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Ordinance No. \_\_\_\_\_

**ORDINANCE RELATING TO NUISANCES, AMENDING ARTICLE VI OF CHAPTER 35 OF THE OKLAHOMA CITY MUNICIPAL CODE, 2010, AMENDING SECTION 35-173, LEGISLATIVE FINDINGS AND DECLARATION, SECTION 35-174, PURPOSE OF ARTICLE, SECTION 35-175, DEFINITIONS, SECTION 35-189, VEHICLE USED FOR A DRIVE-BY SHOOTING OR AN ELUDING A PEACE OFFICER VIOLATION DECLARED A PUBLIC NUISANCE PER SE, § 35-190, PROCEDURE USED TO ABATE PUBLIC NUISANCE PER SE RELATING TO A VEHICLE USED FOR A DRIVE-BY SHOOTING OR FOR AN ELUDING A PEACE OFFICER VIOLATION AS DECLARED BY THIS DIVISION**

**ORDINANCE**

**BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OKLAHOMA CITY:**

**SECTION 1.** That Sections 35-173, 35-174, 35-175 of Division 1 and Sections 35-189 and 35-190 of Division 4 of Article VI of Chapter 35 of the Oklahoma City Municipal Code, 2010, are hereby amended to read as follows:

**CHAPTER 35**

**NUISANCES**

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**ARTICLE VI. CRIMINAL ACTIVITIES PUBLIC NUISANCE  
ABATEMENT**

**DIVISION 1. IN GENERAL**

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**§ 35-173. Legislative findings and declaration.**

- (a) The City Council of The City of Oklahoma City hereby makes the following findings:
  - (1) Certain specific criminal activities exist in the City that are quite frequently committed with or facilitated by the use of real properties and

that annoy, injure, or endanger the comfort, repose, health, or safety of City residents, visitors, businesses, and neighborhoods, offend decency, or render City residents, visitors, businesses and neighborhoods insecure in life or in the use of property, with such criminal activities being the following: drug-related criminal activities and prostitution-related criminal activities on any property in the City, and bar- or tavern-related violations on the premises of establishments where non-intoxicating low-point beer beverages or alcoholic beverages are sold, and including areas on the outside premises controlled by the owner, manager or licensee of such establishments.

- (2) Under 21 O.S. § 652(B), the criminal offense of drive-by shooting is always committed with the use of a vehicle and said crime annoys, injures, or endangers the comfort, repose, health, or safety of City residents, visitors, businesses, and neighborhoods and renders City residents, visitors, businesses and neighborhoods insecure in life or in the use of property.
- (3) Under 21 O.S. § 540A, or Municipal Code Section 32-11, the criminal offense of eluding a peace officer is always committed with the use of a vehicle and said crime annoys, injures, or endangers the comfort, repose, health, or safety of City residents, visitors, businesses, and neighborhoods and renders City residents, visitors, businesses and neighborhoods insecure in life or in the use of property.
- (4) Under 37 O.S. § 537.1(2), and Municipal Code Section 5-79, mixed beverage, beer and special event licensees are prohibited from permitting or tolerating any conduct or language that is intended to threaten another with physical harm or any fighting or offensive physical contact in or upon the licensed premises or areas outside the licensed premises which are exclusively or non-exclusively used by the licensee, and allowing said conduct that annoys, injures or endangers the comfort, repose, health, or safety of City residents, visitors, businesses and neighborhoods and renders City residents, visitors, businesses and neighborhoods insecure in life or in the use of property, and Municipal Code Section 5-21 similarly prohibits sellers of low-point beer beverages, also known as non-intoxicating beverages from permitting or tolerating such conduct.
- (5) Under 21 O.S. § 1028, the use of a vehicle for the criminal offense of prostitution-related transportation, and the use of a vehicle for prostitution-related criminal activity, are uses of a vehicle that annoy, injure, or endanger the comfort, repose, health, or safety of City residents, visitors, businesses, and neighborhoods and render City residents, visitors, businesses and neighborhoods insecure in life or in the use of property.

~~(6)~~ ~~(5)~~ The criminal activities referenced in Subsections (1), (2), (3), ~~(4)~~ and ~~(5)~~ ~~(4)~~ of this section tend to cause an increase in the incidence of violence within the City and to greatly endanger the health, safety, and welfare of City residents, visitors, businesses, and neighborhoods.

