

CHAPTER XI. PUBLIC OFFENSES & TRAFFIC

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ARTICLE 1. UNIFORM OFFENSE CODE

11-101. 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 Prairie Village, Kansas, that certain code known as the "Uniform Public Offense Code," edition of 2016, prepared and published in book form by the League of Kansas Municipalities, Topeka, Kansas, save and except such sections as are deleted, modified or supplemented hereby. No fewer than two copies of said Uniform Public Offense Code shall be marked or stamped, "Official Copy as Incorporated by the Code of the City of Prairie Village, Kansas" with such additional sections clearly marked and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. (Ord. 2356, Sec. 1, 2016)

11-102. UNIFORM PUBLIC OFFENSE CODE; ADDITIONS. Article 5 of the Uniform Public Offense Code, edition of 2016 is hereby amended by deleting existing Sections 5.6 and 5.7 by inserting in place thereof the following:

Section 5.6 Purchase or Possession of Cigarettes or Tobacco Products.

It shall be unlawful for any person:

- (a) Who is under 21 years of age to purchase or attempt to purchase cigarettes, electronic cigarettes, liquid nicotine or tobacco products; or
- (b) Who is under 18 years of age to possess or attempt to possess cigarettes, electronic cigarettes, liquid nicotine or tobacco products. (K.S.A. 79-3321:3322, as amended)
- (c) For the purposes of this Section, the terms are defined in K.S.A. 79-3301 and amendments thereto, except liquid nicotine which is the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine,

whether by nasal spray, ingestion, smoking or other means, into the human body.

Violation of this Section shall be an ordinance cigarette or tobacco infraction for which the fine shall be a minimum of \$25 and a maximum of \$100. In addition, the judge may require a person charged with violating this Section to appear in court and/or may require completion of a tobacco education program. (Ord. 2356, Sec. 2, 2016)

Section 5.7 Selling, Giving or Furnishing Cigarettes or Tobacco Products

- (a) It shall be unlawful for any person, directly or indirectly, to:
 - (1) Sell, furnish or distribute cigarettes, electronic cigarettes, liquid nicotine or tobacco products to any person under 21 years of age; or
 - (2) Buy any cigarettes, electronic cigarettes, liquid nicotine or tobacco products for any person under 21 years of age.
- (b) It shall be a defense to a prosecution under this Section if:
 - (1) The defendant is a licensed retail dealer, or employee thereof, or a person authorized by law to distribute samples;
 - (2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, liquid nicotine or tobacco products to the person under 21 years of age with reasonable cause to believe the person was of legal age to purchase or receive cigarettes, electronic cigarettes, liquid nicotine or tobacco products; and
 - (3) To purchase or receive the cigarettes, electronic cigarettes, liquid nicotine or tobacco products, the person under 21 years of age exhibited to the defendant a driver's license, Kansas non driver's identification card or other official or apparently official document containing a photograph of the person and purporting to establish that the person was of legal age to purchase or receive cigarettes, electronic cigarettes, liquid nicotine or tobacco products.
 - (4) For purposes of this Section the person who violates this Section shall be the individual directly selling, furnishing or distributing the cigarettes, electronic cigarettes, or tobacco products to any person under 21 years of age or the retail dealer who has actual knowledge of such selling, furnishing or distributing by such individual or both.
- (c) It shall be a defense to a prosecution under this subsection if:
 - (1) The defendant engages in the lawful sale, furnishing or distribution of cigarettes, electronic cigarettes, or tobacco products by mail; and
 - (2) The defendant sold, furnished or distributed the cigarettes, electronic cigarettes, or tobacco products to the person by mail only after the person had provided to the defendant an unsworn declaration, conforming to K.S.A. 53-601 and amendments thereto, that the person was 21 or more years of age.
- (d) For the purposes of the Section, the terms are defined in K.S.A. 79-3301 and amendments thereto, except liquid nicotine which is the active ingredient of the tobacco plant (nicotine) in liquefied form suitable for the induction of nicotine, whether by nasal spray, ingestion, smoking or other means, into the human body.
- (e) As used in the Section, "sale" means any transfer of title or possession or both, exchange, barter, distribution or gift of cigarettes or tobacco products, with or without consideration. (K.S.A. Supp. 79-3302,79-3321:79-3322).

Violation of this Section shall constitute a Class B violation punishable by a minimum fine of \$200. (Ord. 2356, Sec. 2, 2016)

11-103 **RESERVED FOR FUTURE USE**

11-104 Article 6 of the Uniform Public Offense Code is hereby supplemented to add the following provisions.

Section 6.26 Unlawful Posting of Pictures and Advertisements.

- (a) Unlawful posting of pictures and advertisements is:
 - (1) The putting up, affixing or fastening of either or both to a traffic control device or traffic control standard or telegraph, telephone, electric light, power or other utility pole, but it is not unlawful to affix official traffic control devices to such poles; or
 - (2) The placement of either or both on public property other than as prescribed in subdivision 3 of this subsection;
 - (3) The placement of either or both on right-of-way without the consent of the landowner or the person in possession whose land lies along the right-of-way where such picture or advertisement is placed; or
 - (4) The placement of either on private property without the consent of the landowner or the person in possession of such property.
- (b) It is unlawful for any person within the city limits to tack, paste, paint, hang or place in any manner whatsoever, or cause to be tacked, posted, hung, or placed in any manner whatsoever, any handbills, dodgers, signs, or advertisements, written or unwritten, or printed matter, to or upon any telephone or telephone pole, sidewalk, or building in the city, or to throw, scatter or cause to be thrown or scattered, any handbills, dodgers or other advertisements or propaganda, or of written or printed matter or paper of any kind upon any street, alley, sidewalk, vacant lot, city property, or yard within the city limits.

Unlawful posting of pictures and advertisements is a Class C violation.(Ord. 2356, Sec. 3, 2016)

Section 6.27 Opening, Damaging or Removing Coin-Operated Machines.

Opening, damaging or removing coin-operated machines is willfully and knowingly opening, removing or damaging any parking meter, coin telephone, vending machine dispensing goods or services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services or any part thereof, with intent to commit theft.

Violation of this section is a Class A violation. (Ord. 2356, Sec. 3, 2016)

Section 6.28 Possession of Tools for Opening, Damaging or Removing Coin-Operated Machines.

Possession of tools for opening, damaging or removing coin-operated machines is the possession of any key, tool, instrument or other device, or any drawing, print or mold of a key or other device or any explosive specifically designed for or suitable for the use in opening or breaking into any parking meter, coin telephone, vending machine dispensing goods or services, money changer or any other device designed to receive money in the sale, use or enjoyment of property or services with intent to commit theft.

Violation of this section is a Class B violation. (Ord. 2356, Sec. 3, 2016)

11-105. Article 9 of the Uniform Public Offense Code is hereby supplemented to add the following provisions:

Section 9.14 Loitering.

- (a) Loitering is loafing, wandering, standing or remaining idle, either alone or in concert with others, in a public place in such manner so as to:
 - (1) Obstruct any public street, public highway, public sidewalk or public building or any other place of public access by hindering or impeding or tending to hinder or impede the free and uninterrupted passage of vehicles, traffic or pedestrians;
 - (2) Committing in or upon any public street, public highway, public sidewalk or public building or any other place of public access any act or thing which is an obstruction or interference to the free and uninterrupted use of property or with any business lawfully conducted by anyone in or upon or facing or fronting on any such public street, public highway, public sidewalk or public building or any other place of public access, all of which prevents the free and uninterrupted ingress, egress and regress therein, thereon and thereto.
- (b) When any person causes or commits any of the conditions enumerated in this section, a law enforcement officer shall order that person to stop causing or committing such conditions and to move on or disperse. Any person who fails or refuses to obey such order is guilty of a violation of this section.

Violation of this section is a Class C violation. (Ord. 2356, Sec. 4, 2016)

Section 9.15 Unsolicited Publications -- Penalty.

- (a) No person shall either directly or indirectly place or deposit or cause to be placed or deposited, upon any building or structures used for human abode, including the lot or lots upon which the structure is located or upon any right-of-way or city property within the city, any newspaper, magazine, publication or any other printed material if the owner or occupant of the structure has previously requested in writing that the publisher or deliverer of the material not place or deposit the material on the structure or lot.
- (b) Exceptions. The provisions of this section shall not apply to distributions made through the U.S. Postal Service or any other private postal service.
- (c) Penalties. Any person who violates the provisions of this section shall, upon conviction thereof, be punished for each such violation by a fine not exceeding \$100 for each such violation. (Ord. 2356, Sec. 4, 2016)

Section 9.16 Residential Picketing. It is unlawful for any person to engage in picketing before or about the residence or dwelling of any individual in the city or before or about any church in the city.

Every person convicted of violating this section shall be imprisoned for not more than one year or fined not more than \$2,500 or by both such fine and imprisonment, provided that any person convicted of a second or subsequent conviction shall be required to be confined to not less than five consecutive days in the county jail in addition to any penalty assessed, which period of imprisonment shall not be

suspended nor the defendant placed on probation until the five consecutive days are served. (Ord. 2356, Sec. 4, 2016)

11-106. Article 10 of the Uniform Public Offense Code is hereby supplemented by adding the following:

10.3.1. Possession of a Firearm While Under the Influence.

- (a) Possession of a firearm under the influence is knowingly possessing or carrying a loaded firearm on or about such person, or within such person's immediate access and control while in a vehicle, while under the influence of alcohol or drugs, or both, to such a degree as to render such person incapable of safely operating a firearm.
- (b) Possession of a firearm under the influence is a class A nonperson misdemeanor.
- (c) This section shall not apply to:
 - (1) A person who possesses or carries a firearm while in such person's own dwelling or place of business or on land owned or possessed by such person; or
 - (2) the transitory possession or use of a firearm during an act committed in self-defense or in defense of another person or any other act committed if legally justified or excused, provided such possession or use lasts no longer than is immediately necessary.
- (d) If probable cause exists for a law enforcement officer to believe a person is in possession of a firearm under the influence of alcohol or drugs, or both, such law enforcement officer shall request such person submit to one or more tests of the person's blood, breath, urine or other bodily substance to determine the presence of alcohol or drugs. The selection of the test or tests shall be made by the officer.
- (e) (1) If a law enforcement officer requests a person to submit to a test of blood under this section, the withdrawal of blood at the direction of the officer may be performed only by:
 - (a) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;
 - (b) a registered nurse or a licensed practical nurse;
 - (c) any qualified medical technician, including, but not limited to, an emergency medical technician-intermediate, mobile intensive care technician, an emergency medical technician-intermediate/defibrillator, an advanced emergency medical technician or a paramedic as those terms are defined in K.S.A. 65-6112, and amendments thereto, authorized by medical protocol; or
 - (d) a phlebotomist
- (2) A law enforcement officer may direct a medical professional described in this subsection to draw a sample of blood from a person if the person has given consent or upon meeting the requirements of subsection (d)
- (3) When so directed by a law enforcement officer through a written statement, the medical professional shall withdraw the sample as soon as practical and shall deliver the sample to the law enforcement officer or another law enforcement officer as directed by the requesting law enforcement officer as soon as practical, provided the collection of the

sample does not jeopardize the person's life, cause serious injury to the person or seriously impede the person's medical assessment, care or treatment. The medical professional authorized herein to withdraw the blood and the medical care facility where the blood is drawn may act on good faith that the requirements have been met for directing the withdrawing of blood once presented with a written statement provided for under this subsection. The medical professional shall not require the person to sign any additional consent or waiver form. In such a case, the person authorized to withdraw blood and the medical care facility shall not be liable in any action alleging lack of consent or lack of informed consent.

- (4) Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document provided by law enforcement.
 - (5) If a sample is to be taken under authority of a search warrant, and the person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.
 - (6) A law enforcement officer may request a urine sample upon meeting the requirements of subsection (d).
 - (7) If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by:
 - (A) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;
 - (B) a registered nurse or a licensed practical nurse; or
 - (C) a law enforcement officer of the same sex as the person being tested.The collection of the urine sample shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in paragraphs (2) and (3) shall apply to the collection of the urine sample.
- (f) (1) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of possession of a firearm under the influence of alcohol or drugs, or both.
- (2) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure

- was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.
- (3) In any criminal prosecution for a violation of this section, if the court finds that a person refused to submit to testing when requested pursuant to this section, the county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this section, a civil penalty not exceeding \$1,000 for each violation.
 - (g) If a person who holds a valid license to carry a concealed handgun issued pursuant to K.S.A. 2013 Supp. 75-7c01 et.seq., and amendments thereto, is convicted of a violation of this section, such person's license to carry a concealed handgun shall be revoked for a minimum of one year for a first offense and three years for a second or subsequent offense.
 - (h) In any criminal prosecution for possession of a firearm under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood or urine, breath or other bodily substance may be admitted and shall give rise to the following:
 - (1) If the alcohol concentration is less than .08, that fact may be considered with other competent evidence to determine if the defendant was under the influence of alcohol or drugs, or both.
 - (2) If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol.
 - (3) If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapacitated, that fact may be considered to determine if the defendant was under the influence of alcohol or drugs, or both.
 - (i) The provisions of subsection (h) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol or drugs, or both.
 - (j) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person.
- (K.S.A. 21-6332) (Ord. 2356, Sec. 5, 2016)

11-107 Article 10 of the Uniform Public Offense Code, edition 2016 is hereby amended to by deleting existing Section 10.5 and by inserting in place thereof the following:

Section 10.5 Unlawful Discharge of Firearms

- (a) Unlawful discharge of firearms is the discharging or firing of any gun, rifle, pistol, revolver or other firearm within the city.
- (b) This section shall not be construed to apply:
 - (1) If the firearm is discharged in the lawful defense of one's person, another person or one's property;
 - (2) To the discharge of firearms by any duly authorized law enforcement officer when necessary in the discharge of his or her official duties;
 - (3) To the discharge of firearms in any licensed shooting gallery or licensed shooting range; or
 - (4) To firing squads for ceremonials as approved by the Chief of Police.

Unlawful discharged of firearms is a Class B violation. (KSA 21-6308a) (Ord. 2356, Sec. 6, 2016)

- 11-108. Article 10 of the Uniform Public Offense Code is hereby amended to delete sections 10.24 Smoking Prohibited, 10.25, Smoking-Posted Premises and 10.26, Smoking Prohibited-Penalties and supplemented to add the following provisions:

Section 10.27 Intoxicating Liquor and Cereal Malt Beverage -- Consumption and Possession of Open Containers Prohibited at Certain Places. It is unlawful for any person to drink, consume, or possess an open container of alcoholic liquor or cereal malt beverage upon the public streets, alleys, roads or highways, or upon property owned by the City.

- (a) The provisions of this section shall not apply to the consumption or possession of alcoholic liquor or cereal malt beverage upon property owned by the City and operated as the Prairie Village Community Center; provided further, that no person shall possess or consume any alcoholic liquor or cereal malt beverage at the Prairie Village Community Center unless:
- (1) That person is in attendance at an event or a function for which permit authorizing the serving and consumption of liquor and beer has been previously issued by the city, and
 - (2) The liquor or beer being consumed has been provided by the individual, person, or organization to which the permit has been issued.

