dining in pedestrian oriented commercial areas is to increase economic activity, attract pedestrians, extend their visits and enhance overall community quality of life.

WHEREAS, reasonable regulation of street and sidewalk vending is necessary to protect the public health, safety, and welfare.

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

Section 1. That Chapter 32, Streets and Sidewalks, Article III, Sections 32-100 to 32-102 and Sections 32-185 to 32-186 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:

32-100 - Findings and Purpose.

It is found and declared that:

A. Vending on the public streets and sidewalks may promote the public interest by contributing to an active and attractive pedestrian environment. The purpose of accommodating vending carts, sidewalk sales, newspaper dispensers, vendor persons and sidewalk dining in pedestrian-oriented commercial areas is to provide additional space for sales of goods to allow for sound social distancing requirements while contributing to activity, attracting pedestrians, extending their visits and enhancing overall community quality of life.

B. Reasonable regulation of street and sidewalk vending is necessary to protect the public health, safety, and welfare.

32-101 - Definitions.

The following words, terms, and phrases, when used in this Section, shall have the meanings ascribed to them in this Section, except where the context clearly indicates a different meaning. Where words and phrases used in this Section are defined by state law, such definitions shall apply to the use of such words and phrases in this Section and are adopted by reference. Those definitions so adopted that are further defined or are reiterated in this Section shall have the meanings set out in this Section.

Alcohol - means any beverage containing more than one-half of one percent (0.5%) of alcohol by volume including alcoholic liquor, wine, and beer.

Building – means any building or permanent structure in which the business in question regularly and primarily operates.

Applicant - a person who applies for a permit as provided in this Section.

Farmers' Market - an outdoor market where fresh produce, 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. Homemade goods may include jams, jellies, and preserves, baked breads and pastries, and canning goods such as pickled fruits and vegetables, salsa, and honey. 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.

Food Establishment – a business where 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. The most common examples of a food establishment include, but are not limited to, sit-down restaurants, fast-food restaurants, delis, smoothie bars, and ice cream parlors.

NACTO Standards – the construction and design standards set forth in "Urban Street Design Guide", published by the National Association of City Transportation Officials.

Non-profit Organization – an entity that is registered as a 501(c)(3) organization with the State of Kansas.

Open-air Market – 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.

Parklet – an on-street public parking space converted to be used for public dining or sales purposes. A parklet is distinct from the adjacent right-of-way through the use of cones, visible barriers, or other methods of providing reasonable demarcation between the parklet and the sidewalk, additional on-street parking stalls, and especially between the parklet and any street subject to automobile travel.

Parklet Elements – all tables, chairs, fencing and other materials used for demarcating the parklet from the right-of-way, planters and plants, and any other privately-owned property comprising the parklet, which is approved for use in a parklet by this section.

Prepared Food Vending Vehicle - means a self-propelled 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, at retail, but shall not include a food vending vehicle transporting unprepared food for sale or delivery at wholesale or retail, a bakery truck, or ice cream product truck.

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

Pushcart - 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.

Sidewalk Cafe - 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 sidewalk cafes must abide by the requirements and limitations as determined by the Unified Government and the Kansas Department of Revenue Alcoholic Beverage Control.

Sidewalk Cafe Elements – all tables, chairs, fencing and other materials used for demarcating the sidewalk café from the right-of-way, planters and plants, and any other privately-owned property comprising the sidewalk cafe, which is approved for use in a sidewalk cafe by this Ordinance.

Surplus Off-Street Parking - 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).

Vending Vehicle - means a pushcart or a prepared food vending vehicle.

Vendor - means any person engaged in selling, or offering for sale, of food, beverages, or other merchandise from a vending stand, vending vehicle, or from the vendors person, on the public streets, alleys, parking lots, sidewalks, thoroughfares, and public rights-of-way.

Walk-up Market - 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.