~~(7)~~ ~~(6)~~ The criminal activities referenced in Subsections (1), (2), (3), ~~(4)~~ and ~~(5)~~ ~~(4)~~ of this section often take place on or near private properties or in close proximity to innocent bystanders, which adversely affects at the same time a considerable number of persons and has a detrimental impact on the entire community as follows:

- a. drug-related criminal activity, prostitution-related criminal activity, prostitution-related transportation and bar- or tavern-related violations diminish property values;
- b. drug-related criminal activity, prostitution-related criminal activity, prostitution-related transportation and bar- or tavern-related violations create fear and loathing in many City residents and visitors, which keeps them from using and frequenting public areas such as streets and parks;
- c. drive-by shootings and eluding a peace officer violations create serious hazards to vehicular or pedestrian traffic within the City and, thereby, grave dangers for many City residents and visitors, including innocent vehicle drivers and passengers, who are often children;
- d. drive-by shootings, eluding a peace officer violations and bar- or tavern-related violations sometimes foster the display and use of dangerous weapons and the discharge of firearms on or near private properties and in close proximity to innocent bystanders, including children, thereby endangering them in a manner that can and sometimes does cause serious bodily injury or death;
- e. drug-related criminal activity, prostitution-related criminal activity, prostitution-related transportation, drive-by shootings, eluding a peace officer violations and bar- or tavern-related violations increase the overall number and seriousness of violations of State and City laws, which violations pose a grave hazard to the health, safety and welfare of the entire community;
- f. increasing the overall number and seriousness of drug-related criminal activity, prostitution-related criminal activity and bar- or tavern-related violations and a

corresponding use of real properties for such activities, can and does foster additional violations of the law, including but not limited to the following: burglaries; robberies; larcenies; violations of housing-related laws, including but not limited to the Exterior Property Maintenance Code, the Fire Code, and the Planning and Zoning Code; the commission of petty crimes on or to public or private property, including but not limited to vandalism and an increase in trash and debris on public/private properties; the endangerment of residents and neighborhoods; the endangerment of law enforcement officers attempting to enforce State or City laws; and the commission of other major and minor crimes which result in the physical decay of our City's neighborhoods and the endangerment of City residents, visitors and businesses, thereby rendering them insecure in life and property;

- g. drug-related criminal activity, prostitution-related criminal activity, prostitution-related transportation, drive-by shootings, eluding a peace officer violations and bar- or tavern-related violations have a continual and ongoing detrimental effect on the entire community as a whole and on the overall quality of life for City residents and visitors; and
- h. bar- and tavern-related violations pose a hazard to the health, safety and welfare of the entire community.

(8) ~~(7)~~ Eliminating or hindering the use of real properties for drug-related criminal activity and prostitution-related criminal activity and the use of vehicles for prostitution-related criminal activity, prostitution-related transportation, the commission of drive-by shootings and eluding a peace officer violations and bar- or tavern-related violations can and will have a positive impact on the community as a whole and will help to protect the health, safety and welfare of City residents, visitors, businesses and neighborhoods by:

- a. reducing the number of persons who form an intent to engage or who do engage in these criminal activities;
- b. reducing the concentration of criminals in the City;
- c. decreasing the number of physical locations within the City at which drug-related criminal activity, prostitution-related criminal activity or bar- or tavern-related violations or other

related or incidental criminal activities can occur or continue;

- d. for drug-related criminal activities, reducing the number of illegal drug users and the overall availability of illegal drugs in the City, thereby helping to safeguard the homes, businesses and schools within the City; and
- e. reducing the overall ability of the same criminals to commit similar repeat crimes.

(9) ~~(8)~~ Reducing the incidence of the criminal activities referenced in Subsections (1), (2), (3), ~~(4)~~ and (5) ~~(4)~~ of this section will improve conditions for the City as a whole and for its residents, visitors, businesses and neighborhoods by:

- a. reducing violence and the overall crime rate within the City;
- b. allowing law enforcement agencies, including the Oklahoma City Police Department, to utilize its resources for other projects;
- c. increasing the general public order within the City and improving the ability of the City to deal with other critical issues not related to prevention of the said criminal activities;
- d. improving property values in the City by eliminating drug-related criminal activity, prostitution-related criminal activity on real properties within the City and bar- or tavern-related violations;
- e. helping to make the lives and properties of City residents, visitors, businesses and neighborhoods safer and more secure; and
- f. improving the overall quality of life for all City residents, visitors, businesses and neighborhoods.