Violation of this section is a Class C violation. (Ord. 2356, Sec. 7, 2016)

Section 10.28 Drunkenness. It is unlawful for any person to be drunk on any highway, street or in any public place or building in the city.

Violation of this section is a Class B violation. (Ord. 2356, Sec. 7, 2016)

Section 10.29 Impersonating an Officer. It is unlawful for any person to exercise or to assume to exercise any of the powers conferred upon any police officer, or to represent himself or herself to be any such officer, or to possess the power and authority thereof, unless such person is a duly authorized officer of the law.

Violation of this section is a Class B violation. (Ord. 2356, Sec. 7, 2016)

Section 10.30 Vehicles in City Parks. It is unlawful to run, stand or park any motor vehicle or motorized bicycle through or across or over any part of any city park, other than roadways or parking areas so designated.

Violation of this section is a Class C violation. (Ord. 2356, Sec. 7, 2016)

Section 10.31 Smoking on Common Carrier Buses -- Penalty.

- (a) No person shall smoke or carry in his or her hand a lighted cigar, cigarette or pipe, while in or upon any motorbus operated in common carrier passenger service upon the streets or public ways of the city.
- (b) Any person who shall violate any of the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be punished by a fine of not less than \$5 nor more than \$100. (Ord. 2356, Sec. 7, 2016)

Section 10.32 Public Urination or Defecation. No person shall urinate or defecate in any place open to the public or while exposed to public view, except while using appropriate fixtures in a restroom or other facility designed for the sanitary disposal of human waste.

Violation of this section is a Class C violation. (Ord. 2356, Sec. 7, 2016)

Section 10.33 Public Nudity. No person shall knowingly or intentionally appear in a state of nudity in a public place. Nudity is defined as the showing of the human male or female genitals, pubic area or buttocks with less than a full opaque covering; the showing of the female breast with less than a full opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernible state of sexual arousal.

Violation of this section is a Class A violation.
(Ord. 2356, Sec. 7, 2016)

11-109. Article 11 of the Uniform Public Offense Code is hereby supplemented to add the following provisions:

Section 11.13 Window Peeping. Window peeping is the going upon property owned or occupied by another without such person's consent for the purpose of looking into any window, door, skylight or other opening into a house, room or building.

Violation of this section is a Class A violation.
(Ord. 2356, Sec. 8, 2016)

ARTICLE 2. LOCAL REGULATIONS

11-201. DISTURBING THE PEACE.

- (a) It shall be unlawful for any person to make, continue, maintain or cause to be made or continued any excessive, unnecessary, unreasonable or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others within the city.
- (b) It shall be unlawful for any person to use, operate or permit the use or operation of any electronic device, radio receiving set, television, musical instrument, photograph or other machine or device for the producing or reproducing of sound in such a manner as to disturb the peace, quiet and comfort of the neighboring inhabitants or at any time with louder volume than is necessary for convenient hearing for the person or persons who are in the room, vehicle or chamber in which such machine or device is operated and who are voluntary listeners thereto. Neighboring inhabitants shall include persons living within or occupying residential districts of single or multi-family dwellings and shall include areas where multiple-unit dwellings and high-density residential districts are located.
- (c) Permit; when required: An amplified sound permit must be obtained from the City Clerk prior to use in an "outdoor" venue.

(d) No person shall congregate with other persons because of, participate in, or be in any party or gathering of people from which sound emanates of a sufficient volume so as to disturb the peace quiet or repose of persons residing in any residential area. No person shall visit or remain within any residential dwelling unit or within the vicinity of a residential dwelling unit wherein such party or gathering of people is taking place except persons who have gone there for the sole purpose of abating the disturbance. A police officer may order all persons present in any group or gathering from which sound emanates, other than the owners or tenants of the dwelling unit, to immediately disperse in lieu of being charged under this section. Owners or tenants of the dwelling unit shall immediately abate the disturbance and, failing to do so, shall be in violation of this section.

(Ord. 1838, Sec. 1, 1993; Ord. 2226, Sec. 1, 2010)

11-202. SAME; PRIMA FACIE VIOLATION. It shall be prima facie evidence of a violation of this section for the operation of any tool, equipment, vehicle, electronic device, instrument, television, phonograph, machine or other noise or sound device at any time in such a manner as to be plainly audible at any adjacent property line, or for 50 or more feet in the case of a multiple-family dwelling, to start before or continue after the following hours:

- Weekdays: 7:00 a.m. until 10:00 p.m. (except Fridays, which will be until midnight.)
- Weekends: 8:00 a.m. until midnight (except Sundays, which will be until 10:00 p.m.)

The City Council, may approve a waiver from the hours listed above if it is determined that the public good would be better served by allowing a contractor to work before or beyond the hours listed to reduce the impact on residents surrounding or visiting the construction project area.

(Ord. 1838, Sec. 1, 1993; Ord. 2126, Sec II, 2006; Ord. 2256, Sec. 1, 2012)

11-203. SAME; EXEMPTIONS. Sounds emanating from the following shall be exempt from the provisions listed above:

- (a) Emergency vehicles;
- (b) Public safety vehicles;
- (c) Emergency activities of the fire or police department;
- (d) Emergency activities of any utility company;
- (e) Emergency activities of municipal maintenance vehicles and equipment.
- (f) Special Events that are sponsored by the City of Prairie Village and approved by the City Council.

(Ord. 1838, Sec. 1, 1993; Ord. 2226, Sec1, 2010)

11-204. SAME; STATEMENT OF INTENT. No provision of this article shall be construed to limit or abridge the rights of any person to peacefully assemble and express opinions. It is the purpose of this article to protect individuals from unreasonable intrusions caused by excessive, unnecessary, unreasonable or unusually loud noises. (Ord. 1838, Sec. 1, 1993)

11-205. ALARM SYSTEMS; DEFINITIONS.

- (a) Alarm System -- Any assembly of equipment, mechanical or electrical, arranged to signal the occurrence of an illegal entry or other activity requiring urgent attention and to which police would be expected to respond.
 - (b) Alarm User -- The person, firm, partnership, association, corporation, company or organization of any kind in control of any building, structure or facility who purchases, leases, contracts for or otherwise obtains an alarm system or for the servicing or maintenance of an alarm system and thereafter contracts with or hires an alarm business to monitor and/or service the alarm device.
 - (c) City -- The City of Prairie Village, Kansas.
 - (d) Local Alarm System -- An alarm system which when activated causes an audible and/or visual signaling device to be activated and is intended to be seen and/or heard by others outside the protected premises.
 - (e) Phone Number 9-1-1 -- The phone number designated by the telephone company for the calling public to use to notify the city police department of a fire emergency, a medical emergency or a police emergency.
 - (f) Automatic Dialer -- Any device attached to any alarm system so designed or programmed that when activated will automatically dial a predetermined or predesignated 9-1-1 emergency dispatcher.
- (Code 1973, 10.16.010)

11-206. SAME; REGULATIONS.

- (a) Local alarm systems installed within the city by an alarm user shall not emit a sound similar to that of an emergency vehicle siren or a civil defense warning system.
 - (b) Local alarm systems installed by an alarm user within the city shall be equipped to automatically discontinue emitting an audible sound within 15 minutes of activation.
 - (c) Local alarm systems already in operation shall be equipped by the alarm user to automatically discontinue emitting an audible sound within 15 minutes of activation, within 90 days.
 - (d) No alarm user shall keep, maintain, design, acquire or program any type of alarm system to automatically dial the city's 9-1-1 emergency telephone service line that leads directly to the police communication system, except that nothing herein shall be construed to prohibit the use of an automatic dialer or alarm by any physically handicapped person that leads directly to a predesignated and predetermined number maintained only by the police department for use by the physically handicapped persons.
 - (e) Any alarm user who is operating an alarm system which is equipped with an automatic dialer in violation of this article shall remove the same from the alarm system.
- (Code 1973, 10.16.020)

11-207. SAME; PENALTY. Any alarm user convicted of a violation of any of the provisions of or failing to comply with any of the mandatory requirements of this article shall be guilty of a public offense and punished by a fine of not more than \$500 or by imprisonment not to exceed six months or by both such fine and imprisonment. Each alarm user shall be guilty of a separate offense for each and every day during a portion of which any violation of any provision of the city ordinance is committed, continued or permitted by any such persons. (Code 1973, 10.16.030)

11-208. MINORS ON PREMISES.

- (a) It shall be unlawful for any person under the age of 21 years to remain on any premises where the sale of alcoholic liquor is licensed for on-premises consumption, or where a caterer or temporary permit holder is serving alcoholic liquor.
- (b) It shall be unlawful for the operator, person in charge or licensee of any premises licensed for on-premises consumption of alcoholic liquor or a caterer or temporary permit holder who is serving alcoholic liquor to permit any person under the age of 21 years to remain on the premises.
- (c) This section shall not apply if the person under the age of 21 years is accompanied by his or her parent or guardian, or if the licensed or permitted premises derives not more than 30 percent of its gross receipts in each calendar year from the sale of alcoholic liquor for on-premises consumption.

(Code 2003)

11-209. PUBLIC SALE; CONSUMPTION.

- (a) It shall be unlawful for any person to sell, serve or dispense any cereal malt beverage or alcoholic beverage in any public place not licensed to sell, serve or dispense such beverage at such public place within or under the jurisdiction of the city.
- (b) It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage in any public place not licensed to sell and serve such beverage for public consumption at such public place within or under the jurisdiction of the city.
- (c) For purposes of this section, the term "public place" shall include upon any street, public thoroughfare, public parking lot or any privately owned parking area made available to the public generally, within any parked or driven motor vehicle situated in any of the aforesaid places or upon any property owned by the state or any governmental subdivision thereof unless such property is leased to others under K.S.A. 12-1740 et seq. if the property is being used for hotel or motel purposes or purposes incidental thereto or is owned or operated by an airport authority created pursuant to Chapter 27 of the Kansas Statutes Annotated. (K.S.A. 41-719; Code 2003)

11-210. REPEALED.

(K.S.A. 8-1599; Code 2003; Ord. 2241, Sec. 8, 2011)

11-211. CONSUMPTION WHILE DRIVING. It shall be unlawful for any person to consume any cereal malt beverage or alcoholic beverage while operating any vehicle upon any street or highway. (K.S.A. 41-719, 41-2720; Code 2003)

11-212. IDENTIFICATION CARD.

- (a) It shall be unlawful for any person to:
 - (1) Display, cause or permit to be displayed, or have in possession, any fictitious, fraudulently altered, or fraudulently obtained identification card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.

- (2) Display or represent any identification card not issued to such person as being his or her card for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
 - (3) Permit any unlawful use of an identification card issued to a person for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
 - (4) Photograph, photostat, duplicate or in any way reproduce any identification card or facsimile thereof in such a manner that it could be mistaken for a valid identification card or display or have in possession any such photograph, photostat, duplicate, reproduction or facsimile for purposes relating to the sale, purchase or consumption of either cereal malt beverage or alcoholic liquor.
- (b) It shall be unlawful for any person to:
- (1) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any alcoholic liquor.
 - (2) Lend any identification card to or knowingly permit the use of any identification card by any person under 21 years of age for use in the sale, purchase or consumption of any cereal malt beverage.

(Code 2003)

11-213 UNATTENDED VEHICLES. REPEALED (Ord. 2158, Sec. 9, 2007)

11-214 DEFINITIONS.

The following words or phrases when used in this chapter shall, for the purposes of this chapter, have the meanings respectively ascribed to them in this section.

- A) "In-line skates" means a pair of shoes or boots, mounted upon three or more sets of wheels located one behind the other and under the attached shoe or boot, and more often propelled by the user in an upright, standing position.
- B) "Roller skates" means a pair of shoes or boots mounted upon two sets of wheels, most often propelled by the user in an upright, standing position.
- C) "Scooter" means a footboard mounted upon two or more wheels and controlled by an upright steering handle. This device is propelled by the user in an upright position.
- D) "Skateboard" means a footboard of any material with four or more wheels affixed to the underside, designated to be ridden by a person.
- E) "Transportation device" is defined in this section as in-line skates, roller skates, scooter, skateboard or other similar device.
- F) "Municipal Campus" includes all property lying within the boundary from the City's northern lot line contiguous with Shawnee Mission East High School. West along the fence line of the swimming complex to the western most curb line of the police parking lot. South along the curb line of the police and public parking lots directly adjacent to Harmon Park and then east along the southern driveway of the municipal complex to Mission Road. This area does not include the public sidewalk, which exits next to Mission Road adjoining the municipal campus. (Ord. 2123, Sec. 1, 2006)

11-215 PROHIBITED AREAS.

It is unlawful for any person to operate or ride any transportation device as defined above upon the City's municipal complex. (Ord. 2123, Sec. 1, 2006)

11-216 VIOLATION.

Any law enforcement officer who observes any person operating or riding a transportation device as defined above, in violation of this chapter may issue a notice to appear for the infraction and take possession of the device as evidence. The device may be held until final disposition of the charge. (Ord. 2123, Sec. 1, 2006)

11-217 PARENTAL RESPONSIBILITIES.

It shall be unlawful for every parent, guardian or other adult person having the care and custody of any minor child less than eighteen years of age to knowingly permit such a minor child to violate this ordinance. (Ord. 2123, Sec. 1, 2006)

11-218 NO PUBLIC DUTY CREATED.

Nothing contained in this chapter is intended nor shall be construed to create or form the basis of any liability on the part of the city or its officers, employees, or agents for any injury or damage resulting from any action or inaction on the part of the city related in any manner to enforcement of this chapter by its officers, employees or agents. (Ord. 2123, Sec. 1, 2006)

11-219 VIOLATION; PENALTY.

Any person or persons who violates any provision of this article, may be prosecuted in municipal court of violation of the provisions of this chapter. Upon conviction thereof, the person or persons shall be punished by a fine of not more than \$100 or by imprisonment of not more than 30 days, or by both such fine and imprisonment. (Ord. 2123, Sec. 1, 2006)

11-220 UNLAWFUL CAMPING.

All camping is hereby prohibited in city streets, city parks, any public parking lot or public area, improved or unimproved, alleys, or under any bridge way.

The term "camping" shall mean the use of land to maintain a temporary place to live, and shall include, but is not limited to, such activities as sleeping, laying down bedding in preparation to sleep, sorting personal belongings, making any fire, whether for cooking or warmth, or erecting a tent or other temporary structure for shelter. Whether such a situation warrants the term "camping" shall be determined by a totality of the circumstances.

The purposes of enacting such statute shall be to protect the health, safety and welfare of the citizens of the City of Prairie Village by maintaining a safe and sanitary environment that does not pose a threat to public safety.
(Ord. 2185, Sec. 2, 2009)

11-221 VEHICLES AS LIVING QUARTERS.

