

**CITY OF FAIRWAY, KANSAS
ORDINANCE NO. 1796**

AN ORDINANCE RELATING TO THE REGULATION OF PUBLIC OFFENSES WITHIN THE CORPORATE LIMITS OF THE CITY OF FAIRWAY, KANSAS; INCORPORATING BY REFERENCE THE *UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES*, 39TH EDITION, WITH CERTAIN CHANGES; AMENDING AND REPEALING EXISTING SECTIONS 8-25 AND 8-26 OF THE CODE OF ORDINANCES, CITY OF FAIRWAY, KANSAS; AND REPEALING ORDINANCE NO. 1772.

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF FAIRWAY, KANSAS:

SECTION 1. Existing Section 8-25 of the Code of Ordinances, City of Fairway, Kansas (the "Code"), incorporates the Uniform Public Offense Code and is hereby amended to read as follows:

Sec. 8-25. – Incorporating uniform public offense code.

There is hereby incorporated by reference for the purpose of regulating public offenses within the corporate limits of the City of Fairway, Kansas, that certain code known as the *Uniform Public Offense Code for Kansas Cities*, 39th Edition (the "UPOC"), prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such articles, sections, parts or portions as are changed by Ordinance No. 1796. One official copy of the UPOC shall be marked or stamped "Official Copy as Adopted by Ordinance No. 1796", with all sections or portions thereof intended to be changed clearly marked to show any change and to which shall be attached a copy of Ordinance No. 1796, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, Municipal Judge and all other administrative departments of the City charged with enforcement of the UPOC shall be supplied, at the cost of the City, with the number of official copies of the UPOC similarly marked, as may be deemed expedient.

SECTION 2. Existing Section 8-26 of the Code is hereby amended to read as follows:

Sec. 8-26. – Article 10 amendment.

Section 10.5 of the UPOC is hereby amended to read as follows:

Section 10.5. Unlawful Discharge of a Firearm.

- (a) Unlawful discharge of a firearm is the reckless discharge of a firearm within or into the corporate limits of the City.
- (b) This section shall not apply to the discharge of any firearm within or into the corporate limits of the City if the firearm is discharged:

- (1) In the lawful defense of one's person, another person or one's property;
- (2) At a private or public shooting range, provided that any such shooting range is authorized by special use permit or exception granted by the City;
- (3) By authorized law enforcement officers, animal control officers or a person who has a wildlife control permit issued by the Kansas Department of Wildlife and Parks;
- (4) By special permit of the Chief of Police;
- (5) Using blanks; or
- (6) In lawful self-defense or defense of another person against an animal attack.

(c) Unlawful discharge of firearms is a Class B violation. (K.S.A. 21-6308a)

SECTION 3. Existing Sections 8-25 and 8-26, and Ordinance No. 1772, are hereby repealed. The repeal of any ordinance or parts of an ordinance by this Ordinance shall not have any effect on existing litigation and shall not operate as an abatement of any action or proceeding under or by virtue of the repealed ordinance.

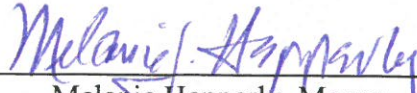
SECTION 4. This Ordinance shall be construed as follows:

- a. Liberal Construction: The provisions of this Ordinance shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, welfare and convenience.
- b. Savings Clause: The repeal of any ordinance or Code section, as provided herein, shall not revive an ordinance previously repealed, nor shall the repeal affect any right that accrued, any duty imposed, any penalty incurred or any proceedings commenced, under or by virtue of the ordinance repealed. Any ordinance or Code repealed continues in force and effect after the passage, approval, and publication of this Ordinance for the purpose of pursuing these rights, duties, penalties or proceedings.
- c. Invalidity: If for any reason any chapter, article, section, subsection, sentence, portion or part of this Ordinance, or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid, that decision shall not affect the validity of the remaining sections of this ordinance, the Code or other ordinances.

SECTION 5. This Ordinance shall take effect and be in force from and after its publication, or the publication of a certified summary thereof, in the official City newspaper.


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PASSED by the City Council on December 11, 2023. **APPROVED** by the Mayor.




Melanie Hepperly, Mayor

ATTEST:



Abbie Aldridge, City Clerk

APPROVED AS TO FORM:



Anna M. Krstulic, City Attorney