(b) Based upon the foregoing findings, as set forth in Subsection (a) of this section, the City Council of the City declares that the use of real property in the commission of drug-related criminal activity, prostitution-related criminal activity or bar- or tavern-related violations constitutes a public nuisance within the City that should be eliminated or hindered, and thereby abated, by the means set forth in this article.

- (c) Based upon the foregoing findings, as set forth in Subsection (a) of this section, the City Council of the City declares that the use of vehicles for the commission of drive-by shootings, eluding a peace officer violations, prostitution-related transportation or prostitution-related criminal activity ~~or bar- or tavern-related violations~~ constitutes a public nuisance within the City that should be eliminated or hindered, and thereby abated, by the means set forth in this article.

**§ 35-174. Purpose of article.**

The purpose of this article is eliminate or hinder the use of real properties in the commission of drug-related criminal activities, prostitution-related criminal activities or bar- or tavern-related violations and to hinder the use of vehicles by involved owners or lessees or involved licensees in the commission of drive-by shootings, eluding a peace officer violations, prostitution-related transportation and prostitution-related criminal activity and to thereby abate the public nuisances created by such activities.

**§35-175. Definitions.**

For the purpose of this article, the following words, terms and phrases shall have the following meanings:

- (1) *Bar or tavern* means any place where low-point beer, nonintoxicating beer or any alcoholic beverages as defined in Title 37 of the Oklahoma Statutes or Chapter 5 of ~~this the Oklahoma City Municipal Code, 2007,~~ are sold for on-premises consumption.
- (2) *Bar- or tavern-related violations* means any violations of Sections 5-21 or 5-79 of ~~this the Oklahoma City Municipal Code, 2007.~~
- (3) *CDS statutes* means 63 O.S. §§ 2-101 et seq., as amended, or 21 U.S.C. §§ 801 et seq., as amended.
- (4) *Drive-by shooting* means any violation of the drive-by shooting statute.
- (5) *Drive-by shooting statute* means 21 O.S. § 652(B).
- (6) *Drug-related criminal activity* means violating any CDS statute.
- (7) *Eluding a peace officer and eluding a peace officer violation* means any violation of the eluding a peace officer statute or of the eluding a Police Officer ordinance.

- (8) *Eluding a peace officer statute* means 21 O.S. § 540A.
- (9) *Eluding a Police Officer ordinance* means Section 32-11 of this Code.
- (10) *Illegal drugs* means any substance whose possession, sale, manufacture, storage, or gift is prohibited by a CDS statute.
- (11) *Involved licensee* means a licensee of a vehicle who was the driver of or a passenger in the vehicle and who was involved using the vehicle in the commission of a drive-by shooting, ~~or an eluding a peace officer violation, prostitution-related transportation or prostitution-related criminal activity using the vehicle.~~
- (12) *Involved owner or lessee* means an owner or lessee of a vehicle who was the driver of or a passenger in the vehicle and who was involved using the vehicle in the commission of a drive-by shooting, ~~or an eluding a peace officer violation, prostitution-related transportation or prostitution-related criminal activity using the vehicle.~~
- (13) *Known unlawful drug user, possessor, or seller* means any person who has, within the knowledge of law enforcement personnel, been convicted in any court of any violation of a CDS statute.
- (14) *Known prostitute* means any person who has, within the knowledge of law enforcement personnel, been convicted in any court of any violation of the prostitution or solicitation for prostitution statutes or any violation of the prostitution or solicitation for prostitution ordinances.
- (15) *Lessee* means any person who has a provable express or implied leasehold interest in and right to possess and use real property or a vehicle.
- (16) *Licensee of a vehicle* means any person using a vehicle with the express or implied consent of an owner or lessee thereof.
- (17) *Non-involved owner or lessee* means an owner or lessee of a vehicle who was not the driver of or a passenger in the vehicle and who was not involved using the vehicle in the commission of a drive-by shooting, ~~or an eluding a peace officer violation, prostitution-related transportation or prostitution-related criminal activity using the vehicle.~~
- (18) *Owner of a vehicle* means any individual, corporation, partnership, trust, association, joint venture, or other person, and their respective agents who have a demonstrable right to exert exclusive control over

or be in possession of a vehicle, including a record co-owner, a record joint owner, or any other legal entity recognized under Oklahoma law who has a record interest in and right to immediate possession of a vehicle. Owner of real property shall be as defined in Section 1-2 of this Code. The term owner as used in this article shall always be understood and deemed to include record lien-holders or secured parties with a demonstrable legal right to possession of the real property or the vehicle. Provided, owner shall not include a trespasser, a lessee, or a licensee of a vehicle.