No vehicle, motor home, camping trailer, pickup camper, recreational vehicle, or similar item shall be used as living quarters within the boundaries of the City of Prairie Village except as provided in 19.38.025 of the City Zoning Regulations.
(Ord. 2185, Sec. 3, 2009)

ARTICLE 3. DRUGS

11-301. DEFINITIONS. For the purposes of this Article 3, certain terms and words used herein shall be defined as follows:

- (a) "Close proximity" means within five hundred (500) feet on a straight line commencing at the property lines nearest to each other.
- (b) "Controlled substances" means any drug or substance included in Schedules I through V of the Uniform Controlled Substance Act found in Chapter 65, Article 41 of the Kansas Statutes Annotated.
- (c) "Dangerous drug" means one that is unsafe for use except under the supervision of a practitioner because of its toxicity or other potentiality for human effect, method of use, or collateral measures necessary to use; "dangerous drugs" include all other drugs or compounds, preparations, or mixtures thereof, that the State Board of Health shall find and declare by rule or regulation, duly promulgated after reasonable public notice and opportunity for hearing, to have a dangerous, hallucinogenic, hypnotic, somnifacient or stimulating effect on the body of a human or animal.
- (d) "Deliver" or "delivery" means the actual, constructive or attempted transfer from one person to another of a controlled substance, whether or not there is an agency relationship.
- (e) "Drug" means"
 - (1) substances recognized as drugs in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States or official national formulary or any supplement to any of them;
 - (2) substances intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or animals;
 - (3) substances (other than food) intended to affect the structure or any function of the body of any human being or animals; and
 - (4) substances intended for use as a component of any article specified in subdivisions (1), (2) or (3) of the subsection (e). It does not include devices or their components, parts or accessories.
- (f) "Instrument" means a device designed for use, or intended for use in ingesting, smoking, administering or preparing marijuana, cocaine, phencyclidine, opium or any derivative thereof, or any other controlled substance.

For purposes of this subsection (f), the phrase "intended for use" refers to the intent of the person, selling, offering to sell, dispensing, giving away or displaying the instrument herein defined.

In determining whether an item constitutes an instrument, a court may consider the following:

- (1) whether a person or business establishment charged with violating this Article is a licensed distributor or dealer of tobacco products under Chapter 79, Article 33 of the Kansas Statutes Annotated;
- (2) expert testimony as to the principal use of the devices, articles, or contrivances claimed to be instruments;
- (3) evidence concerning the total business of a person or business establishment and the type of devices, articles, contrivances or item involved in the business;

- (4) national and local advertising concerning the use of the devices, articles or contrivances claimed to be instruments; or
 - (5) evidence of advertising concerning the nature of the business establishment.
- (g) "Manufacture" means the production, preparation, propagation, compounding conversion or processing of a controlled substance either directly or indirectly by extraction from substances of natural origin or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis and includes any packaging or repackaging of the substance or labeling or relabeling of its container, except that this term does not include the preparation or compounding of a controlled substance by an individual for his or her own use or the preparation, compounding, packaging or labeling of a controlled substance:
- (1) by a practitioner or his or her agent pursuant to a lawful order of a practitioner as an incident to his or her administering or dispensing of a controlled substance in the course of his or her professional practice; or
 - (2) by a practitioner or by his or her authorized agent under his or her supervision for the purpose of or as an incident to research, teaching or chemical analysis or by a pharmacist or hospital as an incident to his or her or its dispensing of a controlled substance.
- (h) "Marijuana" means all parts of all varieties of the plant Cannabis, whether growing or not, the seeds thereof, the resin extracted from any part of the plant and every compound, manufacture, salt, derivative, mixture or preparation of the plant, its seeds or resin. It does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, sale, derivative, mixture or preparation of the mature stalks, except the resin extracted therefrom, fiber, oil, or cake or the sterilized seed of the plant that is incapable of germination.
- (i) "Minor" means any person who has not attained eighteen years of age.
- (j) "Patient" means, as the case may be:
- (1) the individual for whom a drug is prescribed or to whom a drug is administered; or
 - (2) the owner or the agent of the owner of the animal for which a drug is prescribed or to which a drug is administered; provided, that the prescribing or administering referred to in Section 11-302 (a)(1) and (2) of this Section is in good faith and in the course of professional practice only.
- (k) "Person" means individual, corporation, government or governmental subdivision or agency, business trust, estate, trust, partnership or association or any other legal entity.
- (l) "Pharmacist" means an individual currently licensed by the board to practice the profession of pharmacy in this state.
- (m) "Place of display" means any museum, library, school or other similar public place upon which business is not transacted for a profit.
- (n) "Practitioner" means a physician (M.D. or D.O.), dentist, podiatrist, veterinarian, scientific investigator or other person licensed, registered or otherwise authorized by law to administer and prescribe, use in teaching or chemical analysis, or conduct research, with respect to a controlled substance, in the course of professional practice and research.

- (o) "Premises" means a business establishment and the structure of which it is a part and the facilities and appurtenances therein and grounds, areas and facilities held out for the use of patrons.
 - (p) "Premises open to minors" means any business establishment that sells its wares or merchandise to minors or that permits minors to enter into its place of business.
 - (q) "Prescription" means a written order, and in cases of emergency, a telephone order, issued by a practitioner in good faith in the course of his or her professional practice to a pharmacist for a drug for a particular patient, which specifies the date of its issue, the name and address of the patient (and, if the drug is prescribed for an animal, the species of such animal), the name and quantity of the drug prescribed, the directions for use of such drug and the signature of such practitioner.
 - (r) "Production" includes the manufacture, planting, cultivation, growing or harvesting of a controlled substance.
 - (s) "School" means any public or private elementary, junior high or high school.
 - (t) "Simulated drugs" and "simulated controlled substances" are any products that identify themselves by using a common name or slang term associated with a controlled substance or indicate by label or accompanying promotional material that the product simulates the effect of a controlled substance or drug.
 - (u) "Somnifacient" and "stimulating" have the meaning attributable in standard medical lexicons.
 - (v) "Warehouseman" means a person whom, in the usual course of business, stores drugs for others lawfully entitled to possess them and who has no control over the disposition of those drugs, except for the purpose of the storage.
 - (w) "Wholesaler" means a person engaged in the business of distributing drugs to persons included in any of the classes named in this Article 3.
- (Code 1973, 10.08.010; Ord. 2192, Sec. II, 2009)

11-302. PROHIBITED ACTS.

- (a) It is unlawful for any person to deliver, possess, manufacture, have under his or her control, sell or offer for sale any drugs or **controlled substances** unless:
 - (1) **If a drug**, that drug is delivered by a pharmacist, or his or her authorized agent, in good faith upon prescription and there is affixed to the immediate container in which that drug is delivered a label bearing:
 - (A) The name and address of the owner of the establishment from which the drug was delivered;
 - (B) The date on which the prescription for the drug was filled;
 - (C) The number of such prescription as filed in the prescription files of the pharmacist who filed such prescription;
 - (D) The name of the practitioner who prescribed the drug;
 - (E) The name and address of the patient, and if the drug was prescribed for an animal, a statement showing the species of the animal; and
 - (F) The direction for use of the drug and cautionary statements, if any, as contained in the prescription; and
 - (2) In the event that a delivery made in accordance with this Subsection is pursuant to telephonic order, the prescription shall be promptly reduced to writing and filed by the pharmacist; and

- (3) A drug delivered in accordance with this Subsection must be delivered by a practitioner in good faith and in the course of his or her professional practice only.
 - (b) It is unlawful for any person to refill any prescription for a drug unless the refilling is specifically authorized by the prescriber.
 - (c) It is unlawful for any person to possess a drug unless such person obtained the drug on the prescription of a practitioner or in accordance with this Section 11-302(a) (3) or from a person licensed by the laws of any other state or the District of Columbia to prescribe or dispense drugs.
 - (d) It is unlawful for any person to obtain or attempt to obtain a drug by fraud, deceit, misrepresentation or subterfuge; or by the forgery or alteration of a prescription; or by the use of a false name or the giving of a false address.
 - (e) It is unlawful for any person to sell, offer for sale or have in his or her possession, with the intent to sell, any **controlled substance** described in section 11-301.
 - (f) It shall be unlawful for any person to use or possess with the intent to use:
 - (1) Any simulated controlled substance;
 - (2) Any drug paraphernalia to use, store, contain, conceal, inject, ingest, inhale or otherwise introduce into the human body a controlled substance;
 - (3) Any drug paraphernalia to plan, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test analyze, pack repack, sell or distribute a controlled substance.

In determining whether an object is drug paraphernalia, a court or other authority shall consider the factors listed in K.S.A. 21-36a11, and amendments thereto, in addition to all other logically relevant factors. (Ord. 2212, Sec. I, 2009)
 - (g) It shall be unlawful for any person, firm or corporation to sell, offer to sell, dispense, give away or display any instrument or simulated controlled substance or simulated drug in or upon any premises which: (1) are premises open to minors, unless the instruments, simulated controlled substances or simulated drugs are kept in such part of the premises that is not open to view by minors or to which minors do not have access; or (2) are in close proximity to a school; provided, however, that display of any such items at a place of display for education or scientific purpose shall not be unlawful.
- (Code 1973, 10.08.020; Ord. 2071, Sec. I, 2004; Ord. 2102, Sec. 10, 2005; Ord. 2136, Sec. 10, 2006; Ord. 2158, Sec. 11, 2007; Ord. 2192, Sec. II, 2009)

11-303. EXEMPTIONS.

- (a) The provisions of section 11-302(a)(1) shall not be applicable:
 - (1) To the delivery of drugs for medical or scientific purposes only to persons included in any of the classes hereinafter named, or to the agents or employees of such persons, for use in the usual course of their business or practice or in the performance of their official duties, as the case may be; or
 - (2) To the possession of drugs by such persons or their agents or employee for that use:
 - (A) Pharmacists,
 - (B) Practitioners;
 - (C) Persons who procure drugs:

- (i) For disposition by or under the supervision of pharmacists or practitioners employed by them; or
 - (ii) For the purpose of lawful research, teaching or testing and not for resale.
 - (D) Hospitals and other institutions which procure drugs for lawful administration by or under the supervision of practitioners;
 - (E) Manufacturers and wholesalers; or
 - (F) Carriers and warehousemen.
 - (b) Nothing contained in section (b) shall make it unlawful for a public officer, agent or employee, or person aiding such public officer in performing his or her official duties to possess, obtain or attempt to obtain a drug for the purpose of enforcing the provisions of any law of this state or of the United States relating to the regulation of the handling, sale or distribution of drugs;
 - (c) Nothing in this article shall apply to a compound, mixture or preparation containing a drug which is sold in good faith for the purpose for which it is intended and not for the purpose of evading the provisions of this article if that compound, mixture or preparation contains a sufficient quantity of another therapeutic agent or agents, in addition to such a drug, to cause it to prevent the ingestion of a sufficient amount of drug to cause a dangerous hypnotic somnifacient or stimulating action.
- (Code 1973, 10.08.030; Ord. 2192, Sec. II, 2009)

11-304. PENALTY FOR DRUG OFFENSES. Violation of any of the prohibited acts set forth in Section 11-302 is a Class A violation.
(Ord. 2192, Sec. II, 2009)

ARTICLE 4. SMOKING

11-401 PURPOSE. The Governing Body of the City of Prairie Village, Kansas finds and declares that the smoking and carrying of any lighted smoking materials in certain areas accessible to the general public is hazardous to the health, safety, and general welfare of persons and property in such areas. The purpose of this Article is to regulate smoking and the carrying of lighted smoking materials in places of employment and all public places. By enactment of this Article, the Governing Body of the City of Prairie Village seeks to promote public health by decreasing citizens' exposure to secondhand smoke and creating Smoke-free environments for workers and citizens through regulation in the work place and all public places.
(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)

11-402 DEFINITIONS. The following terms and phrases, when used in this Article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- (a) Employee: Any person who performs services for an employer, with or without compensation.
- (b) Employer: A person, partnership, association, corporation, trust, or other organized group of individuals, including the City or any agency thereof, which utilizes the services of one (1) or more employees.
- (c) Enclosed: A space bound by walls (with or without windows) continuous from the floor to the ceiling, including, but not limited to, offices, rooms, all space therein screened by partitions, which do not extend to the ceiling or are not solid, "office landscaping" or similar structures and halls.
- (d) Permanently Designated: A hotel or motel room may be designated as a smoking room only one time a year.
- (e) Place of Employment means any enclosed area under the control of public or private employer which employees normally frequent during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias and hallways. A private residence is not a "place of employment" unless it is used as a childcare, adult day care or health care facility.
- (f) Public Place means any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place" unless it also serves as a "Place of Employment."
- (g) Restaurant means a building wherein food is prepared and served in ready-to-eat form to the public for human consumption, wherein alcoholic beverages may be sold for consumption and more than fifty percent of the income is derived from the sale of food. "Restaurant" includes, but is not limited to, cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steakhouse.
- (h) Service Line means any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- (i) Smoking means the possession of lighted smoking materials in any form, including but not limited to, the possession of lighted cigarettes, cigars, pipes, or other tobacco or other products.

- (j) Sports Arena means sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.
(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005; Ord. 2168 Sec 1, 2008)

11-403 SMOKING PROHIBITED IN ENCLOSED PLACES OF EMPLOYMENT AND ALL ENCLOSED PUBLIC PLACES.

- (a) Smoking shall be prohibited in all enclosed places of employment within the City.
- (b) It shall be the responsibility of all employers within the City to provide a smoke-free environment in all enclosed areas accessible to employees and/or customers.
- (c) Each employer shall supply a written copy of this Article to any existing or prospective employee.
- (d) Smoking shall be prohibited in all enclosed public places within the City, including, but not limited to:
 - (1) Any vehicle of public transportation, including but not limited to buses, limousines for hire and taxicabs.
 - (2) Elevators.
 - (3) Restrooms.
 - (4) Private residences operating as Day Care Centers pursuant to Chapter 19.34 of the Prairie Village Municipal Code.
 - (5) Libraries, educational facilities, childcare and adult day care facilities, museums, auditoriums, aquariums and art galleries.
 - (6) Any health care facility, health clinics or ambulatory care facilities, including but not limited to laboratories associated with the rendition of health care treatment, hospitals, nursing homes, doctors' offices and dentists' offices.
 - (7) Any indoor place of entertainment or recreation, including but not limited to gymnasiums, theaters, concert halls, bingo halls, billiard halls, betting establishments, bowling alleys, arenas and swimming pools.
 - (8) Service Lines.
 - (9) Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance.
 - (10) Shopping malls.
 - (11) Sports arenas, including enclosed places in outdoor arenas.
 - (12) Bars.
 - (13) Restaurants.
 - (14) Convention facilities.
 - (15) All public areas and waiting rooms of public transportation facilities, including but not limited to bus and airport facilities.
 - (16) Any other area used by the public or serving as a place of work, including open office landscaping.
 - (17) Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, or committee, including, but not limited to joint committees or agencies of the City or any political subdivision of the State of Kansas during such time as a public meeting is in progress.
 - (18) All enclosed facilities and vehicles owned by the City.

