Memorandum
City of Parsons
Legal Department

APPROVED
MAR 20 2023
City of Parsons, KS

TO: Deborah Lamb, City Manager

FROM: Ross Albertini, City Attorney
CC:

Date: March 16, 2023

RE: Ordinance for Rotary Club – Drug Takeback Program

Please include the following item on the City Commission agenda for consideration at the March 20, 2023 meeting:

The Parsons Rotary Club is requesting the City of Parson pass an ordinance requiring the safe disposal of pharmacuticals in Parsons. This ordinance has been determined by the Federal Court system to be enforcable against pharmacutical companies. The Parsons Rotary Club is willing to assist the City of Parsons with enforcing its provisions.

Action Request.

Approve the Ordinance

ORDINANCE NO. 6532

AN ORDINANCE OF THE CITY OF PARSONS REQUIRING THE SAFE DISPOSAL OF PHARMACEUTICALS

The City Commission of Parsons, Kansas hereby finds and declares the following:

WHEREAS drugs are necessary medical technologies that allow us to live longer, healthier, and more productive lives and reduce suffering at the end of life;

WHEREAS, the public, particularly children, the elderly, and public employees, are at significant and unnecessary risk of poisoning due to the improper or careless disposal of drugs;

WHEREAS our groundwater and drinking water are being contaminated by unwanted, leftover, or expired drugs passing through our wastewater treatment centers:

WHEREAS there is no mandatory statewide stewardship program for unwanted drugs or sharps in, and manufacturers, retailers, and producers have not offered any support for the program to date.

WHEREAS the City of Parsons, Kansas collected analgesics; anti-inflammatories; blood thinners, and several thousand doses of other pharmaceuticals for reasonable disposal and diversion from wastewater and surface waters in one year, and continues to collect comparable quantities to protect recreational water quality and aquatic life within the City limits;

WHEREAS the City of Parsons has implemented a program to responsibly and safely collect unwanted pharmaceuticals from within the City limits, with the assistance of the City of Parsons Police Department and a few private pharmacies. However, there continues to be a lack of sufficient safe, convenient disposal locations for leftover, expired, and/or unwanted drugs, which creates significant risks to human health and to the environment. As a result, leftover, expired, and/or unwanted drugs are often left in homes where they can be accidentally ingested or abused by children, adults, and the elderly, increasing the risk of poisoning, addiction, and death;

WHEREAS, each year, more than 9,000 young children are hospitalized after accidentally ingesting prescription drugs, and drug overdose deaths have been rising steadily over the past two decades. Nearly 9 out of 10 poisoning deaths are caused by drugs. In 2021, 70 percent of the drug overdose deaths in the United States were unintentional;

WHEREAS unwanted drugs are also often flushed down toilets or sinks. However, municipal wastewater treatment plants are not designed to remove the complex compounds

in the drugs that end up in the sewer system. As a result, drugs can pass through wastewater treatment systems and contaminate receiving waters;

WHEREAS an Environmental Protection Agency report on drinking water released in December 2013 tested effluent samples from 50 large wastewater treatment plants nationwide for active pharmaceutical ingredients and metabolites. Out of the 63 total compounds tested for (including, without limitation, pain relief medicines like oxycodone, high blood pressure medications and over-the-counter drugs like acetaminophen and ibuprofen), 43 were detected in at least one of the samples and all samples were found to contain at least one pharmaceutical compound. The presence of pharmaceuticals in surface water is well documented to have ecological impacts, including negative effects on fish and other aquatic life. Our cities water has concentrations of some of these pharmaceutical ingredients;

WHEREAS establishing a safe, convenient disposal system for leftover, expired, and unwanted drugs will reduce unintentional poisonings and drug overdose deaths by making drugs less accessible to persons who might accidentally ingest or abuse them:

WHEREAS establishing a safe convenient disposal system for leftover, expired, and unwanted drugs will also reduce the number of people who misuse and become addicted to prescription drugs:

WHEREAS establishing a safe convenient disposal system for leftover, expired, and unwanted drugs will also reduce the quantity of pharmaceutical compounds that are discharged into the Lakes and rivers and other environmentally sensitive waters throughout the City:

WHEREAS, Extended Producer Responsibility (EPR) laws, sometimes referred to as Product Stewardship laws, place responsibility for end-of-life management of consumer products on the manufacturers and producers of the products, while encouraging product design that minimizes negative impacts on human health and the environment at every stage of the product's lifecycle;

WHEREAS many local and national governmental bodies support EPR, including National Association of Counties, and the National League of Cities;

WHEREAS in 2010, Congress passed the "Secure and Responsible Drug Disposal Act of 2010," Public Law No. 111-273, which authorized the Attorney General to expand the methods through which pharmaceuticals classified as controlled substances may be collected, including through collection at pharmacies. The goal of the bill was to increase opportunities for drug collection in order to reduce substance abuse, accidental poisoning, and the release of harmful substances into the environment. On October 9, 2014, the Drug Enforcement Agency promulgated regulations implementing that Act. These regulations, among other

things, authorize retail pharmacies to maintain secure collection bins for controlled substances;

WHEREAS Mexico, a number of Canadian provinces, much of Europe and several other countries already have active, well-established EPR drug disposal programs in place. British Columbia has had a manufacturer-funded drug collection program in place since 1996. Ontario began a program in July 2010 and Manitoba began its program in April 2011. France, Spain, and Portugal, among other countries, have national collection programs, which are paid for by drug companies and operated by product stewardship associations on their behalf. Many of the same drug companies that participate in these programs manufacture drugs sold in the United States;

WHEREAS in 2012, Alameda County California became the first local government in the United States to pass legislation requiring pharmaceutical companies to design, fund, and operate a program to safely collect and dispose of unwanted drugs, similar to the take-back safe drug disposal programs in Canada's pharmacies. On September 30, 2014, the Ninth Circuit Court of Appeal rejected a legal challenge to Alameda County's ordinance brought by pharmaceutical trade associations. *Pharm. Research & lvlfrs. Of Am. v. City/County. of Alameda,* 13~16833, 768 F.3d1037 (9th Cir. 2014). The U.S. Supreme Court subsequently declined to hear an appeal of this ruling;

WHEREAS in 2019 and 2020 the DEA and Office Director National Drug Control Policy promulgated rules for Chemical Digestion of drugs and since that time numerous Chemical Digestion products have come to market providing Safe In-Home disposal of Pharmaceuticals;

WHEREAS there is demand in the City of Parsons for a permanent drug stewardship program;

WHEREAS a manufacturer and/or producer-funded safe drug disposal program in the City for unwanted drugs would significantly increase convenient safe drug disposal options for City residents' of unwanted drugs, enabling safe disposal of larger quantities of unwanted drugs and reducing risks to public safety, health, and the environment;

BE IT ORDAINED by the City of Parsons, Kansas as follows:

SECTION I

The City of Parsons, Kansas Municipal Code is hereby amended to read as follows:

CITY OF PARSONS SAFE DRUG DISPOSAL

Purpose and Intent.
Title.

Definitions.
Stewardship Program.
Stewardship Plan.
Safe Disposal of Unwanted Products.
Stewardship Program Promotion and Outreach.
Retailer and Provider Participation.
Lists of Producers and Manufacturers of Covered Drugs

Reporting.
Program Assessment and Collection of Data.
List of Producers.
Regulations and Fees.
Enforcement.
Additional Provisions.

PURPOSE AND INTENT.
The purpose of this chapter is to protect the health, safety, and welfare of the public and of the environment by providing for the safe and orderly disposal of drug waste; and by placing responsibility for end-of-life management of drug products on the manufacturers and/or producers of the products, while encouraging product design that minimizes negative impacts on human health and the environment at every stage of the product's lifecycle.

TITLE.
This chapter may be cited as the "City of Parsons, Kansas Safe Drug Disposal Ordinance."

DEFINITIONS.
For the purposes of this chapter, the following terms have the meanings given below.

1. **"City Commission" refers to the City of Parsons city commission.**

2. **"City" means the City of Parsons, Kansas.**

3. **"Consumer Generators" means residents of single and multiple family residences or other locations who possess, dispose of, and/or abandon household Drugs. "Consumer Generators" does not include airport security, drug seizures by law enforcement, pharmacy waste, business waste, or any other source identified by the Department as a non-consumer source.**

4. **"Controlled Substance" for purposes of this chapter shall mean any substance listed under Title 21 of the United States Code, Sections 812 and 813 or any successor legislation.**

5. **"Cosmetics" means (a) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to, the human body, or any part thereof for cleansing,**

beautifying, promoting attractiveness, or altering the appearance, and (b) articles intended for use as a component of any such articles.