- (19) *Prostitution or solicitation for prostitution ordinance* means Section 30-152 of this Code.
- (20) *Prostitution or solicitation for prostitution statute* means 21 O.S. § 1028 or § 1030.
- (21) *Prostitution-related criminal activity* means violating the prostitution or solicitation for prostitution statute or the prostitution or solicitation for prostitution ordinance.
- (22) *Prostitution-related transportation* means the use of a vehicle in any manner by a prostitute, pimp, panderer or any other person to facilitate or participate in the commission of prostitution-related criminal activity.
- (23) ~~(22)~~ *Real property* means property that meets the definition set forth in 60 O.S. § 5.
- (24) ~~(23)~~ *Real property used for drug-related criminal activity* means any real property or the improvements or fixtures located thereon that are used in whole or in part for drug-related criminal activity.
- (25) ~~(24)~~ *Real property used for prostitution-related criminal activity* means any real property or the improvements or fixtures located thereon that are used in whole or in part for prostitution-related criminal activity.
- (26) ~~(25)~~ *Trespasser* means any person or other legal entity that possesses or formerly possessed a vehicle without the express or implied consent of or against the will of the owner or lessee of the vehicle.
- (27) ~~(26)~~ *Vehicle* means personal property that meets the definition set forth in Section 32-1(46) of this Code.



(28) ~~(27)~~ *Vehicle used for a drive-by shooting or vehicle used in the commission of a drive-by shooting* means any vehicle that is or was used to commit or facilitate the commission of a drive-by shooting.

(29) ~~(28)~~ *Vehicle used for eluding a peace officer or vehicle used in the commission of an eluding a peace officer violation* means any vehicle that is or was used to commit or facilitate the commission of eluding a peace officer as defined herein.

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#### DIVISION 4

#### PUBLIC NUISANCES INVOLVING VEHICLES

**§ 35-189. Vehicle used for prostitution-related transportation or prostitution-related criminal activity, a drive-by shooting or an eluding a peace officer violation declared a public nuisance per se.**

(a) Pursuant to the authorities cited in Section 35-172 of this article, the City declares that any vehicle used by an involved owner or lessee or an involved licensee for prostitution-related transportation or prostitution-related criminal activity is a public nuisance per se, and while in the possession of the involved owner or lessee or the involved licensee, the vehicle constitutes a continuing danger to the comfort, repose, health or safety of City residents, visitors, businesses and neighborhoods, rendering them insecure in life and in the use of property. Due to the existence of this public nuisance per se, the City declares that it is necessary for the City to provide for the impoundment of a vehicle used by the involved owner or lessee or the involved licensee for prostitution-related transportation or prostitution-related criminal activity and to hold the vehicle from further use by the involved owner or lessee or the involved licensee for the mandatory holding period provided for by Section 35-190 of this division. The purpose of such impoundment and mandatory holding period is to abate the public nuisance per se declared herein. The procedures for such impoundment are set forth in Subsection 35-190 of this division.

(b) ~~(a)~~ Pursuant to the authorities cited in Section 35-172 of this article, the City declares that any vehicle used by an involved owner or lessee or an involved licensee for a drive-by shooting is a public nuisance per se, and while in the possession of the involved owner or lessee or the involved licensee, the vehicle constitutes a continuing danger to the comfort, repose, health or safety of City residents, visitors, businesses and neighborhoods, rendering them insecure in life and in the use of property. Due to the existence of this public nuisance per se, the City declares that it is necessary for the City to provide for the impoundment of a vehicle used by the involved owner or lessee or the

involved licensee to commit a drive-by shooting and to hold the vehicle from further use by the involved owner or lessee or the involved licensee for the mandatory holding period provided for by Section 35-190 of this division. The purpose of such impoundment and mandatory holding period is to abate the public nuisance per se declared herein. The procedures for such impoundment are set forth in Subsection 35-190 of this division.