(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)

11-404 AREAS WHERE SMOKING IS NOT REGULATED

- (a) Private residences, not serving as enclosed places of employment or an enclosed public place.
- (b) Outdoor, unenclosed areas of restaurants, drinking establishments, and private clubs including but not limited to decks, patios, etc., but only to the extent that such areas are at least ten feet away from any doorway or opening leading to an enclosed area.
- (c) Hotel and motel rooms that are rented to guests and are permanently designated as smoking rooms; provided, however, that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be so designated.
- (d) An existing retail establishment whose primary business is the sale of tobacco products and new retail establishments whose primary business is the sale of tobacco products which are located in a stand-alone building not attached to or the part of any building devoted to other uses.

(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005; Ord. 2168, Sec II, 2008; Ord. 2231, Sec I, 2010)

11-405 RESPONSIBILITIES OF PROPRIETORS, OWNERS, AND MANAGERS

- (a) Any proprietor, owner or manager or other person in control of a place regulated by the provisions of this article shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this Article in that place.
- (b) It shall be unlawful for any proprietor, owner or manager or other person in control of a place regulated by the provisions of this Article to fail to provide and permanently affix conspicuous signs clearly visible from all major public entrances advising that smoking is prohibited in the place.
 - (1) All signs which are used to identify a non-smoking area shall use the primary words No Smoking and shall also include the international no smoking symbol and shall also state Pursuant to PVMC 11-403.
 - (2) All signs which are used to identify an area in which smoking is permitted shall use the primary words Smoking Permitted and shall also include the international smoking symbol.
 - (3) All signs which are used to identify both smoking and non-smoking areas shall be placed at a height and location easily viewable by a person entering the establishment and shall not be obscured or obstructed in any manner. Signs shall be proportionally conspicuous to the size or characteristics of the entranceway. In no case shall the primary lettering and international symbol on the signs be less than one inch in height.
- (c) The absence of proper signage as required in this Section shall in no manner nullify the requirements of this Article.

(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)

11-406 PENALTIES FOR VIOLATION

- (a) A person who smokes in an area where smoking is prohibited by this Article shall be guilty of an infraction punishable by a fine as set forth in Section 1-116 of this Code.
- (b) A person having control of a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of infraction punishable by a fine as set forth in Section 1-116 of this Code.

- (c) Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.
- (d) In addition to the fines established in Section 11-405(b) by a person having control of a public place or place of employment may also result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
- (e) The City may further enforce this Article by maintaining any action in the appropriate court for injunction to enforce the provisions of this Article, to cause the correction of any such violation, for assessment and recovery of a civil penalty for such violation or to pursue other appropriate civil remedy.

(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)

11-407 NON-RETALIATION. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Ordinance.

(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)

11-408 OTHER APPLICABLE LAWS. This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.

(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)

11-409 LIBERAL CONSTRUCTION. This Article shall be liberally construed as to further its purposes

(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)

11-410 EFFECTIVE DATES

(a) Except as provided below, this Article shall become effective upon adoption by the Governing Body and publication in the official City newspaper.

(b) As applied to restaurants and other food service establishments, this Article shall take effect and be in force from August 1, 2008, and after the publication of Ordinance 2168 in the official City newspaper.

(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005; Ord. 2168, Sec III, 2008)

11-411 ENFORCEMENT

(a) The authority to administer the provisions of this Article is vested in the Chief of Police.

(b) Notice of the provisions of this Article shall be provided to all applicants for a business license.

(c) Any citizen who desires to register a complaint under this Article may initiate enforcement by contacting the Police Department.

(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)

ARTICLE 5. CRIMINAL LITTERING

- 11-501. Criminal Littering is intentionally or recklessly depositing or causing to be deposited any object of substance into, upon or about:
- A. Any public street, highway, alley, road, right-of-way, park or other public place, or any lake, stream, watercourse, or other body of water except by direction of some public officer or employee authorized by law to direct or permit such acts; or
 - B. Any private property without the consent of the owner or occupant of such property.
- (Ord. 2170, Sec. 1, 2008)
- 11-502. Should such object or substance be deposited from a motor vehicle, the driver may be cited for any litter thrown, placed or dropped from the motor vehicle, unless any other person in the motor vehicle admits to or is identified as having committed the act.
- (Ord. 2170, Sec. 1, 2008)
- 11-503. Criminal Littering is an unclassified misdemeanor punishable:
- A. Upon a first conviction by a fine of not less than \$250 nor more than \$1,000.
 - B. Upon a second conviction by a fine of not less than \$1,000 nor more than \$2,000.
 - C. Upon a third conviction by a fine of not less than \$2,000 nor more than \$4,000.
- (Ord. 2170, Sec. 1, 2008)
- 11-504. In addition to the fines in subsection 11-503, a person convicted of criminal littering may be required to pick up litter for a time prescribed by and a place within the jurisdiction of the court.
- (Ord. 2170, Sec. 1, 2008)

ARTICLE 6. STANDARD TRAFFIC ORDINANCE

11-601. INCORPORATING STANDARD TRAFFIC ORDINANCE.

- A. There is hereby incorporated by reference for the purpose of regulating traffic within the corporate limits of the City of Prairie Village, Kansas, that certain standard traffic ordinance known as the "Standard Traffic Ordinance for Kansas Cities," Edition of 2016, prepared and published in book form by the League of Kansas Municipalities, save and except such articles, sections, parts or portions as are hereafter omitted, deleted, modified or changed. Not less than two copies of said standard ordinance shall be marked or stamped "Official Copy as Incorporated by the Code of the City of Prairie Village, Kansas," with all sections or portions thereof intended to be omitted or changed clearly marked to show any such omission or change, and filed with the City Clerk to be open to inspection and available to the public at all reasonable hours. The Police Department, municipal judges and all administrative departments of the city charged with the enforcement of the ordinances shall be supplied, at the cost of the city, such number of official copies of such "Standard Traffic Ordinance" similarly marked, deleted and changed as may be deemed expedient. (Ord. 2357, Sec. 1, 2016)
- B. Article 1, DEFINITIONS, PEDESTRIAN, Standard Traffic Ordinance for Kansas Cities is hereby amended as follows, adding: (d) the term pedestrian includes individuals who are walking, jogging or running within the city limits of Prairie Village, Kansas. When this article requires that pedestrians walk in a certain fashion, the term walk shall be defined to include the acts of running and jogging. (Ord. 2357, Sec. 1, 2016)

11-602. SAME; TRAFFIC INFRACTIONS AND TRAFFIC OFFENSES.

- A. An ordinance traffic infraction is a violation of any section of this article that prescribes or requires the same behavior as that prescribed or required by a statutory provision that is classified as a traffic infraction in K.S.A. Supp. 8-2118.
- B. All traffic violations which are included within this article, and which are not ordinance traffic infractions as defined in subsection (a) of this section, shall be considered traffic offenses.
(Ord. 2357, Sec. 2, 2016)

11-603. PENALTY FOR SCHEDULED FINES.

- A. The fine for violation of an ordinance traffic infraction or any other traffic offense for which the municipal judges establish a fine in a fine schedule shall not be more than \$500. A person tried and convicted for violation of an ordinance traffic infraction or other traffic offense for which a fine has been established in a schedule of fines shall pay a fine fixed by the court not to exceed \$500. (Ord. 2357, Sec. 3, 2016)
- B. Every person convicted of a violation of any of the provisions of this ordinance for which another penalty is not provided by this ordinance or by the schedule of fines established by the judge of the municipal court shall be punished for first conviction thereof by a fine of not more than \$500 or by imprisonment for not more than one month or by both such fine and imprisonment; for a second such conviction within one year thereafter that person shall be

punished by a fine of not more than \$1,000 or by imprisonment for not more than six months or both such fine and imprisonment; upon a third or subsequent conviction within one year after the first conviction such person shall be punished by a fine of not more than \$2,500 or by imprisonment for not more than one year or by both such fine and imprisonment. (K.S.A. 8-2116; K.S.A. 21-4503; K.S.A. 21-4503a). (Ord. 2357, Sec. 3, 2016)

11-604. TRAFFIC CONTROL SIGNAL PREEMPTION DEVICES. Article Four, Section 13.1 of the Standard Traffic Ordinance is hereby amended as follows:

Article Four, Section 13.1, subsection (c) is deleted and replaced with the following: “(c) The provisions of this section shall not apply to the operator, passenger, or owner of any of the following authorized emergency or public works vehicles, in the course of such person’s emergency or public safety duties:

- (1) Publicly owned fire department vehicles
- (2) Publicly owned police vehicles
- (3) Motor vehicles operated by ambulance services permitted by the emergency medical services board; or
- (4) Publicly owned public works vehicles during snow removal operations.

(Ord. 2357, Sec. 4, 2016)

11-605. UNATTENDED MOTOR VEHICLE. Article 13, of the Standard Traffic Ordinance is hereby amended by adding Section 107 to read as follows:

“Sec. 107. Unattended Vehicles. No person either operating or in charge of a motor vehicle shall leave the vehicle unattended and unlocked on either a public or private area within the City unless the ignition of such vehicle is in the locked position, the keys are removed from the ignition and effectively setting the brake thereon and, when standing upon any grade, turning the front wheels to the curb or side of the highway. These provisions shall not apply if the windows are closed and the doors locked or the vehicle is in a closed and secure building or when an engine has been activated by a remote starter system when the keys are not in the motor vehicle. A vehicle shall be presumed unattended if the owner or person in charge of the vehicle is not in the vehicle or is not in the immediate vicinity so as to have direct control or access to the vehicle.”

(Ord. 2357, Sec. 5, 2016)

11-606. DRIVER’S LICENSE NOTICE OF CHANGE OF ADDRESS OF NAME. Article 19, Sec. 193 of the Standard Traffic Ordinance is hereby amended by adding Sec. 193(1) to read as follows:

“Sec. 193(1) Driver’s License Notice of Change of Address or Name. Whenever any person, after applying for or receiving a driver’s license shall move from the mailing address or residence address named in such application or in the driver’s license issued to such person, or when the name of the licensee is changed by marriage or otherwise, such person, within ten (10) days thereafter, shall notify the Kansas Department of Revenue motor vehicles division in writing of such person’s old and new mailing and/or residence address and/or of such former and new name(s) and the driver’s license number of such person.”

(Ord. 2357, Sec. 6, 2016)

ARTICLE 7. LOCAL TRAFFIC REGULATIONS

11-701.

DEFINITIONS.

- A. "Bus" shall mean a motor vehicle designed or used to carry 10 or more passengers, other than vehicles commonly referred to as passenger vans, full size vans or mini vans.
- B. "Commercial vehicle" shall mean any motor vehicle other than bus or a passenger vehicles (as each is defined in this article) or a recreational vehicle (as defined in Section 11-1501 of Article 15 of this Chapter).
- C. "Passenger vehicle" means a motor vehicle designed primarily for the transportation of people as opposed to equipment, freight or other vehicles, and sold primarily to individuals for personal use, and includes cars, except as excluded below, vehicles commonly referred to as passenger vans, full size vans or minivans (whether or not seats have been removed to allow the carrying of cargo), and, except as excluded below, vehicles commonly referred to as pickup trucks.

A motor vehicle shall not be excluded from the definition of "passenger vehicles" (a) because such vehicle is carrying items commonly found in residential areas, such as ladders, saw horses, or building materials, or (b) because accessories, such as racks, storage boxes or shells have been added to the vehicle, provided that the original exterior walls of the vehicle remain intact.

The following vehicles are excluded from the term "passenger vehicle":

- (a) Pickup trucks that do not have the traditional pickup bed and side walls;
 - (b) Vans that have extended height or width and are primarily designed to carry cargo instead of passengers.
 - (c) Vehicles with aerial buckets or platforms (e.g. "cherry pickers"), welding equipment, mechanical lifts or arms designed to assist in loading and unloading freight; and
 - (d) Vehicles commonly referred to as step vans, box vans, flatbed trucks, buses, as defined in this article, semi-tractors and trailers, former military vehicles, cement mixers, construction equipment and any vehicle with dual rear axles.
- D. "Traffic Signs" means any sign, marking or device placed or erected by authority of a public body or official having jurisdiction for the purpose of regulating, warning or guiding traffic.
 - E. "Traffic signal" means any device whether manually, electrically or mechanically operated by which traffic is alternatively directed to stop and permitted to proceed.
 - F. "Truck" means any bus or commercial vehicles as defined in this article.
(Ord. 1597, Sec. 1; Ord. 2169, Sec. 3, 2008; Ord. 2324, Sec. 1, 2015)

11-702.

TRAFFIC CONTROL DEVICES AND MARKINGS. The current Standard Traffic Ordinance for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this Chapter is hereby modified by adding thereto the following:

The Governing Body may, by resolution, establish and fix the location of such traffic control devices as may be deemed necessary to guide and warn traffic under the provisions of this Article, other traffic ordinances and the state laws. The City shall place and maintain such traffic control signs, signals and devices when and as may be required by the authority of the Governing Body to make effective the provisions of this Article and other ordinances for the regulation of traffic. Any official traffic control device placed pursuant to this Section shall be marked and labeled on a map of the City of Prairie Village for the purpose of displaying all such traffic control devices and shall be filed with the City Clerk to be open to inspection and available to the public at all reasonable hours of business. (Code 2003; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)

11-703. TRAFFIC CONTROL LOCATIONS. There is incorporated by reference for the purpose of regulating traffic within the city limits, that certain traffic control locations adopted by the Governing Body and on file in the Office of the City Clerk and all additions and/or elections made by Council hereinafter be adopted traffic control locations in the City. (Code 1973, 11.05.030; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)

11-704. SAME; SPEED LIMIT CHANGES.

- A. It having been determined upon the basis of an engineering and traffic investigation that the speed limits permitted by state law and by Section 33 of the current Standard Traffic Ordinance for Kansas Cities adopted by the city from time to time pursuant to Article 6 of this Chapter, are greater or less than is reasonable or safe under the conditions found to exist upon the following streets and/or parts of streets, the following speed limits shall apply where indicated, except as provided in subsections (b) and (c) hereof:
- (1) 75th Street from State Line Road to Walmer Street -- 35 miles per hour.
 - (2) Mission Road, from 75th Street south to 95th Street, within the city -- 35 miles per hour.
 - (3) Mission Road, from northern City limit south to 75th Street -- 30 miles per hour.
 - (4) Nall Avenue from 63rd Street to 95th Street -- 35 miles per hour.
 - (5) Roe Avenue from northern City limit to 95th Street -- 35 miles per hour.
 - (6) 95th Street from Mission Road to Nall Avenue -- 35 miles per hour.
 - (7) 83rd Street from eastern City limit to Lamar Avenue -- 30 miles per hour.
 - (8) State Line Road from 71st Street south to 75th Street -- 30 miles per hour.
 - (9) State Line Road from 75th Street south to the southern city limits -- 35 miles per hour.
 - (10) Cambridge from State Line Road to Somerset Drive -- 30 miles per hour.
 - (11) Somerset Drive from State Line Road to Nall Avenue -- 30 miles per hour.
 - (12) 79th Street from State Line Road to Mission Road -- 25 miles per hour.
 - (13) 79th Street from Mission Road to Lamar Avenue -- 30 miles per hour.
 - (14) Tomahawk Road between Mission Road and Nall Avenue -- 30 miles per hour.
 - (15) Tomahawk Road between Nall Avenue and 79th Street -- 25 miles per hour.