6. **"Covered Drug" means all Drugs, including both brand name Drugs and Generic Drugs, and Prescription Drugs and Nonprescription Drugs. Notwithstanding the foregoing sentence, "Covered Drug" does not include: (b) herbal-based remedies and homeopathic drugs, products, or remedies; (c) Cosmetics, soap (with or without germicidal agents), laundry detergent, bleach, household cleaning products, shampoos, sunscreens, toothpaste, lip balm, antiperspirants, or other personal care products that are regulated as both Cosmetics and Nonprescription Drugs under the Federal Food, Drug, and Cosmetic Act ("FFDCA") (21 U.S.C. Section 301 *et seq.* (2002)); (d) Drugs for which Producers provide a take-back program as part of a Federal Food and Drug Administration managed risk evaluation and mitigation strategy (21 U.S.C. Section 355-1); (e) Drugs that are biological products as defined by 21 C.F.R. 600.3(h) as it exists on the effective date of this chapter if the Producer already provides a take-back program; and (f) pet pesticide products contained in pet collars, powders, shampoos, topical applications, or other delivery systems.**

7. **"County" means the County of Labette.**

8. **"Department" means the City of Parsons Police Department.**

9. **"Director" means the City of Parsons Police Chief or his or her designee.**

10. **"Drug Wholesaler" means a Person that sells or distributes Drugs and Covered Drugs for resale to an Entity other than a consumer.**

11. **"Drugs" means: (a) articles recognized in the official United States Pharmacopoeia, the official National Formulary, the official Homeopathic Pharmacopoeia of the United States, or any supplement to any of them; (b) articles intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in humans or other animals; (c) articles, other than food, intended to affect the structure or any function of the body of humans or other animals; and (d) articles intended for use as a component of any article specified in clause (a), (b), or (c) of this definition. Notwithstanding the foregoing sentence, "Drugs" does not include or mean medical devices, their component parts or accessories.**

12. **"Entity" means a Person other than an individual.**

13. **"Generic Drug" means a Drug that is chemically identical or bioequivalent to a brand name Drug in dosage form, safety, strength, route of administration, quality, performance characteristics, and intended use, though inactive ingredients may vary.**

14. **"Hazardous Waste" means a "hazardous waste" as defined in the Federal Resource Conservation and Recovery Act (RCRA) of 1976, as amended (42 USCA § 6901 *et seq.*) and the implementing regulations (40 C.F.R. §§239 through 282), as amended. This waste**

includes, but is not limited to, bulk chemotherapy drugs, P-listed waste, U-listed waste and characteristic hazardous waste.

15. **"Manufacture" means the production, preparation, propagation, compounding, or processing of Drugs but does not include the activities of a Re-packager, Wholesaler or medical practitioner who distributes or dispenses such substances in the ordinary course of his or her professional practice or prepares, compounds, packages or labels such substances.**

16. **"Manufacturer" means a Person engaged in the Manufacture of Drugs.**

17. **"Mail-back Program" means a system whereby Consumer Generators of Unwanted Products obtain prepaid and pre-addressed mailing envelopes in which there is a bottle to place Unwanted Products in a solution that provides chemical destruction and safely neutralizes for shipment to an Entity that will dispose of them safely and legally.**

18. **"Medical Waste" means "Medical waste" as defined in Chapter 65 of the Kansas Statutes Annotated and any applicable Kansas Administrative Regulations.**

19. **"Nonprescription Drug" means any Drug that may be lawfully sold without a prescription.**

20. **"Person" means an individual, firm, sole proprietorship, corporation, limited liability company, general partnership, limited partnership, limited liability partnership, association, cooperative, or other entity of any kind or nature, however, organized.**

21. **"Pharmacy" means a place licensed by the State of where the practice of pharmacy is conducted.**

22. **"Plan" or "Stewardship Plan" means a stewardship plan required under this chapter that describes the manner in which a Stewardship Program will be provided pursuant to the terms of this ordinance.**

    Plan Operator" means the Person that develops, implements and operates a Stewardship Plan, including but not limited to a Producer or Stewardship Organization.