- (c) (b) Pursuant to the authorities cited in Section 35-172 of this article, the City declares that any vehicle used by an involved owner or lessee or an involved licensee for eluding a peace officer is a public nuisance per se, and while in the possession of the involved owner or lessee or the involved licensee, the vehicle constitutes a continuing danger to the comfort, repose, health or safety of City residents, visitors, businesses and neighborhoods, rendering them insecure in life and in the use of property. Due to the existence of this public nuisance per se, the City declares that it is necessary for the City to provide for the impoundment of a vehicle used by the involved owner or lessee or the involved licensee to commit an eluding a peace officer violation and to store and hold the vehicle from further use by the involved owner or lessee or the involved licensee for the mandatory holding period provided for by Section 35-190 of this division. The purpose of such impoundment and mandatory holding period is to abate the public nuisance per se declared herein. The procedures for such impoundment are set forth in Section 35-190 of this division.
- (d) (e) No vehicle shall be impounded and held under the provisions of this section if the criminal activity causing the public nuisance per se has been committed by a trespasser.

**§ 35-190. Procedure used to abate public nuisance per se relating to a vehicle used for prostitution-related transportation or prostitution-related criminal activity a drive-by shooting or for an eluding a peace officer violation as declared by this division.**

- (a) The City Manager or his/her designated agent, as designated by the applicable provisions of this section, acting on behalf of the City, or City Police Officers, are authorized to use the procedures set forth in this section to abate a public nuisance per se as declared by Section 35-189 of this division.
- (b) Any vehicle used by an involved owner or lessee or an involved licensee in a manner that creates a public nuisance per se as declared in Section ~~35-189~~ 35-179 of this division may be impounded as authorized by this section. The purpose of impounding the vehicle is to hinder the continuation of the public nuisance declared by Section 35-189 of this division. The procedure for impoundment of such a vehicle shall follow the applicable procedures for impoundments as set forth in Division 4 of Article II of Chapter 32 of this Code, except that the specific additional procedures set forth in this section

shall also apply and be controlling as to the impoundment of a vehicle as a public nuisance.

- (c) Impoundment of a vehicle under this division may be done by a City Police Officer immediately, in the field, when the impoundment is incident to an arrest of an involved owner or lessee or an involved licensee for commission of prostitution-related transportation or prostitution-related criminal activity, a drive-by shooting or an eluding a peace officer violation. Immediate impoundment in such cases without prior notice to and an opportunity to be heard for vehicle owners and lessees is necessary to summarily abate the public nuisance and prior notice to and an opportunity to be heard for vehicle owners and lessees are impracticable under the circumstances. Following such impoundment incident to an arrest, the post-impoundment procedures set forth in Subsection (f) of this section shall be followed.
- (d) As soon as reasonably possible following the summary abatement by impoundment of the vehicle, as authorized by Subsection (c) of this section, the Police Department shall notify a titled non-involved owner, lessee and/or lien holder of the abatement and the costs thereof. The notice shall inform any owner and/or lessee that they may attend the hearing concerning the impound of a vehicle as a public nuisance per se which shall be conducted at a specific date, time and place.
- (e) When the impoundment of a vehicle under this division is not incident to an arrest in the field, and the vehicle remains in the possession of the involved owner, lessee or licensee, the following procedures shall apply:
  - (1) The impoundment shall be preceded by five business days' prior notice to the vehicle owners and lessees, and an opportunity for them to be heard, if this can be given. Notice shall be directed to the last known addresses of such record owners and lessees. Notice may be served by personal delivery or by certified mail, with return-receipt requested, and proof of service shall be placed in the City file regarding the matter. The notice shall inform said owners and lessees that a hearing shall be held before the City Manager or his/her designated agent acting on behalf of the City at a date, time, and place to be specified in the notice to determine whether or not reasonable cause exists that a vehicle that said owners or lessees have an interest in should be impounded as a public nuisance per se as declared by Section 35-189 of this division and inform them that they have the right to appear at a hearing and be heard and present evidence.
  - (2) The hearing shall be held before the City Manager or his/her designated agent acting on behalf of the City, who shall act as the hearing officer and exercise quasi-judicial powers. At the hearing,

the hearing officer shall determine whether the vehicle should be impounded as a public nuisance per se, as declared by Section 35-189 of this division. The standards to be applied by the said hearing officer in determining whether the vehicle should be impounded as a public nuisance per se shall be the same as those set forth in Subsection (f) of this section concerning vehicles impounded incident to an arrest.