- (16) 71st Street between State Line Road and Reeds Drive -- 30 miles per hour.
- (17) 63rd Street between Mission Road and Nall Avenue, within the City -- 30 miles per hour.
- (18) All other residential streets not herein otherwise designated -- 25 miles per hour.

B. Except as provided in subsection (c) hereof, the maximum speed limit upon streets or portions of streets abutting school property or adjacent to school crosswalks in those areas designated as school zones shall be the speed limit posted on the appropriately erected signs giving notice of the speed limit in said school zones. The maximum speed to be posted within each school zone shall be determined by the traffic engineer retained by the City to consult on traffic matters, provided the speed limit shall not be less than 20 miles per hour. Maximum speed limits within school zones shall be effective and subject to enforcement by law enforcement officers during those time periods set forth on appropriately erected signs giving notice of the effective hours of enforcement or during those times a flashing yellow beacon is in operation with appropriately erected signs indicating the school zone speed limits are enforced during the times the flashing yellow beacon is in operation. Said traffic engineer shall determine the times of enforcement for school zones within the City, provided such speed limits shall apply only during the hours in which students are normally en route to or from school.

C. Notwithstanding subsection (b), it having been determined upon the basis of an engineering and traffic investigation that the speed limits currently posted for certain school zones along Mission Road are greater or less than is reasonable or safe under the conditions found to exist therein, a speed limit of 25 miles per hour shall apply at the following streets and/or parts of streets as shall be posted in accordance with subsection (b) hereof and during those time periods set forth on appropriately erected signs giving notice of the effective hours of enforcement or during those times a flashing yellow beacon is in operation;

- a. 94th Street & Mission Road (Cure of Ars School)
- b. 83rd Street & Mission Road (Corinth Elementary School)
- c. 73rd Street & Mission Road (St. Ann's School)
- d. 67th Street & Mission Road (Prairie Elementary School)
- e. 63rd Street & Mission Road (Indian Hills Middle School)

(Ord. 2086, Sec. 2, 2004; Ord. 2101, Sec. 1, 2005; Ord. 2169, Sec. 3, 2008; Ord. 2241, Sec. 10, 2011, Ord. 2324, Sec. 1, 2015)

11-705. SAME; ACCESSIBLE PARKING. Section 87, entitled "Accessible Parking of the current Standard Traffic Ordinance for Kansas Cities adopted by the City from time to time pursuant to Article 6 of this Chapter, is hereby amended to provide for a mandatory fine of \$100 in subsection (e)(2), which is amended to read as follows:

(e)(2) Violation of subsection (e)(1) is punishable by a mandatory fine of \$100. (Ord. 2018, Sec. 1; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)

- 11-706 TRUCK TRAFFIC; REGULATION. No truck as defined in Section 11-701 of this article (except those owned and/or operated by the City, emergency vehicles, or those operated by public utilities and engaged in repair, maintenance or construction of utilities, and buses picking up and dropping off passengers in residential areas) shall be allowed to enter upon any of the streets of the City except the following named streets:
- (a) 75th Street;
 - (b) 95th Street;
 - (c) Nall Avenue;
 - (d) State Line, from 75th Street to 79th Street;
 - (e) Mission Road from Tomahawk to 95th Street;
- provided, that at the time of any alleged violation of these restrictions, there shall be posted upon the streets of the city, signs indicating streets which allow truck traffic. Trucks delivering or receiving goods or merchandise to or from any house or premises within the city shall be permitted to enter thereon while delivering the goods or merchandise, provided that the trucks travel as close to their destination point as is reasonably possible on the closest designated truck route, then from that truck route using the most direct route to the point of pick up or delivery and shall return to the nearest designated truck route after the delivery as is reasonably possible.
- (Code 1973, 11.08.010; Ord. 2129, Sec. II, 2006; Ord. 2169, Sec. 3, 2008; Ord. 2212, Sec. 2, 2009, Ord. 2324, Sec. 1, 2015)
- 11-707. PARKING; TWO-HOUR LIMIT. No vehicle of any type other than a passenger vehicle, shall be parked on any street of the city for more than two hours between 12:01 a.m. and 6:00 a.m. of the day. (Code 1973, 11.08.040; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)
- 11-708. STOPPING, STANDING AND PARKING; WHERE PROHIBITED. No driver of a vehicle shall stop, stand or park or cause to be placed, left or stopped such vehicle in any of the following places, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police officer or traffic-control sign or signal, on private property or upon any area developed as an off-street parking facility, without the consent of the owner, lessee or person in charge of any such private property or facility. (Code 1973, 11.08.050; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)
- 11-709. DRIVING, STOPPING, STANDING AND PARKING OF MOTOR VEHICLES IN BICYCLE LANE; PROHIBITED. No driver of any motor vehicle shall drive, stop, park or allow the vehicle to stand in any path or roadway area set aside, designated and marked for the exclusive use of bicycles. For purposes of this article, motorized bicycles shall not be considered as motor vehicles. (Code 1973, 11.08.055; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)
- 11-710. PARTIES TO VIOLATION. Every person who commits, attempts to commit, conspires to commit or aids or abets in the commission of any act declared herein to be unlawful, whether individually or in connection with one or more other persons, or as a principal, agent or accessory is guilty of such offense and every person who falsely, fraudulently, forcibly or willfully induces, causes, coerces, requires, permits or directs another to violate any provisions of Sections 11-

208:218 is likewise guilty of such offense. Every person who knowingly and willfully gives to a police officer false information is guilty of a misdemeanor. (Code 1973, 11.08.060; Ord. 2169, Sec. 3, 2008; Ord. 2212, Sec. 3, 2009, Ord. 2324, Sec. 1, 2015)

- 11-711. SLEDDING ON STREETS. It is unlawful for any person upon a sled or riding on or by means of any sled or coaster, or similar device, to go upon any street or roadway within the city except while crossing a street on a crosswalk, or upon a street specifically authorized for such purpose by order of the Chief of Police during the times designated by him or her for that purpose. (Code 1973, 11.08.150; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)
- 11-712. VEHICLES PROHIBITED WITHIN CERTAIN AREAS IN RESIDENTIAL ZONES. No vehicle or part of such vehicle shall be parked or stored in the front setback area of any lot in a residential zone or the side setback area, except on a driveway. (Code 1973, 11.08.180; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)
- 11-713. DRIVING UPON IMPROVED CREEKBEDS. No person shall operate or cause to be operated any licensed or unlicensed motor vehicle or motorized bicycle (as defined by the current Standard Traffic Ordinance for Kansas Cities adopted by the City from time to time pursuant to Article 6 of this Chapter), or other motorized conveyance within or upon any improved creek bed or unimproved watercourse within the city, except at the direction of the City and as necessary to maintain the improved creek beds. As used in this Section, an "improved creek bed" shall be defined as any watercourse, waterway or drainage ditch which has been temporarily or permanently improved by the placement or construction of cement sides, walls, bed or other enclosure within or upon the watercourse, waterway or drainage ditch. "Unimproved watercourse" means any watercourse, waterway or drainage ditch upon which no improvements or structured modifications have been made. (Code 1973, 11.07.200; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)
- 11-714. REGULATION OF THE USE OF PUBLIC STREETS BY INDIVIDUALS WHILE JOGGING AND RUNNING. For purposes of public safety and welfare, any person using the public streets of the City during the period from a half-hour after sunset to a half-hour before sunrise and at any other time when there is not sufficient light to render clearly discernible persons and vehicles on the highway at a distance of 500 feet ahead, shall be required to wear on his or her person some type of reflective apparel or materials of sufficient size and placement so as to be visible to vehicular traffic from a distance of 200 feet, in addition to comply with the provisions of the current Standard Traffic Ordinance for Kansas Cities adopted by the City from time to time pursuant to Article 6 of this Chapter. (Code 1973, 11.08.300; Code 2003; Ord. 2129, Sec II, 2006; Ord. 2169, Sec. 3, 2008; Ord. 2212, Sec. 5, 2009, Ord. 2324, Sec. 1, 2015)
- 11-715. PARKING OF TRUCKS AND BUSES IN RESIDENTIAL ZONING DISTRICTS. In all residential zoning districts, the parking of trucks and buses as defined in this Article is expressly prohibited in residential driveways except such

vehicles may temporarily be parked in residential driveways if such parking does not create a safety hazard; and

(A) Such vehicle is in the process of delivering goods or merchandise; or

(B) Such vehicle is being used for construction purposes for construction work in progress on the property.

(Ord. 1730, Sec. 1; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)

11-716.

CHEMICAL TEST. Any person who operates a motor vehicle upon a public highway in this state shall be deemed to have given his or her consent to submit to a chemical test of his or her breath, blood, urine or saliva for the purpose of determining the alcoholic content of his or her blood whenever he or she is arrested or otherwise taken into custody for any offense involving operating a motor vehicle under the influence of intoxicating liquor in violation of a state statute or a city ordinance and the arresting officer has reasonable grounds to believe that prior to his or her arrest the person was driving under the influence of intoxicating liquor. The test shall be administered at the direction of the arresting officer. If the person so arrested refuses a request to submit to the test, it shall not be given and the arresting officer shall mail to the vehicle department of the Kansas Department of Revenue a sworn report of the refusal, stating that prior to the arrest he or she had reasonable grounds to believe that the person was driving under the influence of intoxicating liquor. (Code 1973, 11.12.010; Ord. 2129, Sec. II, 2006; Ord. 2169, Sec. 3, 2008, Ord. 2324, Sec. 1, 2015)

11-717.

TRAFFIC OFFENSE. The violation of any provision of this Article is hereby declared to be a traffic offense punishable in accordance with Section 11-603 Article 6 of this Chapter. (Ord. 2324, Sec. 1, 2015)

ARTICLE 8. TOWING REGULATIONS

11-801. AUTHORITY TO TOW OR IMPOUND. The police department, and all members thereof, are authorized to have removed and towed away by a commercial towing service to a safe lot controlled by the commercial towing service, all motor vehicles found under the following circumstances:

- (a) When any motor vehicle upon a street, public road, or highway is so disabled as to constitute an obstruction to traffic and the person or persons in charge of the vehicle cannot safely operate the vehicle or are unable to provide for its custody or removal to a safe location;
- (b) When any motor vehicle is parked illegally in such a manner as to constitute a hazard or obstruction to the safe movement of traffic;
- (c) When the operator of any motor vehicle is arrested and taken into custody by the police department and such vehicle would thereby be left unattended and create a hazard or obstruction to the safe movement of traffic;
- (d) When any motor vehicle is abandoned or left unattended on a street, public road, highway or public property for a period of time in excess of 48 consecutive hours;
- (e) When any vehicle is found being driven on the streets and is not in proper or safe condition to be driven and cannot be removed safely to a lawfully secured location by the owner or operator;
- (f) When any motor vehicle determined to be stolen is found/recovered;
- (g) When any motor vehicle is subject to seizure as evidence in a criminal prosecution;
- (h) When any motor vehicle is subject to seizure or forfeiture under the laws of this state or federal law; or
- (i) Other circumstances as outlined in Written Directive 61.4.1, which serves as an operational guideline to the police department concerning towing of vehicles.

(Ord. 1978, Sec. 2; Ord. 2169, Sec. 4, 2008)

11-802. DEFINITIONS. For the purposes of this chapter, the following terms, phrases, words and their derivations shall have the meanings given in this section.

- A. Abandoned Vehicle means any unoccupied motor vehicle or trailer which is or has been:
 - (1) Placed, parked, stopped, or standing on any street, public road, highway, or public parking lot for a period of 48 consecutive hours;
 - (2) Placed, parked, stopped, or standing in violation of Article 13, Section 93, of the Standard Traffic Ordinance.
- B. Highway means the entire width between boundary lines of every way publicly maintained when any part thereof is open to the use of the public for the purposes of vehicular traffic.
- C. Investigative Hold means when a vehicle needs to be held for the purpose of a criminal investigation or for use as evidence at trial.
- D. Motor Vehicle means every vehicle, or tractor trailer combination, which is self-propelled by which any person or property is or may be transported or drawn upon a highway except vehicles used exclusively upon stationary rails or tracks.

(Ord. 1978, Sec. 2; Ord. 2169, Sec. 4, 2008)

- 11-803. **REMOVAL OF ABANDONED VEHICLES.** Whenever any person abandons a vehicle (motorized or trailer) for a period in excess of 48 hours, the police department, or its designated agent, may cause to have an approved commercial towing service remove the vehicle from such highway or other public property and place or store the same in a suitable and convenient place controlled by the approved commercial towing service; provided, however, before said vehicle is removed, the police department shall make a reasonable effort to determine and contact the owner of the vehicle. Any owner contacted shall be requested to remove the vehicle forthwith. The police department should follow protocols as outlined in Written Directive 61.4.1, which serves as an operational guideline to the police department concerning towing of vehicles.

Vehicles which are subject to being towed under conditions that do not constitute an immediate obstruction to the normal and safe movement of traffic and are determined to be abandoned, shall not be towed until the vehicle has had placed on its windshield or in another prominent location, a sticker or placard indicating the vehicle is in violation of section 11-802 and shall be removed by an approved commercial towing service at the direction of the Prairie Village Police Department after 48 hours from the time the sticker or placard was attached to the vehicle. The sticker or placard shall include such other information as the chief of police determines is necessary. (Ord. 1978, Sec. 2; Ord. 2169, Sec. 4, 2008; Ord. 2212, Sec. 6, 2009)

- 11-804. **NOTICE TO OWNER OF TOWED VEHICLE.**
- A. The police officer who has caused to have the approved commercial towing service remove the vehicle, will make a reasonable attempt to ensure that the owner or a responsible person of the towed vehicle or piece of equipment is notified of the tow and release procedures. The approved commercial towing service, at the time the towing service is provided, shall give written notice to the driver, if available, of the vehicle being towed, that a fee will be charged for storage of such vehicle. Failure by the approved commercial towing service to give such written notice shall invalidate any lien established for such storage fee.
 - B. If a tow has been completed by an approved commercial towing service at the authorization of a police officer, and the registered owner has not recovered the vehicle after seven days, the assigned dispatcher will notify the owner and any lien holder known (by telephone or mail) of the whereabouts of the vehicle and the procedures for release. If the vehicle has not been released after 30 days, the assigned dispatcher will mail a certified notification to the owner and any lien holders known reiterating the release procedures. A copy of the letter will be kept with the case file.
 - C. The commercial towing service that renders any recovery, transportation, protection, storage, or safekeeping of any vehicle at the request of the police officer, shall have a first and prior lien created on such vehicle. The commercial towing service in possession of the vehicle is required by K.S.A. § 8-1103 to send a notice to the owner of the vehicle, if known, within 15 days from the rendering of any towing service stating that the vehicle is being held subject to the satisfaction of the lien.