23. **"Prescription Drug" means any Drug, including, but not limited to, any Controlled Substance, that is required by federal or state law, rule or regulation to be dispensed by prescription only or is restricted to use by practitioners only.**

24. **"Producer" shall be determined, with regard to Covered Drugs that are sold, offered for sale, or distributed in the City as meaning one of the following:**

    (a) **The Person who Manufactures Covered Drugs and who sells, offers for sale or distributes Covered Drugs in the City under that Person's own name or brand.**

(b) **If there is no Person who sells, offers for sale, or distributes Covered Drugs in the City under the Person's own name or brand, the Producer of Covered Drugs is the owner or licensee of a trademark or brand under which the Covered Drugs are sold or distributed in the City, whether or not the trademark is registered.**

(c) **If there is no Person who is a Producer of Covered Drugs for purposes of paragraphs (a) and (b), the Producer of Covered Drugs is the Person who brings the Covered Drug into the City for sale or distribution.**

Notwithstanding the foregoing, "Producer" does not include: (i) a Retailer or Re-packager that only puts its label on a Covered Drug; (ii) a pharmacist who dispenses Prescription Drugs to or repackages or compounds a prescribed individual Drug product for a consumer; or (iii) a Drug Wholesaler who is not also a Manufacturer.

25. **"Provider" means any Person that sells or otherwise furnishes Drugs to consumers at a location as defined (Healthcare Facility) by the EPA located in the city.**

26. **"Public Hearing" means any hearing held by the Department or the City which is open to the public for the purposes of collecting public comment. It does not necessarily refer to meetings of the City Commission.**

27. **"Re-packager" means a Person who owns or operates an establishment that repacks, repackages, and/or re-labels a product or package (including a Covered Drug) for further sale or for distribution without a further transaction.**

28. **"Retailer" means any Person that sells Drugs directly to consumers at a business located in the city.**

29. **"Stewardship Organization" means a "person" designated by the "City" to act as an agent on behalf of each "Producers" to operate a Stewardship Program or organization that the City contracts with to operate a Stewardship Program.**

30. **"Unwanted Products" means Covered Drug's no longer wanted by the owner or that have been abandoned, discarded, or are intended to be discarded by the owner.**

STEWARDSHIP PROGRAM.

1. **The requirement for Sale. This chapter shall apply only to Producers whose Covered drugs are sold and/or distributed in the City and to Retailers who sell Covered Drugs in the City. This chapter shall apply only to areas within the City limits. This chapter shall be administered and implemented by the City of Parsons Police Chief or another designee. Each Producer shall participate in the Stewardship Plan. Each Producer must:**

(a) **Operate, individually or jointly with other Producers.**

2. **Stewardship Program Costs.**

(a) **A Producer, group of Producers, must pay all administrative and operational fees and costs associated with their Stewardship Program and related Stewardship Plan, including, but not limited to, the cost of chemical digestion or neutralizing, transporting, and disposing of Unwanted Products from Consumer Generators.**

(b) **No Person or Producer may charge a specific point-of-sale fee to consumers to recoup the costs of their Product Stewardship Program, nor may they charge a specific point-of-Safe Drug Disposal fee at the time the Unwanted Products are chemical digested or neutralized from Consumer Generators or delivered for disposal.**

(c) **A Producer, a group of Producers, must pay all costs and expenses incurred by the City, including but not limited to the Department, in the administration and enforcement of their Stewardship Program. Exclusive of fines and penalties, the City shall only recover its actual costs of administration and enforcement under this chapter and shall not charge any amounts under this chapter in excess of its actual administrative and enforcement costs.**

(d) **A Producer, a group of Producers, must pay all disposal costs and expenses as of the date that the ordinance codified in this chapter becomes effective. If the City incurs any costs or expenses due to delays in the establishment of an approved Stewardship Plan, the Producer, group of Producers, must reimburse the City in full for such costs.**

STEWARDSHIP ORGANIZATION PLAN.