(3) Following the hearing at which the said order is issued by the City Manager or his/her designated agent acting on behalf of the City, with appropriate findings having been made by the said hearing officer, the Municipal Counselor is authorized to bring an action in the appropriate district court in the name of the City pursuant to 50 O.S. § 17 for the issuance of a court order authorizing the Chief of Police or his designee to impound the vehicle and to remove it from the possession of the involved owner or lessee or the involved licensee and to thereafter hold it for the mandatory holding period, subject to the other provisions of this division, including the provisions authorizing non-involved owners or lessees, if any exist, to redeem the vehicle at any time. Following the issuance of the court order by the District Court, the Chief of Police or his designee shall impound the vehicle, ~~thereafter notifying the owners and lessees where it is being held.~~

(f) The following additional post-impoundment procedures shall apply whenever a vehicle is impounded by a City Police Officer in the field pursuant to Subsection (c) of this section:

(1) Within five business days following the impoundment of a vehicle in the field as a public nuisance per se under this section, notice shall be served on all record owners and lessees. Notice shall be directed to the last known addresses of such record owners and lessees. Notice may be served by personal delivery or by certified mail, return-receipt requested and proof of service shall be placed in the City file regarding the matter. The notice shall inform said owners and lessees that a hearing shall be held before the City Manager or his/her designated agent acting on behalf of the City at a date, time, and place to be specified in the notice to determine whether or not reasonable cause exists that a vehicle that said owners or lessees have an interest in should be impounded as a public nuisance per se as declared by Section 35-189 of this Division and inform them that they have the right to appear at the hearing and be heard and present evidence. The hearing shall be set within ten business days from the date the notice is given.

- (2) The hearing shall be held before the City Manager or his/her designated agent acting on behalf of the City at a date, time, and place to be specified in the notice to determine whether or not reasonable cause exists that a vehicle that said owners or lessees have an interest in should be impounded as a public nuisance per se, as declared by Section 35-189 of this division.
  
- (3) The hearing shall be held before the City Manager or his/her designated agent acting on behalf of the City, who shall act as the hearing officer and exercise quasi-judicial powers. The standards to be applied by the said hearing officer in determining whether the vehicle should be impounded as a public nuisance per se, as declared by Section 35-189 of this division shall be the following:
  - a. The hearing affords the owner or lessee an opportunity to appear, respond and present evidence and/or argument on the pertinent issues of the hearing;
  - b. Only relevant, competent and material evidence is allowed;
  - c. Unduly repetitive evidence is excluded;
  - d. Judicial notice is taken of judicially cognizable facts;
  - e. A record of the proceedings and/or hearing is made that reflects:
    - 1. Documentary evidence considered;
    - 2. A list of witnesses who testify and an audio or video recording of their testimony or a transcript of proceedings;
    - 3. Content of matters officially noticed;
    - 4. Any offers of proof; and
    - 5. A list of other evidence or data submitted;
  - f. At the conclusion of the hearing or as soon as possible thereafter, the hearing officer shall issue a written order indicating his/her decision and addressing the following issues:

1. Whether the vehicle at issue was used in a criminal activity as identified in the Criminal Activities Public Nuisance Abatement Ordinance;
  2. Whether the vehicle, if used in criminal activity, is a public nuisance pursuant to the provisions of the Criminal Activities Public Nuisance Abatement Ordinance; and
  3. Whether a 90-day mandatory impound of the public nuisance vehicle is appropriate;
- g. The standard of proof of the evidence at any such hearing shall be: "A preponderance of the evidence" based upon a totality of the circumstances as shown by the evidence;
  - h. Once a vehicle has been adjudicated by the hearing officer to be a public nuisance, no other such hearing for that vehicle for that incident shall be allowed;
  - i. The written order of the hearing officer shall be final and subject only to review of a court of competent jurisdiction as allowed by law; and
  - j. Notwithstanding an order to abate the availability of a vehicle pursuant to this section, an involved owner or involved lessee may still obtain possession as otherwise allowed in this article.
- (g) Any vehicle impounded under this section and for which the City Manager or his/her designated agent acting on behalf of the City as the hearing officer finds reasonable cause to exist that the vehicle is a public nuisance per se under Section 35-189 of this division shall be held by the City and not released to any involved owner or lessee for the mandatory holding period, which shall be a period of 90 days from and after the date of impoundment. Any vehicle impounded as a public nuisance shall be held at a location as duly determined by the City.
- (h) Following the mandatory holding period, the involved owner or lessee shall have the right to redeem the vehicle from the City upon payment of all impoundment and storage fees due as of the date of redemption. Provided, as stated in Subsection (i)(1) of this section, the mandatory holding period shall not apply as to any non-involved owner or lessee who wishes to assume possession of the vehicle or redeem the vehicle upon payment of all costs, if

any, relating to the impoundment and storage of the vehicle as of the date the non-involved owner or lessee assumes possession or redeems the vehicle, as provided by Subsection (j) of this section.