- D. If an investigative hold has been placed on the vehicle, the vehicle may only be released to the registered owner by one of the following authorities: the officer who placed the hold; the investigator who processed the vehicle; the outside agency that requested the hold; or a division commander of the police department.

If an investigative hold has not been removed by the police officer who caused the vehicle to be towed by an approved commercial towing service within seven days, the assigned dispatcher will contact the officer and inquire about the status of the hold. If the hold has not been released after 10 days, the assigned dispatcher will notify the officer's supervisor.

- E. If the owner of the towed motor vehicle, trailer, equipment, etc., does not claim such property and pay the removal and storage charges incurred by the commercial towing service within 45 calendar days, the commercial towing service, before 60 days pass, shall request verification from the division of vehicles as to the last registered owner and any lien holders. Within 10 calendar days after receipt of such verification, the commercial towing service will notify the registered owner and lien holder, as applicable, by registered mail that the property towed is subject to public auction to the highest bidder within 15 days from the date of the mailing of the notice. The commercial towing service shall also use reasonable diligence in determining the title owner if the division of vehicles is unable to verify the owner or if the vehicle is from a non-title state, and shall inquire by mail of the office of the register of deeds of the county in which the title shows the owner resides, if registered in the state, as to whether there are any lien holders of record. Copies of any notices sent shall be filed with the Johnson County Clerk by the commercial towing service, along with an affidavit from the commercial towing service setting forth the claim and actual expenses of notice, publication and sale.

(Ord. 1978, Sec. 2; Ord. 2129, Sec. II, 2006; Ord. 2169, Sec. 4, 2008)

- 11-805. PUBLIC NOTICE. After 15 days from the dates of mailing notice, the commercial towing service shall publish a notice once a week for three consecutive weeks in a newspaper of general circulation in Johnson County, Kansas. The notice shall describe the property and/or motor vehicle by name of maker, model, vehicle identification number, and owner, if known, stating that it has been towed and held by the respective commercial towing service and will be sold at public auction to the highest bidder for cash if the owner does not claim it within 10 days of the date of the third publication of the notice and pay the removal and storage charges, and publication costs incurred by the commercial towing service. Copies of the publication shall be filed with the Johnson County Clerk by the commercial towing service, along with the notices and affidavits described in section 11-804. (Ord. 1978, Sec. 2; Ord. 2169, Sec. 4, 2008; Ord. 2212, Sec. 7, 2009)

- 11-806. APPROVAL OF COMMERCIAL TOWING SERVICE AND PROCEDURE. The chief of police shall approve any person, firm, partnership or corporation desiring to perform wrecking and towing service for the P.V.P.D. for removal of vehicles as authorized herein. If such vehicle or towing service meets the requirements of this section, in which case such wrecker or towing service shall be eligible to be placed on the list of companies authorized to respond for wrecker or towing service requested by the department on a rotation basis.

- A. Requirements for Approval. The following requirements and criteria shall be met by any wrecker or towing service seeking approval to be authorized and listed as eligible to respond to requests for towing service by the P.V.P.D.;
- (1) Exclusive of legal holidays, each wrecker or towing service shall be open and have a representative actually on the premises for the location or area where towed vehicles are stored or kept per day, from 8:00 a.m. to 5:30 p.m. Monday through Friday, and a representative shall be available when called between 8:00 a.m. and Noon on Saturdays.
 - (2) Towing and wrecker services and drivers must be available within a 30 minute response time, on a 24 hour basis, seven days a week.
 - (3) Each towing and wrecker service must have properly zoned and adequate storage facilities. The outside storage areas should be fenced, with at least a six foot high fence.
 - (4) Each towing and wrecker service must have available storage area which is totally enclosed within a building for the protection and security of recovered stolen property to be processed and valuable property left in vehicles.
 - (5) Each towing and wrecker service must have available at least one, 16 ton capacity wrecker or wrecker vehicle with greater capacity.
 - (6) Each towing and wrecker service must provide the city with proof of adequate insurance coverage under the following policies:
 - Garage Keeper's Policy. A garage keeper's liability policy providing the following coverage: fire, theft, wind, water, vandalism and explosion, with a minimum limit of \$60,000 per vehicle.
 - Liability Policies. Liability policies covering the premises and operation of the owner's business, equipment and motor vehicles for property damage and bodily injury shall be maintained by the owner. These policies shall provide coverage limits at or equivalent to \$500,000 per occurrence combined single limits for property damage and bodily injury.
 - Endorsement. Each policy required herein must contain an endorsement providing the city and the insured 30 days notice of any material change in coverage or cancellation of the policy.
 - (7) Each towing or wrecker service shall provide the P.V.P.D. with information relating to ownership and availability of the equipment and facilities required by the foregoing subsections (1):(6).
 - (8) The requirements set forth in subsections (1) through (7) shall not apply when the person whose vehicle is to be towed shall indicate a preference, when applicable, as to when towing and wrecker service is to be utilized or when the person whose vehicle is to be towed shall request a specific towing or wrecker service.
- B. Fees and Charges. All towing and wrecker services shall charge for towing services and storage fees, such fees and charges as are adopted by the governing body of the city by resolution. (Such fees and charges shall apply only as to vehicles/equipment towed and stored in response to a request by said police department.) Towing and wrecker services may submit charges to

the governing body for approval, but the charges as approved shall be uniform for all services.

- C. Release of Towed Vehicle. No wrecker or towing service, or owner, employee or agent thereof, shall release any towed or stored vehicle without the proper authorization (vehicle release form) from the P.V.P.D., or designated representative, who shall be responsible for approving the owner's identification and proof of title and registration.
- D. Enforcement Authority. The governing body may establish, distribute and cause the enforcement of reasonable rules and regulations for wrecker or towing services, subject to the provisions of this section, as from time to time it deems appropriate for the safety, well-being and protection of citizens and their property within the city.

(Ord. 1978, Sec. 2; Ord. 2169, Sec. 4, 2008)

11-807.

SUSPENSION OR REVOCATION OF APPROVAL AND AUTHORIZATION: GROUNDS. The chief of police may suspend or revoke any approved towing and wrecker service from the rotational call list. Any such suspension shall be for a maximum of 60 days.

If such approval and authority is revoked, such towing and wrecker service shall not be eligible for reinstatement for at least one year from the date of revocation.

Such suspension or revocation shall be preceded by written notice to the towing or wrecker service advising such service of its failure to comply with any of the requirements of this chapter or of the violation by such towing and wrecker service of the following provisions upon which a suspension or revocation may be based:

- A. Obtaining the approval and authority by fraudulent conduct, false statements or intentional omission;
- B. The towing and wrecker service violated the fee and charges scheduled by overcharge;
- C. Such towing and wrecker service consistently refuses to respond to requests for such service by the police department or repeated failure to answer telephone inquiries and requests for towing services;
- D. The towing and wrecker service responds to the scene of an accident, emergency or impoundment situation, when not specifically called to do so, and solicits towing or wrecker business; or
- E. The city is not satisfied with the general services of the owner and/or employees or with the cooperation it has received from such towing and wrecker service or other justifiable cause.

Appeal of Suspension or Revocation. Any towing and wrecker service's approval and authority to respond to police requests which are suspended or revoked by the chief of police may appeal such suspension or revocation to the governing body, which shall have the power to reverse, alter, modify, uphold or increase any suspension or revocation ordered by the police chief.

(Ord. 1978, Sec. 2; Ord. 2169, Sec. 4, 2008)

ARTICLE 9. HAZARDOUS MATERIALS

- 11-901. HAZARDOUS MATERIAL DEFINED. As used in this article, the term hazardous material shall mean any compressed gas, explosive, flammable liquid, flammable solid, oxidizer, poison, radioactive material or any substance that due to its nature may cause death, disability or injury upon contact therewith. (Code 2003; Ord. 2169, Sec. 5, 2008)
- 11-902. SAME; EXCEPTIONS. The provisions of this article shall not apply to any container which shall have a capacity of 150 gallons or less which shall be used for the purpose of supplying fuel for the vehicle on which it is mounted. (Code 2003; Ord. 2169, Sec. 5, 2008)
- 11-903. TRANSPORTATION OF HAZARDOUS MATERIALS. Except as provided in section 11-904 it shall be unlawful for any person, firm, corporation or other entity to transport any hazardous material upon any street, avenue, highway, road, alley or any other public right-of-way in the city. (Code 2003; Ord. 2169, Sec. 5, 2008; Ord. 2212, Sec. 8, 2009)
- 11-904. HAZARDOUS MATERIALS ROUTES. The provisions of section 11-903 shall apply to all streets, avenues, highways, roadways, alleys, other public rights-of-way or city owned property within the city except those specified within this section where transportation of hazardous materials shall be allowed.
(a) Transportation of hazardous materials shall be allowed upon the following streets, avenues, highways or roadways as specified in 11-210.
(Code 2003; Ord. 2169, Sec. 5, 2008; Ord. 2212, Sec. 9, 2009)
- 11-905. PARKING OF VEHICLES OR TRAILERS CARRYING HAZARDOUS MATERIALS.
A. It shall be unlawful for any person, firm, corporation or other entity to park any vehicle, trailer or semi-trailer carrying any hazardous material within the city.
B. Subsection (a) shall not apply to vehicles, trailers or semi-trailers parked for continuous periods of time not to exceed one hour where such vehicles, trailers or semi-trailers are parked along those routes specified in section 11-904 of this code.
C. Subsection (a) shall not apply to any vehicle, trailer or semi-trailer carrying any hazardous material where such vehicle, trailer or semi-trailer is not parked within 500 feet of any structure used for human habitation.
(Code 2003; Ord. 2169, Sec. 5, 2008; Ord. 2212, Sec. 10, 2009)
- 11-906. REMOVAL OF ILLEGALLY PARKED TRAILERS. If any vehicle, trailer or a semi-trailer is found parked in violation of the provisions of this article, the fire chief or assistant chief or any law enforcement officer may require the owner, operator or lessee of the trailer to move it within two hours. If such removal is not accomplished on the order of any such officer, it may be accomplished by any such officer, by any reasonable means, if the continued presence of the trailer or semi-trailer at its parked location constitutes, adds to or prevents correction of a situation threatening imminent injury or damage to persons or property. (Code 2003; Ord. 2169, Sec. 5, 2008)

ARTICLE 10. PARADES

- 11-1001. DEFINITIONS.
- A. Parade is any parade, march, ceremony, show exhibition, walk-a-thon, bike-a-thon or procession of any kind, or similar display, in or upon any street, park or other public place in the city; however, a parade shall not include any street race contest as defined in Chapter 11, Article 11.
 - B. Parade Permit is a permit as required by this article.
 - C. Person is any person, firm, partnership, association, corporation, company or organization or entity of any kind.
- (Code 1973, 11.16.010; Ord. 2169, Sec. 6, 2008; Ord. 2212, Sec. 11, 2009)
- 11-1002. PERMIT; REQUIRED; EXCEPTIONS.
- A. No person shall engage in, participate in, aid, form or start any parade, unless a parade permit shall have been obtained from the city.
 - B. Exceptions. This article shall not apply to:
 - (1) Funeral processions;
 - (2) Students going to and from school classes or participating in educational activities; providing such conduct is under the immediate direction and supervision of the proper school authorities;
 - (3) A governmental agency acting within the scope of its functions.
- (Code 1973, 11.16.020; Ord. 2169, Sec. 6, 2008)
- 11-1003. SAME; APPLICATION; PROCEDURE. A person seeking issuance of a parade permit shall file an application with the Chief of Police on forms provided by such officer no less than 45 days prior to the event. (Code 1973, 11.16.030; Ord. 2169, Sec. 6, 2008; Ord. 2255, Sec. 1, 2012)
- 11-1004. SAME; APPLICATION; CONTENTS. The application for a parade permit shall set forth the following information:
- A. The name, address and telephone number of the person seeking to conduct such parade;
 - B. If the parade is proposed to be conducted for, on behalf of or by an organization, the name, address and telephone number of the headquarters of the organization and of the authorized and responsible heads of such organization;
 - C. The name, address and telephone number of the person who will be the parade chairperson and who will be responsible for its conduct;
 - D. The date when the parade is to be conducted;
 - E. The route to be traveled, the starting point and the termination point;
 - F. The approximate number of persons who, and animals and vehicles which, will constitute such parade; the type of animals, and description of the vehicles;
 - G. The hours when such parade will start and terminate;
 - H. A statement as to whether the parade will occupy all or only a portion of the width of the streets proposed to be traversed;
 - I. The location by streets of any assembly areas for such parade;
 - J. The time at which units of the parade will begin to assemble at any such assembly area or areas;
 - K. The interval of space to be maintained between units of such parade;

- L. If the parade is designed to be held by, and on behalf of or for, any person other than the applicant, the applicant for such permit shall file with the Chief of Police a communication in writing from the person proposing to hold the parade, authorizing the applicant to apply for the permit on his or her behalf;
 - M. Any additional information which the Chief of Police shall find reasonably necessary to a fair determination as to whether a permit should be issued.
- (Code 1973, 11.16.040; Ord. 2169, Sec. 6, 2008)

11-1005. PERMIT ISSUANCE STANDARDS. The Chief of Police shall authorize a permit to be issued, as provided under this article, when, from consideration of the application and from such other information as may be provided to the Chief of Police, he or she finds that the standards and requirements enumerated below can be met and that the applicant has agreed to be bound by them:

- A. The conduct of the parade will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
- B. The conduct of such parade, and the concentration of persons, animals and vehicles at assembly points of the parade, will not unduly interfere with emergency services to any portion of the City. Further, the applicant shall agree, prior to the approval of the permit, to reimburse the City for all expenses required to hire and bring in off-duty officers and the public works personnel to properly control the activity and such other equipment as deemed necessary to protect the participants and the public. The Chief of Police, or his/her designee, shall decide the number and placement of the personnel and may request and demand the applicant furnish personnel to assist traffic at minor intersections.
- C. The assembly point for participants shall be approved by the Chief of Police or his/her designee.
- D. The conduct of the parade is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance.
- E. The parade is scheduled to move from its point of origin to its point of termination expeditiously and without unreasonable delays.
- F. The point of origin and point of termination are within the boundaries of the city and at locations approved by the Governing Body.
- G. The parade will not exceed two hours in duration.
- H. The following further regulations shall be met:
 - (1) Any applicant for a permit for a parade shall provide proof of liability insurance coverage in a form acceptable and approved by the Chief of Police, listing the City as an additional insured, for any liability of the applicant which may arise as a result of or out of the conduct of the parade. The insurance coverage shall provide, at a minimum, the following: General Liability – Bodily Injury and Property Damage \$1,000,000 per occurrence, \$2,000,00 aggregate; Automobile - \$1,000,000 per occurrence BI/PD Combined Single Limit (if applicable); and Participant Accident Coverage (if applicable).
 - (2) The applicant shall agree to indemnify the City and defend and hold it harmless for any and all liabilities, including the cost of any legal proceeding it may incur as a result of, or of the conduct of, any parade.
- I. The applicant is responsible for ensuring that the standards in this section are met and adhered to during the course of the event.