1. **Plan Content. Contains each of the following:**

(a) **Certification through the City Contract that the Stewardship Organization will accept all Unwanted Products regardless of who produced them unless excused from this requirement by the Department as part of the approval of the Plan;**

(b) **Contact information (including the name, physical and mailing address, telephone number, and email address) for the Stewardship Organization submitting the Plan.;**

(c) **A description of the methods by which Unwanted Products from Consumer Generators will be chemical digested, neutralized, and handled in the City, including without limitation a description of the chemical digestion or neutralization methods used and the immediate neutralizing of Unwanted Products:**

(d) **A list containing the name, location, permit status, and record of any penalties, violations, and/or regulatory orders received in the previous five years by each Person that will be involved in chemical digestion and neutralization, and/or transporting Unwanted Products and each Medical Waste or Hazardous Waste disposal facility proposed to participate in the Product Stewardship Plan;**

(e) **A description of how the Unwanted Products will be safely and securely tracked and handled from chemical digestion and neutralization through final disposal including weight accumulated excluding packaging through the program and the policies and procedures to be followed to ensure security:**

(f) **A description of the public education and outreach activities required under this chapter and how their effectiveness will be evaluated specifically an in-school education program;**

(g) **A description of how the scope and extent of the Stewardship Plan are reasonably related to the number of Covered Drugs that are sold in the city, by the Producer or group of Producers:**

(h) **A starting date when a Safe Drug Disposal of Unwanted Products will begin:**

(i) **A description of how support will be provided to any law enforcement agencies within the City that have, or later agree to have, a chemical digestion and neutralization, safe disposal program for Controlled Substances, including, without limitation: (i) the provision of a Safe Drug Disposal kiosk for chemical digestion with appropriate accessories and signage, (ii) an ability to accept Controlled Substances and other Covered Drugs, and (iii) technical support up to and including an appropriate Person to provide on-site assistance with the Safe Drug Disposal kiosks and law enforcement agency;**

(j) **If more than one Producer will be involved in a proposed Stewardship Plan, then the Stewardship Plan for that Program must include a fair and reasonable manner for allocating the costs of the Program among the participants in that Program, such that the portion of costs paid by each Producer is reasonably related to the number of Covered Drugs that Producer sells in the City.**

2. **Existing County-Approved Stewardship Plan. If a Producer, group of Producers or Stewardship Organization is/are operating a Stewardship Plan within the County under an existing Stewardship Plan that has been approved by the County of Labette, such Producer, group of Producers, or Stewardship Plan may comply with the above, by supplementing such County-Approved Plan to cover the City and include all items listed in (Section 1) "Stewardship Organization Plan" above. The Stewardship Plan, as supplemented, must be submitted to the Department for review and approval of the provisions relating to and/or applicable to the City.**

3. **Department Review and Approval—Updates.**

(a) **No Producer, group of Producers or Stewardship Plan within the City may begin chemical digestion or neutralizing through Safe Disposal, Unwanted Products to comply with this chapter until it has received written approval of its Stewardship Plan from the Department. The City may continue Safe Drug Disposal on an interim basis if there is any delay in establishing a Stewardship Plan as required under this chapter. Once approved by the Department, each Stewardship Plan must receive prior written approval from the Department for any proposed changes to the Plan.**

(b) **All Stewardship Plans must be submitted to the Department for approval. Each Stewardship Organization shall submit its initial Stewardship Plan (conforming to the above requirements) to the Department for review within sixty (60) days after the effective date of this chapter, or at a later date as approved in writing by the Department.**

(c) **Within sixty (60) days after the Department's receipt and review of a Stewardship Plan, the Department will determine whether the Plan complies with the requirements of this chapter and of any regulations adopted pursuant to this chapter. The Department may at its sole discretion conduct a noticed Public Hearing as part of this process.**

i. **As part of its approval, the Department may set reasonable performance goals for the Program.**

ii. **If the Department approves a Plan, it shall notify the applicant of its approval in writing.**

iii. **If the Department rejects a Plan, it shall notify the applicant in writing of its reasons for rejecting the Plan. The Department may reject a Plan without conducting a Public Hearing.**

iv. **An applicant whose Plan has been rejected by the Department must submit a revised Plan to the Department within thirty (30) days after receiving notice of the rejection. The Department may require the submission of a further revised Plan or, at its sole discretion, the Department may (without any obligation to do so) develop, approve and impose upon the applicant the Department's own Stewardship Plan or an approved Plan submitted by other Producer(s) pursuant to this chapter. The imposed Plan will be presented at a Public Hearing. The Department is not required, and nothing in this chapter shall be interpreted as requiring, the Department to create or impose a Stewardship Plan.**

v. **If the Department rejects a revised Stewardship Plan or any other subsequently revised Plan, Department may deem the Producer(s) at issue out of compliance**

with this chapter and subject to the enforcement provisions contained in this chapter.