32-102 - Applicability and Enforcement.

a. The provisions set forth in Section 32-100 to 32-186 shall be suspended if it is determined under Restart WyCo, Ad Astra: A Plan to Reopen Kansas, or their successor

plans, that more limitations of business operations or social gathering is necessary in order to combat the spread of COVID-19 in Wyandotte County and the state. This determination may be signaled by returning to the Red Zone of Restart WyCo, among other ways. Outdoor sales are allowed under this Ordinance, subject to further enumerated conditions specific to the sales type and location. All regulations related to the sale or use of the property and right-of-way shall continue to apply, unless there is a conflict in law, in which situation this Ordinance shall supersede.

b. Businesses. Only businesses that have successfully received an occupation tax number with the Business License office and which remain current and in good standing with all occupation tax payments may operate a sidewalk café, walk-up market, or outdoor retail space under this Ordinance. Vending, soliciting, or giving away goods or items without a business license as required is prohibited. Any persons or entity operating a sidewalk café, walk-up market, or sidewalk vending under this Ordinance must conduct such operation in one of the following manners, subject to further regulations from applicable Sections of the Ordinance:

    i. On the sidewalk, right-of-way, or parklet immediately adjacent to the building from which the pre-established business, operated by the same persons or entity, is addressed and consistently operates; or

    ii. In the front and/or side yard of the building from which the pre-established business, operated by the same persons or entity, is addressed and consistently operates; or

    iii. In the designated off-street parking lot or shared off-street parking lot for the building from which the pre-established business, operated by the same persons or entity, is addressed and consistently operates.

    All persons and entities are prohibited from operating a sidewalk café, walk-up market, and/or sidewalk vending under this Ordinance in any parcel or on the public right-of-way adjacent to any parcel that is not the parcel on which the business, operated by the same persons or entity, is addressed and consistently operates.

c. Non-Profits. A non-profit organization is exempted from the requirement to hold a business license, and may utilize a parklet, a right-of-way clearance, or a parking lot as defined in the Ordinance under the following conditions:

    i. The entity be a registered with the State and whose status as a 501(c)(3) organization remains current and in good standing; and

    ii. Has permission from the property owner adjacent to the on-street parking, right-of-way clearance, or parking lot; and

iii. May set up a temporary structure for the purposes of distributing information. A non-profit organization may also sell food, subject to all regulations regarding food establishments in this Ordinance, or take donations on-site; and

iv. Does not violate any other requirements in this Ordinance, including, but not limited to, spacing, social distancing, hours of operation, and parking spaces.

d. Rights-of-Way

1. Right-of-Way Permits

i. Right-of-way permits otherwise required for work or activities allowed in this Ordinance are waived, except for the permits needed to erect a permanent or semi-permanent parklet.

ii. 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.

iii. 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.

2. Damage to the Right-of-Way

i. Any damage to the right-of-way as a result of uses under this Ordinance, including, but not limited to, the erecting or securing of temporary structures, placement of a parklet, or activities of employees or customers, shall be the responsibility of the business and property conducting such operations.

e. 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.

f. Public Health

1. Power of Local Health Officer.

    i. 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 Sec. 16-2, Sec. 17.3 and Sec. 32-100 to 32-185.

    ii. 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.

    iii. This subsection shall not be construed to affect the policies and procedures of the Kansas Department of Agriculture regarding licensure and inspection of restaurants, street vendors or food trucks.

g. Zoning and Code Enforcement

1. Any Zoning Enforcement Officer, Code Enforcement Officer, and/or their designee(s) has the ability to address and enforce zoning and other code violations, including violations of any portions of this ordinance.

2. This Subsection may be construed to give the same power and authority to a Zoning Enforcement Officer, Code Enforcement Officer, and/or their designee(s) than is granted to them under local and State law.

h. Food Establishments and Food Service

1. Applicability

    i. Sidewalk Cafés. For entities that fulfill the following conditions, no permit is required to operate a sidewalk cafe. This ordinance only applies to any business that:

        A. Sells food prepared on site, and in which the sale of alcohol total less in annual dollar volume than the sale of food; and

B. Has successfully received an occupation tax number with the Business License Department and remains current and in good standing with all occupation tax payments.

ii. Walk-up Markets. For entities that fulfill the following conditions, no permit is required to operate a walk-up market. This ordinance only applies to entities which fulfill one of the following:

A. A business which:

1. Sells food prepared on site, and in which the sale of alcohol total less in annual dollar volume than the sale of food; and

2. Has successfully received an occupation tax number with the Business License Department and remains current and in good standing with all occupation tax payments; or

B. An entity that is registered as a 501(c)(3) organization with the State whose status as a 501(c)(3) organization remains current and in good standing, and has the permission of the property owner.

2. Allowed Areas

i. One or more of the following areas may be utilized for a food establishment as a sidewalk café or walk-up market:

A. From the building to the curb of the street, subject to the following conditions:

1. A clearance—either a sidewalk or designated path if there is no sidewalk—parallel to the street and at least four (4) feet in width must be maintained for use under the ADA; and
2. All sidewalk café elements must be at least four (4) feet from street furniture and designated fire lanes.