(Code 1973, 11.16.050; Ord. 2169, Sec. 6, 2008; Ord. 2201, Sec. 1, 2009; Ord. 2255, Sec. 2, 2012; Ord. 2291, Sec. 1, 2013)

11-1006. PERMIT ISSUANCE.

- A. The Chief of Police, or his/her designee, shall act upon the application for a parade permit and shall have the authority to approve or disapprove the permit and shall notify the applicant of his or her decision within 15 days of receipt of the application. If approved by the Chief of Police, then the City Clerk shall be instructed to issue the permit in accordance with the direction of the Chief of Police.
- B. If the Chief of Police determines that the proposed parade will significantly affect residents whose vehicular access to their property is affected by the street closure, he or she may condition the approval of the permit on the approval of the Governing Body of the City.

(Code 1973, 11.16.060; Ord. 2169, Sec. 6, 2008; Ord. 2201, Sec. 1, 2009; Ord. 2255, Sec. 3, 2012)

11-1007. SAME; CONTENTS. Each parade permit shall state the following information:

- (a) Starting time;
- (b) Minimum speed;
- (c) Maximum speed;
- (d) Maximum interval of space to be maintained between the units of the parade;
- (e) The portions of the streets to be traversed that may be occupied by the parade;
- (f) The maximum length of the parade in miles or fractions thereof;
- (g) Such other information as the chief of police finds necessary to the enforcement of this article.

(Code 1973, 11.16.070; Ord. 2169, Sec. 6, 2008)

11-1008. DUTIES OF PERMITTEE.

- A. A permittee under this article shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- B. The parade chairperson or other person heading or leading such activity shall carry the parade permit upon his or her person during the conduct of the parade.

(Code 1973, 11.16.080; Ord. 2169, Sec. 6, 2008)

11-1009. PUBLIC CONDUCT DURING PARADES.

- A. Interference. No person shall unreasonably hamper, obstruct or impede or interfere with any parade or parade assembly or with any person, vehicle or animal participating or used in a parade.
- B. Driving Through Parades. No driver of a vehicle or trackless trolley shall drive between the vehicles or person comprising a parade when such vehicles or persons are in motion and are conspicuously designated as a parade.
- C. Parking on Parade Route. The Chief of Police shall have the authority, when reasonably necessary, to prohibit or restrict the parking of vehicles along a highway or part thereof constituting a part of the route of a parade. The Chief of Police shall post signs to such effect, and it is unlawful for any person to

park or leave unattended any vehicle in violation thereof. No person shall be liable for parking on a street unposted in violation of this article. (Code 1973, 11.16.090; Ord. 2169, Sec. 6, 2008)

11-1010. PERMIT; ISSUANCE OR REVOCATION IN THE EVENT OF EMERGENCY. Notwithstanding any other provision in this article, the Chief of Police, or in the absence of the Chief of Police, the Mayor, shall have the authority to deny or revoke a parade permit whenever he or she shall declare that an emergency exists. The Chief of Police, or in his or her absence, the Mayor, shall have the authority to order any parade which has begun, to cease whenever he or she shall determine that the parade presents a public safety hazard and cannot be begun or continued without unnecessary safety hazards to the public welfare. (Code 1973, 11.16.100; Ord. 2169, Sec. 6, 2008)

11-1011. APPEAL PROCEDURES. Any applicant for a parade permit shall have the right to appeal the decision of the Chief of Police or any portion thereof to the governing body of the city. The applicant must serve a notice of appeal at least 30 prior to the scheduled date of the parade and at least five days prior to the next regularly scheduled meeting of the governing body by serving the notice of appeal upon the City Clerk. (Code 1973, 11.16.110; Ord. 2169, Sec. 6, 2008)

ARTICLE 11. STREET RACE CONTESTS

- 11-1101. DEFINITIONS.
- A. Street Race Contest -- The act of conducting a contest upon any street, park or other public place in the city which shall have two or more persons competing over a designated course and who, during the street race contest, shall not be required to follow the regulations set forth in the Standard Traffic Ordinance of Kansas Cities as amended herein. A street race contest does not include any parade as defined in section 11-1001(a) of the city code and does not include any contest utilizing mechanical devices for propulsion, whether powered by physical exertion or otherwise, except that a street race contest shall include participants utilizing wheelchairs which are powered by the participant's own physical efforts.
 - B. The city reserves the right to waive or suspend any or all of the requirements of this article when the applicant is a governmental entity.
 - C. Person -- Any person, firm, partnership, association, corporation, company or organization or entity of any kind
(Code 1973, 11.18.010; Ord. 2169, Sec. 7, 2008; Ord. 2212, Sec. 12, 2009)
- 11-1102. PERMIT REQUIRED; EXCEPTIONS.
- A. No person shall engage in, participate in, aid, form or start any street race contest unless a street race permit shall have been obtained from the city.
 - B. Exceptions: This article shall not apply to a governmental agency acting within the scope of its functions.
(Code 1973, 11.18.020; Ord. 2169, Sec. 7, 2008)
- 11-1103. PERMIT APPLICATIONS; PROCEDURES. A person seeking issuance of a street race permit shall file an application with the chief of police on forms provided by such officer no more than 60 days prior to the race and no less than 45 days prior to the race. (Code 1973, 11.18.030; Ord. 2169, Sec. 7, 2008)
- 11-1104. PERMIT APPLICATIONS; CONTENTS. The application for a street race permit shall set forth the following information:
- A. The name, address and telephone number of the person seeking to conduct such race;
 - B. If the race is proposed to be conducted for, on behalf of, or by an organization or other entity, the name, address and telephone number of the headquarters of the organization, and of the authorized and responsible representatives of such organization or entity;
 - C. The name address and telephone number of the person who will be the race chairperson and who will be responsible for its conduct;
 - D. The date when the race is to be conducted;
 - E. The route to be traveled, including the starting point at which the race enters the city limits and the termination point or the point at which the race leaves the city limits;
 - F. The approximate number of persons who will participate in the street race contest;
 - G. The hours when such street race contest will start and terminate, including the time when such race will enter the city limits and the time when such race will leave the city limits;

- H. A statement as to whether the race will occupy all or any portion of the width of the streets proposed to be traversed;
- I. The location of any assembly areas or aid stations for participants in such street race contest;
- J. The time at which participants in such street race contest will begin to assemble at any such area or areas;
- K. If the race is designed to be held by any, on behalf of, or for any person other than the applicant, the applicant for such race permit shall file with the chief of police a communication in writing from the person proposed to hold the street race contest, authorizing the applicant to apply for the permit on his, her or its behalf;
- L. The total distance to be traversed within the city;
- M. The name of the liability insurance carrier and the amount of coverage obtained as provided herein;
- N. A statement that the applicant agrees to indemnify the city and hold it harmless for any and all liability which may arise as a result of the street race contest;
- O. A statement that the applicant agrees to reimburse the city for all expense required to hire or to bring in an off-duty police officer or public works personnel to properly control the activity. Any additional information which the Chief of Police shall find reasonably necessary to a fair determination as to whether a race permit should be issued.

(Code 1973, 11.18.040; Ord. 2169, Sec. 7, 2008)

- 11-1105. PERMIT ISSUE STANDARDS. The Chief of Police shall authorize a permit to be issued, as provided under this article, when, from consideration of the application and from such other information as may be provided to the chief of police, he or she finds that the standards and requirements enumerated below can be met and that the applicant has agreed to be bound by them:
- A. The conduct of the street race contest will not substantially interrupt the safe and orderly movement of other traffic contiguous to its route.
 - B. The conduct of the race will not require the diversion of so great a number of police officers of the city to properly police the line of movement and the area contiguous thereto as to prevent normal police protection to the city. Further, the applicant shall agree, prior to the approval of the permit, to reimburse the city for all expenses required to hire or bring in off-duty police officers and the public works personnel to properly control the activity and other such equipment as deemed necessary to protect the contestants and the public. The chief of police shall decide the number and placement of the personnel and may request and demand that the applicant furnish personnel to assist traffic at minor intersections.
 - C. The assembly point for contestant shall be approved by the Chief of Police and wherever feasible shall be off the street. Contestants shall not enter onto the roadway until the time designated in the applicant's application. Parking for contestants shall be placed and neither the assembly of race contestants nor parking of their private vehicles shall unduly interfere with proper fire and police protection of or ambulance service to, areas contiguous to such assembly areas.

- D. Race contestants shall be required to leave the roadway upon the approach of an emergency vehicle using emergency equipment and remain off the roadway until emergency equipment has cleared the area.
- E. The conduct of the race is not reasonably likely to cause injury to persons or property, to provoke disorderly conduct or to create a disturbance.
- F. The race is scheduled to move from its point of origin or point of entrance within the city limits to point of termination or point of exit without the city limits expeditiously and within the time requirements of the permit. Any person or persons remaining upon the roadway at the termination time shall become a pedestrian or bicycle rider and be required to follow all rules of the Standard Traffic Ordinance as amended and codified in the City code.
- G. The following further regulations shall be met:
 - (1) Any applicant for a race permit for a street race contest shall provide proof of liability insurance coverage in a form acceptable and approved by the Chief of Police, listing the City as an additional insured, for any liability of the applicant which may arise as a result of or out of the conduct of the parade. The insurance coverage shall provide, at a minimum, the following: General Liability – Bodily Injury and Property Damage \$1,000,000 per occurrence, \$2,000,000 aggregate; Automobile - \$1,000,000 per occurrence BI/PD Combined Single Limit (if applicable); and Participant Accident Coverage (if applicable).
 - (2) The applicant shall agree to indemnify the City and defend and hold it harmless for any and all liabilities, including the cost of any legal proceeding it may incur as a result of, or of the conduct of, any street race contest.
 - (3) Street race contests shall be limited to foot and wheelchair races and races of bicycles propelled solely by human power. No motorized vehicles may participate in a street race contest.
 - (4) At no time will runners be allowed to run in opposite directions on all or any portion of the race course.
- H. The applicant is responsible for ensuring that the standards in this section are met and adhered to during the course of the event.
(Code 1973, 11.18.050; Ord. 1835, Sec. 1; Ord. 2169, Sec. 7, 2008; Ord. 2201, Sec. 1, 2009; Ord. 2291, Sec. 2, 2013)

11-1106. PERMIT ISSUANCE.

- A. The Chief of Police shall act upon the application for a race permit and shall have the authority to approve or disapprove the permit and shall notify the applicant of his or her decision. If approved by the Chief of Police, then the City Clerk shall be instructed to issue the permit in accordance with the direction of the Chief of Police.
- B. If the Chief of Police determines that the proposed street race contest will significantly affect residents whose vehicular access to their property is affected by the street closure, he or she may condition the approval of the permit on the approval of the Governing Body of the City. (Code 1973, 11.18.060; Ord. 2169, Sec. 7, 2008; Ord. 2201, Sec. 1 2009)

11-1107. PERMIT CONTENTS. Each race permit shall state the following information:

- A. Starting time;

- B. Completion time;
- C. The portion of the street to be used, the portion of the street which will be open to vehicle traffic and the portions of the street to be traversed by participants in the street race contest;
- D. The maximum length of the race in miles or fractions thereof;
- E. A statement of all the conditions set out in Section 11-1105 of this article;
- F. Such other information as the chief of police may find necessary to the enforcement of this article.

(Code 1973, 11.18.070; Ord. 2169, Sec. 7, 2008; Ord. 2212, Sec. 13, 2009)

11-1108. DUTIES OF PERMITTEE.

- A. A permittee under this article shall comply with all permit directions and conditions and with all applicable laws and ordinances.
- B. The street race chairperson or other person overseeing the street race contest shall carry the race permit upon his or her person during the conduct of the race.
- C. Permittee shall be responsible for notifying participants of the rules and regulations pertaining to the race.

(Code 1973, 11.18.080; Ord. 1835, Sec. 1; Ord. 2169, Sec. 7, 2008)

11-1109. PUBLIC CONDUCT DURING STREET RACE CONTEST.

- A. Interference. No person shall unreasonably hamper, obstruct, impede or interfere with any street race contest or race assembly or with any person participating in the street race contest.
- B. Driving through Races. No driver of a vehicle shall drive on any public street or portion thereof on or around which there is a barricade or sign stating that the street or portion thereof is closed, or when a police officer or other emergency official indicates.
- C. The Chief of Police shall have the authority, when reasonable necessary, to prohibit or restrict the parking of vehicles along any roadway constituting a part of the route of the race. The chief of police shall post signs to such effect and it shall be unlawful for any person to park or leave unattended any vehicle in violation thereof.

(Code 1973, 11.18.090; Ord. 2169, Sec. 7, 2008)

11-1110. PERMIT ISSUANCE OR REVOCATION IN EVENT OF ANY EMERGENCY.

Notwithstanding any other provision in this article, the Chief of Police, or in the absence of the Chief of Police, the Mayor, shall have the authority to deny or revoke a race permit whenever he or she shall declare that an emergency exists. The Chief of Police, or in his or her absence, the Mayor, shall have the authority to order any street race contest which has begun, to cease whenever he or she shall determine that the street race presents a public safety hazard. (Ord. 1835, Sec. 1; Ord. 2169, Sec. 7, 2008)

11-1111. APPEAL PROCEDURES. Any applicant for a street race permit shall have

the right to appeal the decision of the Chief of Police or any portion thereof to the governing body of the City. The applicant must serve a notice of appeal at least 30 days prior to the next scheduled date of the street race contest and at least five days prior to the next regularly schedule meeting of the governing body by serving

the notice of appeal upon the City Clerk. (Code 1973, 11.18.110; Ord. 2169, Sec. 7, 2008)

ARTICLE 12. TEMPORARY PARKING OF CONSTRUCTION EQUIPMENT VEHICLES

11-1201. PERMIT FOR TEMPORARY PARKING AND STAGING OF CONSTRUCTION EQUIPMENT; VEHICLES AND MATERIALS DURING CONSTRUCTION.