(d) **At least every three (3) years, a Stewardship Plan shall update its Stewardship Plan, explaining any substantive changes to components of the Plan, and submit the updated Plan to the Department for review and approval.**

(e) **A Producer who begins to offer a Covered Drug for sale in the City after the effective date of this chapter, must submit a Stewardship Plan to the Department and provide evidence of having joined the existing approved Stewardship Plan within sixty (60) days following the Producer's initial offer for sale of a Covered Drug in the City.**

(f) **Any proposed changes to a Stewardship Plan must be submitted in writing to the Department and approved by the Department in writing prior to implementation of any change. Notwithstanding the foregoing, for County-Approved Plans, only those changes relating to and/or applicable to the City must be submitted in writing to the Department for review and approval before implementation.**

(g) **The Department may audit the records of a Producer, group of Producers, related to a Stewardship Plan, or request that the Producer, group of Producers, arrange for the Department to inspect at reasonable times the facilities, vehicles, and equipment used in carrying out the Stewardship Plan.**

DISPOSAL OF UNWANTED PRODUCTS.

1. **Compliance with Applicable Law. Each Stewardship Plan must comply with all local, State, and Federal laws and regulations applicable to its operations, including, but not limited to, laws, rules, and regulations governing the treatment, chemical digestion and neutralizing safe disposal of Unwanted Products.**

2. **Treatment and Disposal. Each Stewardship Program must dispose of all unwanted Covered Drugs by incineration at a Medical Waste or Hazardous Waste facility authorized to accept such waste. Each treatment and/or disposal facility utilized must be in possession of all required regulatory permits and licenses.**
3. **New Technologies. Stewardship Plan may petition the Department for approval to use treatment and final disposal technologies, where lawful, that provide superior environmental and human health protection than provided by current Medical Waste or Hazardous Waste disposal technologies for Covered Drugs if and when those technologies are proven and available. The proposed technology, at a minimum, must provide equivalent protection in each, and superior protection in one or more of the following areas:**

   (a) **Monitoring of any emissions or waste;**

   (b) **Worker health and safety;**

(c) **Reduction or elimination of air, water, or land emissions contributing to persistent, bio-accumulative, and toxic pollution; and**

(d) **The overall impact on the environment and human health.**

4. **Packaging Separation. The Stewardship Plan shall allow the Consumer Generators to separate Unwanted Products from their original containers and packaging, prior to safe drug disposal in a container that chemical digests or neutralizes these items.**

STEWARDSHIP PLAN PROMOTION AND OUTREACH.

1. **A Stewardship Plan must promote the Program to Consumer Generators, pharmacists, Retailers of Covered Drugs, and health care practitioners (including, but not limited to, doctors and other prescribers, veterinarians and veterinary hospitals) as to the proper and safe method of storage and safe disposal of Unwanted Products using the Stewardship Organization.**

2. **A Stewardship Plan shall include, but is not limited to, developing, and updating as necessary, educational and other outreach materials for use by Schools of Covered Drugs. These materials may include handouts:**

(a) **Signage that is prominently displayed and easily visible to the children.**

(b) **Written materials and templates of materials for reproduction by schools to be provided to the schools.**

(c) **Advertising and/or other promotional materials related to the Product Stewardship Program.**

(d) **An in-school educational program which may include videos, handout material and webinars.**

3. **A Stewardship Program must prepare education and outreach materials that publicize the Stewardship Program in the City and disseminate the materials to healthcare facilities, Pharmacies, schools, and other interested parties. The Program also must establish a website publicizing how the program works and a toll-free telephone number that Consumer Generators can call to find safe drug disposal kiosks locations or acquire more in-home safe disposal bottles as needed for their personal use.**

LISTS OF PRODUCERS AND MANUFACTURERS OF COVERED DRUGS.

1. **Within sixty (60) days after the effective date of this chapter (or at a later date as approved in writing by the Department), each Drug Wholesaler that sells any Covered Drugs in the City must provide a list of the Producers of those Covered Drugs to the Department in a form prescribed by the Department. Wholesalers must update and**

submit to the Department such list of Producers of Covered Drugs by January 15th of each calendar year.