- (i) A vehicle declared a public nuisance per se and impounded under this division shall also be subject to the following provisions:
  - (1) The mandatory holding period shall not apply as to non-involved owners or lessees and any non-involved owner or lessee who wishes to claim the vehicle and who can prove his/her lawful right to possess the vehicle shall have a right to assume possession of the vehicle or to redeem the vehicle at any time upon payment of all costs, if any, relating to the impoundment and storage of the vehicle as of the date the non-involved owner or lessee assumes possession or redeems the vehicle. Provided, to assume possession of the vehicle or to redeem the vehicle once impounded, the non-involved owner or lessee (or his/her agent if the said owner or lessee is not an individual) must sign a notice stating that he/she will not permit any involved licensee to drive or ride in the vehicle for a one-year period from the date of the incident that caused the vehicle to be declared a public nuisance per se and as specified in the notice, and that he/she understands that any violation of this notice shall be a Class "a" offense and may subject him or her to prosecution and make the vehicle subject to impoundment as a method of summary abatement of the public nuisance caused by any such involved licensee driving or riding in the vehicle during the said one-year period.
  - (2) When a vehicle is being used in violation of the notice provided for in Subsection (i)(1) above and the driver of the vehicle is arrested in the field, the vehicle will be considered to be a continuing public nuisance per se and may be summarily abated by immediate impoundment at the time of the arrest with the post-impoundment procedures in Subsection (f) of this section to be followed. When a vehicle is being used in violation of the notice provided for in Subsection (i)(1) above but the driver of the vehicle is not arrested in the field, the vehicle will be considered to be a continuing public nuisance per se, but it will not be immediately impounded; but rather shall be subject to impoundment as allowed in Subsection (e) of this section. When a vehicle is impounded pursuant to the provisions of this Subsection (i), the mandatory impoundment period for such continuing public nuisance per se shall be 180 days from the date of the violation of the notice provided for in Subsection (i)(1) above.

- (j) The release of a vehicle impounded under the provisions of this section shall take place under the circumstances set forth in this division and any applicable provisions of the Oklahoma Statutes.
- (k) In the event no owner or lessee of a vehicle impounded under the provisions of this division takes possession of or redeems the vehicle when permitted herein, then disposition of the vehicle shall take place pursuant to the provisions of Section 32-111 of Division 4 of Article II of Chapter 32 of this Code and the applicable provisions of the Oklahoma Statutes.
- (l) Vehicles used by trespassers for prostitution-related transportation or prostitution-related criminal activity, a drive-by shooting, or eluding or attempting to elude a peace officer shall not be impounded pursuant to this section, but may be impounded and/or released, pursuant to any applicable provision of Division 4 of Article II of Chapter 32 of this Code.
- (m) Once a vehicle has been determined by a hearing officer under this section to be a public nuisance per se, no other such administrative hearing for that vehicle for that incident shall be allowed; provided, no owner of a vehicle shall be deprived of an opportunity for a hearing regarding his or her right to possession of the vehicle.
- (n) A written order entered by a hearing officer under this section shall be final and subject only to review by a court of competent jurisdiction as allowed by law.
- (o) Notwithstanding an order to abate the availability of a vehicle pursuant to this section, a non-involved owner or a non-involved lessee may still obtain possession as otherwise allowed in this article.
- (p) Nothing in the division shall be construed to prohibit the filing of any criminal charges and/or any other civil action or actions, including but not limited to forfeiture proceedings, against any owner or lessee of the vehicle as may otherwise be allowed by law.

**INTRODUCED AND READ** in open meeting of the Council of the City of Oklahoma

City this 4th day of October, 2011.



**ADOPTED** by the Council and **SIGNED** by the Mayor of the City of Oklahoma City  
this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

**REVIEWED** for form and legality.

  
\_\_\_\_\_  
Assistant Municipal Counselor