B. A parklet, subject to the following conditions:

1. One of the following is allowed to be used as a parklet by a food establishment:
    i. One (1) on-street parking space that is both contiguous to the building and 20 feet from an intersection or street corner; or
    ii. If there is no such described on-street parking space, one (1) on-street parking space contiguous to the sidewalk contiguous to the building.
2. Parklets and parklet barriers should be constructed and arranged to NACTO standards.

3. No ADA parking spaces or access aisles shall be utilized as a parklet, nor shall access from the access aisle to the building door be obstructed by a sidewalk café.
4. Only one parklet is allowed per building. In the case of multiple tenants included in the building, it is the property owner or the owner's designee's prerogative as to whom can occupy this parklet.
5. No parklet is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.
6. All seating within the parklet must be at least three (3) feet from passing automobile traffic.
7. No parklet is allowed on a portion of road where the speed limit is greater than 40 miles per hour.

C. Any surplus parking spaces in a parking lot that serves the building, so long as all ADA parking spaces and access aisles remain clear and unencumbered by the outdoor dining activity or its supporting structures or activities.
1. If a business does not have any surplus parking spaces, then the business must first look to use a parklet.
2. If a parklet cannot be achieved because there is no adjacent on-street parking allowed by this Ordinance or other local regulations, then off-street parking can be used regardless if business has surplus parking or not. The business may still only use one (1) parking space of non-surplus off-street parking, in the same manner as if it were a parklet.

ii. The business or non-profit organization operating under this Section shall be responsible for maintaining the required four (4)-foot pedestrian walkway, and keeping the walkway free of trash and debris.
iii. No sightlines or sight distance triangles at street corners and intersections may be obstructed as per Code.
iv. No sidewalk café or walk-up market 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.
v. No sidewalk café or other area designated for customer dining shall be located within 30 feet of a dumpster nor within 10 feet of a trash receptable. This restriction shall apply whether the dumpster or trash receptable is on the property of the food establishment hosting the sidewalk café, on a neighboring property, or in the public right-of-way.

3. Social Distancing

i. All food establishments are responsible for ensuring compliance with any and all guidance from Restart WyCo, Ad Astra: A Plan to Reopen Kansas, and any other local, state or federal restrictions.

ii. In order to baseline level of safety for both employees and customers alike, all food establishments must maintain social distancing in the following ways:

A. Ensure that customers or parties of customers maintain at least six (6) feet from each other while queuing to order food.

B. Ensure that customers or parties of customers maintain at least six (6) feet from each other while eating food. This would involve keeping the closest point of one seating arrangement (table and chairs) at least six (6) feet from the closest point of the next seat arrangement.

C. Ensure that customers or parties of customers maintain at least six (6) feet from another outdoor use in this Section, whether hosted by the same food establishment or not.

D. Ensure that customers or parties of customers maintain at least six (6) feet from pedestrians using the public right-of-way.

4. Structures

i. Permanent/semi-permanent structures may only be used for parklets that fulfill the requirements for a sidewalk café and/or walk-up market.

A. A business may erect a permanent or semi-permanent parklet and designate it as such.

B. Any parklet structure must be built to be level with the sidewalk adjacent to it.

C. Any parklet structure must be built to fit within the dimensions of one (1) parking space.

D. All parklets must comply with NACTO standards.

ii. Permanent/semi-permanent parklet structures may remain in an allowed parking space at all times. Temporary Structures may be used for sidewalk cafes, parklets and/or parking lots.

A. Temporary structures that provide shade for retailers and customers made be erected. Use of umbrellas encouraged.

1. "Pop up" tents are allowed only in surplus off-street parking spaces or in an area between the building and the curb in which the tent is at least 10 feet from the curb and does not interfere with any building or its functions, including drainage and access to light.

B. No temporary structure may be secured in any manner that damages the right-of-way or private property. Weighs are encouraged to be used to secure temporary structures.

C. Outside the hours of operation, as defined in this Section, no temporary structures may be in the right-of-way or used in a

manner that violates any other ordinance in the Code. Permanent/semi-permanent parklet structures may remain in an allowed parking space at all times.

D. Signage. 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 in the right-of-way after hours of operation or used in a manner that violates any other ordinance.
    2. Signs cannot be attached to public infrastructure.
    3. Sandwich boards allowed in all commercial zoned districts, subject to all other sign code regulations.