2. **Within six (6) months after the effective date of this chapter, or within six (6) months after a Retailer whose label appears on a Covered Drug or on the Covered Drug's packaging starts selling the Covered Drug in the City (or at a later date as approved in writing by the Department), and, thereafter, upon request from the Department, a Retailer whose label appears on a Covered Drug or on the Covered Drug's packaging must provide the contact information of the Manufacturer from whom the Retailer obtains the Covered Drug, including the mailing address, physical address, telephone number, and email address of the Retailer's point of contact at the Manufacturer.**

3. **Within six (6) months after the effective date of this chapter, or within six (6) months after a Covered Drug repackaged by a Re-packager is first sold in the City (or at a later date as approved in writing by the Department), and, thereafter, upon request from the Department, a Re-packager whose label appears on a Covered Drug or on the Covered Drug's packaging must provide the contact information of the Manufacturer from whom the Re-packager obtains the Covered Drug, including the mailing address, physical address, telephone number, and email address of the Re-packager's point of contact at the Manufacturer.**

REPORTING.

1. **On or before March 1 (or at a later date as approved in writing by the Department) and in each subsequent year, every Producer, group of Producers, or Stewardship Organization operating a Stewardship Program in the City must prepare and submit to the Department an annual written report describing the Program activities during the previous reporting period. The report must include, at a minimum, the following:**

   (a) **A list of Producers participating in the Stewardship Program;**

   (b) **A list of Retailers and/or Providers participating in the safe disposal of consumer-generated Covered Drugs:**

   (c) **The amount, by weight, of Unwanted Products safely destroyed through chemical digestion neutralization, disposed from Consumer Generators by street, area or the entire City not to include the weight of packaging material.**

   (d) **A description of the safe drug disposal system, including, without limitation, the process of distribution, tracking, returns, and weight excluding packaging.**

   (e) **The name and location of disposal facilities at which Unwanted Products were disposed of and the weight of Unwanted Products, excluding packaging collected from Consumer Generators disposed of at each facility:**

(f) **Whether policies and procedures for safe disposal, handling, transporting, and disposing of Unwanted Products, as established in the Plan, were followed during the reporting period and a description of any noncompliance:**

(g) **Whether any safety or security problems occurred during safe disposal, handling, transportation, or disposal of Unwanted Products during the reporting period and, if so, what changes have or will be made to policies, procedures, or tracking mechanisms to alleviate the problem and to improve safety and security;**

(h) **A description of public education and outreach activities implemented during the reporting period and their effectiveness, including, without limitation, the methodology used to evaluate the outreach and Program activities;**

(i) **How the Stewardship Program complied with all other elements in the Stewardship Plan approved by the Department, including, without limitation, its degree of success in meeting any performance goals set by the Department as part of its approval of the Program; and**

(j) **Any other information that the Department may reasonably require.**

2. **For the purposes of this section, "reporting period" means the period beginning January 1 and ending December 31 of the same calendar year.**

PROGRAM ASSESSMENT AND COLLECTION OF DATA

1. **At least once per year, at a time to be determined by the Department, each Stewardship Program will conduct a detailed characterization study of Unwanted Products chemical digested or neutralized and safely disposed to help assess the effectiveness of the Stewardship Program.**

2. **Assessments shall be conducted in a secure location with proper supervision, in full compliance with federal and state laws, rules, and regulations, and in accordance with guidelines issued by the Department.**

3. **Data collected from Program assessments shall be shared with the Department and other relevant agencies in a timely manner.**

4. **The Department may require additional assessments as needed to address problems or to help determine Program needs.**

LIST OF PRODUCERS.

The Department shall provide on its website a list of all Producers participating in Stewardship Programs approved by the Department and a list of all Producers the Department has identified as noncompliant with this chapter or any regulations adopted pursuant to this chapter.

REGULATIONS AND FEES.

1. **The Director of the Department may, after a noticed Public Hearing, adopt such rules and regulations as necessary to implement, administer, and enforce this chapter.**

2. **The City Commission authorizes the Director of the Department to charge Producers or a group of Producers participating in a Stewardship Program fees to cover all costs the City incurs in administering and enforcing this chapter. Fees shall not exceed actual costs to the City. As soon as practicable, the Department shall submit to the City Commission a proposed schedule of fees to be charged to Producers to cover the City costs of administering and enforcing this chapter.**

ENFORCEMENT.

1. **The Department shall administer the penalty provisions of this chapter.**

2. **It shall be unlawful for any person to violate any provision or fail to comply with any of the requirements of this chapter.**

3. **Any Person, Producer, Plan Operator or Organization that violates or continues to violate the provisions of this chapter shall be subject to the penalties, remedies, and criminal, civil and/or administrative enforcement actions set forth in the Parsons Municipal Code. Each and every day a violation of this chapter exists constitutes a separate and distinct offense for which enforcement action may be taken.**

4. **In determining the appropriate penalties, the Department shall consider the extent of harm caused by the violation, the nature, and persistence of the violation, the frequency of past violations, any action taken to mitigate the violation, and the financial burden to the violator.**

5. **Whenever the City finds that a Person has violated a provision or failed to meet a requirement of this chapter, the City may order compliance by written notice of violation to the responsible Person pursuant to the Parsons Municipal Code.**

6. **The Department may establish appropriate administrative rules for implementing this chapter, conducting hearings, and rendering decisions pursuant to this section.**

7. **Upon the failure of any Person to comply with any requirement of this chapter and any rule or regulation adopted pursuant to this chapter, the City Attorney's office may petition any court having jurisdiction for injunctive relief, payment of civil penalties and any other appropriate remedy, including, without limitation, restraining such Person or Entity from continuing any prohibited activity and compelling compliance with lawful requirements. However, this subsection does not permit the city or any court of competent jurisdiction to restrain the sale of any Covered Drug in the City.**

8. **Any Person who knowingly and willfully violates the requirements of this chapter or any rule or regulation adopted pursuant to this chapter is guilty of a class C misdemeanor. A conviction for a misdemeanor violation under this chapter is punishable by a fine of not less than fifty dollars ($50.00) and not more than five hundred ($500.00) for each day per violation, or by imprisonment for a period not to exceed 30 days, or by both such fine and imprisonment.**

9. **The remedies provided by this chapter are cumulative and in addition to any other remedies available at law or in equity.**

ADDITIONAL PROVISIONS.

1. **Disclaimer. In adopting and implementing this chapter, the city is assuming an undertaking only to promote the general welfare. The City is not assuming or imposing on its officers and/or employees an obligation by which they could be liable in money damages to any Person or Entity who claims that a breach proximately caused injury.**

2. **Conflict with State or Federal Law. This chapter shall be construed so as not to conflict with applicable Federal, State, and County laws, rules, or regulations. Nothing in this chapter shall authorize any City agency or Department to impose any duties or obligations in conflict with limitations on municipal authority established by State or Federal law at the time such agency or Department action is taken. The City shall suspend enforcement of this chapter to the extent that said enforcement would conflict with any preemptive State or Federal legislation subsequently adopted.**

3. **Severability. If any of the provisions of this chapter or the application thereof to any Person or circumstance is held invalid, the remainder of those provisions, including the application of such part or provisions to Persons or circumstances other than those to which it is held invalid shall not be affected thereby and shall continue in full force and effect. To this end, the provisions of this chapter are severable.**

4. **Nothing in this chapter, or the Stewardship Program in which Producers of Covered Drug products who sell Covered Drugs in the are required to participate, is intended to protect anticompetitive or collusive conduct nor shall this chapter be construed to modify, impair, or supersede the operation of any of the antitrust laws or unfair competition laws of the State of Kansas or of the United States.**

5. **This chapter shall be construed in accordance with State law and shall not be construed in a way that would result in conflict with, or preemption by, any such state law.**

6. **Environmental Findings. This chapter is entitled to a categorical exemption of the which exempts "actions taken by regulatory agencies, as authorized by state or local ordinance, to assure the maintenance, restoration, enhancement, or protection of the environment where the regulatory process involves procedures for protection."**

7. **This chapter shall be in effect for a period of ten (10) years following enactment.**

SECTION II

This ordinance shall take effect and be in force thirty (30) days after final adoption.

PASSED by the Governing Body of the City of Parsons, this 20th **day of** March, **2023.**

Kevin Cruse, Mayor

ATTEST:

Robyn Baker, City Clerk