5. Metering. Any parking meter associated with a parking space converted to a parklet shall not be required to be in use nor can the meter be enforced for any use of the space that is allowed by this Section.

6. Hours of operation shall be the business's regular published hours.

7. Alcohol Sales. Sidewalk cafes may serve alcohol under the following conditions:
    i. No alcohol may be sold or served before the applicant has successfully obtained an alcohol license from the Kansas Department of Revenue.
    ii. All alcohol must be served to the customer in an open container.
    iii. Alcohol may only be sold or served to customers by a food establishment in the areas listed below. Alcohol must be served in compliance with all Kansas Department of Revenue Alcoholic Beverage Control regulations.
        A. A designated area between the food establishment's building and the right-of-way; or
        B. A designated area in the surplus off-street parking.
    iv. Under this ordinance, alcohol sales must total less in daily dollar volume than the sale of food, in addition to maintaining the definition of a food establishment

8. Outdoor lighting may be provided if a business continues to operate outside more than 30 minutes before dusk each day.
    i. 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.
    ii. 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 sidewalk café, parklet, or parking lot being used for outdoor sales.

9. Noise shall not exceed the allowed decibels for the zoning district.

10. Mobile Vending

i. No permit shall be required for any Mobile Vending. However, mobile vending by a person, person(s), or location may be restricted at the discretion of the Department of Urban Planning and Land Use Staff.
ii. A mobile vendor or one otherwise engaged in mobile vending must fulfill the following conditions:
    A. The sale of alcohol total less in annual dollar volume than the sale of food; and
    B. Has successfully received an occupation tax number with the Business License Department and remains current and in good standing with all occupation tax payments.

11. Parking
    i. A vending vehicle that uses a parking space served by a parking meter must pay for and maintain the proper time on the meter will occupying the parking space or parklet. However, the time limit on parking meters when used in the manner described in this Subsection is waived. This waiver of a time limit does not allow a vending vehicle to operate outside of the hours of operation in this Subsection.
    ii. No mobile vending or vending vehicle shall be located within 15 feet of a fire hydrant or bus stop, or a greater distance if required by State law.
    iii. No mobile vending or mobile vehicle shall be located within 20 feet of an intersection or street corner;
    iv. No sightlines or sight distance triangles at street corners and intersections may be obstructed as per Code;
    v. No mobile vending or vending vehicle is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.
    vi. All areas designated for or reasonably designated for queuing in order to order, purchase, or receive a product from a mobile vendor or vending vehicle must be located at least five (5) feet from passing automobile traffic. No vending vehicle is allowed to park on a portion of road where the speed limit is greater than 40 miles per hour.

32-102 - Review and Sunset

a. The provisions set forth in Sections 32-100 and 32-101 shall be reviewed by the board of commissioners on or before December 31, 2020 to determine whether they should be revise, repealed or whether additional studies are warranted.

b. Sections 32-100 and 32-101 shall be repealed effective December 31, 2020 unless renewed by the board of commissioners.

32-185. Retail

A. Applicability. For entities that fulfill the following conditions, no permit is required to operate outdoor retail. This ordinance only applies to any business that:
   1. Sells items and/or services typically and regularly sold at the establishment; and
   2. Has successfully received an occupation tax number with the Business License Department and remains current and in good standing with all occupation tax payments.

B. Allowed Arrangements. Businesses may engage in outdoor sales, subject to the following conditions:
   1. The outdoor sale must operate as an open-air market.
   2. Any items regularly or typically for sale inside the business premises are allowed to be brought outside, displayed for sale, and sold, under the following conditions:
      a) No item(s) for sale or on display obstructs the sidewalk to a degree that a four (4)-foot width cannot be maintained at all times; and
      b) No item(s) for sale or on display hang over the air space of said four (4)-foot width on the sidewalk.
   3. Any retail that is allowed under another Section of the Code of Ordinances, subject to all regulations under this ordinance.

C. 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;
      a) All food and beverages must be prepackaged before being shipped to the business to be sold. If food and/or beverages are fresh or pre-packaged after being shipped to the business's physical location, then the subsection of the ordinance regulating Food Establishments applies.
   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;
      a) Changing rooms in an open-market are prohibited.
   8. Office services;
   9. No repair work of any kind is allowed in an open-air market.

D. Allowed Areas.
   1. One or more of the following areas may be utilized for an allowed business as an open-air market:
      a) From the building to the curb of the street, subject to the following conditions:
         (1) A clearance—either a sidewalk or designated path if there is no sidewalk—parallel to the street and at least four (4) feet in width must be maintained for use under the ADA; and

(2) All open-air market elements must be at least four (4) feet from street furniture and designated fire lanes.

b) A parklet, subject to the following conditions:

(1) One of the following is allowed to be used as a parklet by a food establishment:

(a) One (1) on-street parking space that is both contiguous to the building and 20 feet from an intersection or street corner; or

(b) If there is no such described on-street parking space, one (1) on-street parking space contiguous to the sidewalk contiguous to the building.

(2) Parklets and parklet barriers should be constructed and arranged to NACTO standards.

(3) No ADA parking spaces or access aisles shall be utilized as a parklet, nor shall access from the access aisle to the building door be obstructed by an open-air market.

(4) Only one parklet is allowed per building.

(5) No parklet is allowed to take up space or interfere with the operations within a visibly designated loading/unloading zone.

(6) All seating within the parklet must be at least three (3) feet from passing automobile traffic.

(7) No parklet is allowed on a portion of road where the speed limit is greater than 40 miles per hour.

c) Any surplus parking spaces in a parking lot that serves the building, so long as all ADA parking spaces and access aisles remain clear and unencumbered by the outdoor dining activity or its supporting structures or activities.

(1) If a business does not have any surplus parking spaces, then the business must first look to use a parklet.

(2) If a parklet cannot be achieved because there is no adjacent on-street parking allowed due to other local regulations, then off-street parking can be used regardless if business has surplus parking or not.

2. The business or non-profit organization operating under this Section shall be responsible for maintaining the required four (4)-foot pedestrian walkway, and keeping the walkway free of trash and debris.
3. No sightlines or sight distance triangles at street corners and intersections may be obstructed as per Code.
4. No outdoor retail space as allowed under this Section 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. Social Distancing

1. All businesses are responsible for ensuring compliance with any and all guidance from Restart WyCo, Ad Astra: A Plan to Reopen Kansas, and federal restrictions.
2. In order to baseline level of safety for both employees and customers alike, all businesses must maintain social distancing in the following ways:

a) Ensure that customers or parties of customers maintain at least six (6) feet from each other while shopping.

b) Ensure that customers or parties of customers maintain at least six (6) feet from each other while queuing to check out.
c) Ensure that customers or parties of customers maintain at least six (6) feet from another outdoor use in this Section, whether hosted by the same business or not.
d) Ensure that customers or parties of customers maintain at least six (6) feet from pedestrians using the public right-of-way.

F. Temporary Structures may be used for sidewalk cafes, parklets and/or parking lots.
1. Temporary structures that provide shade for retailers and customers made be erected. Use of umbrellas is encouraged.
a) "Pop up" tents are allowed only in surplus off-street parking spaces or in an area between the building and the curb in which the tent is at least 10 feet from the curb and does not interfere with any building or its functions, including drainage and access to light.
2. No temporary structure may be secured in any manner that damages the right-of-way or private property. Weighs are encouraged to be used to secure temporary structures.
3. Outside the hours of operation, as defined in this Section, no temporary structures may be in the right-of-way or used in a manner that violates any other ordinance in the Code.
4. Signage. Signs otherwise compliant with the sign code in regard to size, material, and presentation can be safely attached to temporary structures.
a) All signs allowed under this Subsection may not be in the right-of-way after hours of operation or used in a manner that violates any other ordinance.
b) Signs cannot be attached to public infrastructure.
c) Sandwich boards allowed in all commercial zoned districts, subject to all other sign code regulations.

G. Metering: Any parking meter associated with a parking space converted to a parklet shall not be required to be in use nor can the meter be enforced for any use of the space that is allowed by this Section.

H. Hours of operation shall be the business's regular published hours.

I. Outdoor retail spaces must follow crime prevention through environmental design (CPTED) best practices.

32-186 - Review and Sunset

a. The provisions set forth in Sections 32-185 shall be reviewed by the board of commissioners on or before December 31, 2020 to determine whether they should be revise, repealed or whether additional studies are warranted.

b. Sections 32-185 be repealed effective December 31, 2020 unless renewed by the board of commissioners.

PASSED BY THE COMMISSION OF THE UNIFIED GOVERNMENT OF WYANDOTTE COUNTY/KANSAS CITY, KANSAS, THIS 4th DAY OF JUNE, 2020.

_____
David Alvey, Mayor/CEO

Attest:

_____
Unified Government Clerk