- A. Purpose. The governing body has determined that the public safety, convenience and welfare of its citizens will be benefited if it required any contractor who enters into a contract with the city, any other governmental agency or any utility, public or private, for the construction or improvement of public streets or construction of any public works project, to first submit a plan to the director of public works for the parking and staging of construction vehicles, equipment and materials during the period of construction.
- B. Application. The director of public works is hereby authorized and directed to issue a permit to authorize and allow the temporary parking, staging and storage of construction vehicles, equipment and materials on public streets of the city or on public property, church property or property zoned C-O through C-2 and CPO through CP-2 during periods of construction of public works or projects of the city, any other governmental agency or public or private utility projects within the city. No permit shall be allowed on property that is residential in nature, provided, however, that property zoned residential that is being used as a church, school or country club may be used with the written permission of the owner.
- Any application to obtain the permit shall provide the following information:
- (1) Name, address, telephone number of the firm or company seeking the permit.
 - (2) Location to be used as a parking or staging area.
 - (3) Written permission of any owner of any property to be used for parking or staging.
 - (4) A time schedule for the parking or staging.
 - (5) A list of the equipment or vehicles which will be parked or stored.
- C. Issuance. The director of public works shall act upon the application for the parking or staging permit and shall notify the applicant within 48 hours of receipt of the application as to whether or not it will be approved.
- D. Contents. If approved, the permit shall include the following information:
- (1) Name of contractor.
 - (2) Starting time.
 - (3) Maximum length of time for permit.
 - (4) General description of vehicles and/or equipment.
 - (5) Description of property to be used.
 - (6) Any special instructions or considerations that must be followed by the holder of the permit.
- E. Duties of Permittee. A permittee under this article shall comply with all permit directions and conditions and with all applicable laws and ordinances of the city. In addition to the penalty for violating the terms of the permit as provided herein, the permit may also be terminated or revoked by the director of public works, with cause.
- F. Violation -- Penalty. No person shall park or store for any period of time any construction vehicles, equipment or materials while constructing or improving any street or while working on any public works project of any kind within the

city, on behalf of the city, or any other governmental agency or any utility, public or private, unless a permit has been previously issued by the director of public works as provided by this article. The person who parks or allows the parking or storing of any construction vehicles, equipment or materials without first obtaining the permit or who parks or stores or allows the parking or storage contrary to the terms and conditions of a permit issued by the city, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished as provided in section 1-118. Each day such violation is committed or permitted to continue constitutes a separate offense and shall be punishable as such hereunder.

(Ord. 1772, Sec. 1; Ord. 2169, Sec. 8, 2008)

ARTICLE 13. RESTRICTED RESIDENTIAL PARKING

11-1301. LEGISLATIVE FINDINGS.

- A. The governing body finds that all requirements relating to the sufficiency of the petition filed and notice of a public hearing have been met.

After listening to the evidence presented at the public hearing and after giving due consideration to the issues, a motion was duly made, seconded and passed by a majority of the members of the city council finding that the following conditions exist in the proposed parking area:

- (1) The presence of conditions hazardous to motorists and pedestrians;
- (2) Traffic congestion;
- (3) Unreasonable burdens placed on residents in obtaining access to on-street parking near their dwelling units;
- (4) Degradation of property values in the area;
- (5) Conditions detrimental to the peace, comfort, and welfare of the residents of Prairie Village.

The governing body specifically finds that all of the requirements for designation and eligibility of the area as a restricted residential parking area is described in this article. (Ord. 2024, Sec. 1; Ord. 2169, Sec. 9, 2008)

11-1302. DEFINITIONS. For purposes of this article, the following words and phrases shall have the meaning given herein:

- (1) Commuter shall mean a person parking a motor vehicle within a restricted residential parking area from time to time who is not residing in the restricted residential parking area and who is not a guest as defined by this article.
- (2) Guest shall mean any person visiting a resident living in a restricted residential parking area for any traditional guest purpose, but shall not include a commuter.
- (3) Restricted Parking shall mean the limitation of on- street parking to those persons who reside in the dwelling units abutting the streets designated as a restricted residential parking area.
- (4) Restricted Residential Parking Area shall mean a residential parking area which has been designated as Restricted pursuant to this article.
- (5) Restricted Residential Parking Permit shall mean a permit issued by the city which confers certain parking privileges upon the operator of the motor vehicle to which the permit is affixed.

(Ord. 2016, Sec. 1; Ord. 2169, Sec. 9, 2008)

11-1303. INITIATION OF A RESTRICTED RESIDENTIAL PARKING AREA.

- A. In order to invoke the procedure of determining whether particular streets should be designated eligible for restricted residential permit parking, a petition must be filed with the city clerk. The petition must:

- (1) Request the governing body to conduct a public hearing to determine if conditions exist that support the establishment of a restricted residential parking area.
- (2) Clearly describe the boundaries within which the restricted residential parking area should be established.

- (3) Clearly describe the reason for requesting the establishment of a restricted residential parking area.
 - (4) Contain the signatures of a majority of the owners of dwelling units adjacent to any street to be included in the district.
 - (5) The city clerk shall review the petition prior to the hearing and shall certify to the governing body that the petition meets the standards stated herein.
- B. Upon the receipt of such petition, the governing body shall conduct a public hearing to consider establishing a restricted residential parking area.
 - C. Such hearing shall be held by the governing body only after due notice has been published one time in a newspaper of general circulation throughout the city at least five days prior to said hearing and to be delivered to all owners and occupants within the area described in the petition for a restricted residential parking area by United States mail or personal service at least five days prior to said hearing. The notice shall clearly state the purpose of the hearing, the exact location of said residential streets under consideration for permit parking, and the reasons why such streets are being proposed for designation as a restricted residential parking area.
 - D. During such hearing, any interested person shall be entitled to appear and be heard.
 - E. Within 30 days after concluding the public hearing, the governing body shall render a decision regarding the request for the establishment of a "restricted residential parking area." The decision shall be by ordinance duly passed by the governing body and shall include the precise boundaries of the restricted residential parking area and shall state all restrictions that are applicable to the area. In making its decision, the governing body shall give consideration to the eligibility requirements as described in section 11-1305.
 - (1) The impact of such on-street parking restrictions on adjacent commercial areas and businesses.
 - (2) The availability of acceptable alternate locations for parking by displaced commuters. (Ord. 2212, Sec. 14, 2009)
 - F. Upon the designation of a restricted residential parking area, the governing body shall cause appropriate signs to be erected in such area, indicating the parking limitations, and the fact that motor vehicles with valid parking permits shall be exempt from the restrictions.

(Ord. 2016, Sec. 1; Ord. 2169, Sec. 9, 2008)

11-1304.

GENERAL PROVISIONS.

- A. Permits shall be issued to the residents within the boundaries of the restricted residential parking area in accordance with this article. Upon application, each household will receive a permit for each motor vehicle registered to the address. In addition to the permits, each household will be issued five "guest" cards for any person visiting a resident living in the restricted residential area for any traditional guest purpose, provided that guest permits shall not be used by a "commuter" as defined by section 11-1302. (Ord. 2212, Sec. 15, 2009)
- B. No person shall park a motor vehicle in the area designated by this article as a restricted residential parking area unless such motor vehicle has displayed thereon a permit as provided for in this article.

- C. There shall be no cost for the issuance of a permit or guest permit for the area described by this article.
 - D. All permits shall expire on December 31st of each year that the restricted residential parking area is in existence. Residents seeking either a restricted parking permit or guest parking permit shall make application to the chief of police each year for new permits.
 - E. The restricted residential parking area created by this article shall become effective on February 1, 2003, and shall be in existence until it is duly terminated by future action of the governing body.
 - F. The public works department of the city shall erect in the area designated by this article as a restricted residential parking area appropriate signs indicating the parking limitations and the fact that motor vehicles with valid parking permits shall be exempt.
- (Ord. 2024, Sec. 1; Ord. 2169, Sec. 9, 2008)

11-1305. AREA AND STREET DESIGNATION AND ELIGIBILITY. In order for an area to be eligible to be designated as a restricted residential parking area, the governing body shall make findings and give consideration to the following:

- (a) The governing body shall determine and make findings that at least three of the five conditions described in section 11-1301, exist in the area. (Ord. 2212, Sec. 16, 2009)
- (b) It shall determine that the designated area boundaries, for purposes of administration and enforcement, should generally coincide with natural or readily recognizable boundaries where feasible.
- (c) Consideration shall be given to the impact of such on-street parking restrictions on adjacent commercial areas and businesses and the availability of acceptable alternate locations for parking by displaced commuters.
- (d) A street shall be deemed eligible for designation as a residential parking area if it meets both of the following criteria:
 - (1) Some portion of the side of the street under consideration must be zoned residential and used for residential purposes.
 - (2) The consent of more than 50 percent of the property owners of the property that abut the street which is to be designated as a restricted residential parking area. The percentage shall be determined by the number of owners as opposed to area affected. Parties consenting to the establishment of said area shall also be required to abide by the restrictions imposed by this article. The signature of any owner that appears on the petition filed to commence the establishment of the restricted residential parking area shall be considered consent as required by this article unless this consent is withdrawn at the time of the hearing.

(Ord. 2016, Sec. 1; Ord. 2169, Sec. 9, 2008)

11-1306. ISSUANCE OF PERMIT.

- A. Following approval by the governing body of the designation of a restricted residential parking area, the chief of police shall issue appropriate permits pursuant to the requirements of this section.
- B. A permit shall be issued, upon application and payment of fees as established in the city fee schedule, on file in the office of the city clerk, to the owner or

operator of a motor vehicle possessing a dwelling unit within the restricted residential parking area.

- C. A restricted residential parking permit will not be issued to the owner or operator of a motor vehicle currently having any outstanding parking citations or bench warrants in the city.
- D. A restricted residential parking permit will not be issued to the owner or operator of a motor vehicle residing on any residential property abutting a public street upon which on-street parking is otherwise restricted.

(Ord. 2016, Sec. 1; Ord. 2169, Sec. 9, 2008)

11-1307.

PERMIT APPLICATION.

- A. The application for a permit shall contain information as deemed appropriate by the Chief of Police. At a minimum, the application must contain:
 - (1) The name of the owner or operator of the motor vehicle;
 - (2) Address of motor vehicle owner's dwelling unit; and
 - (3) The motor vehicle's make, model, registration number, and the number of the applicant's operator's permit.
- B. The motor vehicle's registration and the operator's driver's license shall be required to be presented at the time of making said application. In order to verify that the applicant legally resides at the address for which the permit is requested, the motor vehicle's registration and the operator's driver's license shall show the address of the dwelling unit in the area for which the permit is sought. In addition, the motor vehicle shall have current State of Kansas, County of Johnson, motor vehicle plates.
- C. If the applicant's driver's license or motor vehicle registration indicates a permanent address at a location other than within the residential parking area, the applicant shall provide sufficient proof of residency within the residential parking area as determined by the chief of police.
- D. The permit shall be renewed annually upon such conditions and procedures as the Chief of Police shall specify.

(Ord. 2016, Sec. 1; Ord. 2169, Sec. 9, 2008)

11-1308.

PARKING PERMITS.

- A. A restricted residential parking permit is valid only when visibly and properly displayed on the motor vehicle when parked in the designated area for which the permit has been issued.
- B. The permit shall be placed in the lower left portion of the rear window of the motor vehicle.
- C. With the exception of guest permits, restricted residential parking permits must be permanently affixed to the motor vehicle to which the permit is issued.
- D. Use of said permit shall be restricted to streets designated for restricted residential permit parking within the designated area.
- E. A residential parking permit shall not guarantee or reserve to the holder a parking space within a residential parking area.
- F. A residential parking permit shall not authorize the holder thereof to stand or park a motor vehicle in such places or during such times as the stopping, standing, or parking of a motor vehicles is prohibited or set aside to specified types of vehicles, nor exempt the holder from the observance of any traffic regulation.

- G. Residential parking permits may be temporarily suspended by the city for snow removal, emergency, construction purposes, or other circumstances as approved by the chief of police.
- H. The owner or operator of a motor vehicle displaying a residential parking permit shall completely remove said permit immediately upon its expiration or termination.
- I. Guest permit — The Chief of Police is authorized to make provisions for the issuance of temporary parking permits to guests of residents of the designated residential parking area. Proof of residence within the area must be provided prior to the issuance of said permits.

(Ord. 2016, Sec. 1; Ord. 2169, Sec. 9, 2008)

11-1309. TRANSFERABILITY. Only the registered motor vehicle named on the residential parking permit shall be eligible to display this permit. Any transference of this permit to a vehicle other than that named on the permit shall constitute a violation of this article and necessitate the removal for the motor vehicle from the residential parking area. (Ord. 2016, Sec. 1; Ord. 2169, Sec. 9, 2008)

11-1310. REVOCATION.

- A. The Chief of Police is authorized and directed to revoke the residential parking permit of any permittee found to be in violation of this article and, upon written notification thereof, the permittee shall surrender such permit to the chief of police. Failure to surrender a residential parking permit so revoked shall constitute a violation of this article.
- B. When a residential parking permit is so revoked, no other permit shall be granted to such person or vehicle registered to such person within 12 months of the date of its revocation, nor shall any part of the money paid for any permit so revoked be refunded.
- C. Any revocation imposed by the Chief of Police may be appealed within 10 days of such notice of revocation to the governing body. The notice of appeal shall state the basis or bases upon which the licensee seeks review of the chief of police's determination.
- D. It shall be a violation of this article for any person to copy, reproduce, or sell a permit.

(Ord. 2016, Sec. 1; Ord. 2169, Sec. 9, 2008)

ARTICLE 14. NEIGHBORHOOD SPECIAL EVENT PERMIT

- 11-1401. PURPOSE AND INTENT. The purpose and intent of this article is to regulate, in areas of the City zoned as residential districts, neighborhood special events which generate, during all or a portion of such event, crowds or participants or visitors sufficient in size to obstruct, delay or interfere with the safe and orderly movement of pedestrian or vehicular traffic, and which may also hinder fire and police protection and ambulance service to the areas near a neighborhood special event. Furthermore, it is the intent of this article to protect nearby property owners and residents from neighborhood special events which may be unsafe given site conditions, traffic patterns, land use characteristics and the nature of the proposed event. Finally, it is the intent of this article to protect the safety, health, peace, good order and tranquility of the community. (Ord. 2262, Sec. 1, 2012)
- 11-1402. UNLAWFUL TO OPERATE WITHOUT A PERMIT. It shall be unlawful for any person to use property for any neighborhood special event as defined in this article without obtaining a permit as required by this article. The purpose of such permit is to provide a procedure whereby the Police Department can best protect the safe movement of vehicular and pedestrian traffic and the availability of emergency services to the areas in the vicinity of the neighborhood special event. (Ord. 2262, Sec. 1, 2012)
- 11-1403. NEIGHBORHOOD SPECIAL EVENT DEFINED. For the purpose of this article, the term “neighborhood **special event**” means temporary outdoor use of private property in a district zoned residential, which
- A. Is likely to or does in fact generate crowds of participants or visitors sufficient in size to obstruct, delay or interfere with the safe and orderly movement of pedestrian or vehicular traffic; and
 - B. Is likely to or does in fact create a condition in which the Police Department is required to protect the public health and welfare by modifying the normal flow of traffic and parking or by diverting police officers to the vicinity of the event in order to regulate and enforce traffic, pedestrian safety and parking and to insure that fire and police protection and ambulance service to the areas near such neighborhood special events are not unduly interfered with or prevented.
- (Ord. 2262, Sec. 1, 2012)
- 11-1404. EVENTS NOT REQUIRING A PERMIT. Events which do not, in the aggregate, occur on more than 5 total days in any calendar month shall not require a neighborhood special event permit under this article. (Ord. 2262, Sec. 1, 2012)
- 11-1405. ADMINISTRATIVE PERMIT REQUIRED.
- A. All neighborhood special events, other than those excluded under section 11-1404, require a permit issued administratively by the Police Department.
 - B. No more than two neighborhood special event permits per calendar year shall be issued at any location.
- (Ord. 2262, Sec. 1, 2012)
- 11-1406. PERMIT APPLICATION PROCEDURES.
- A. No neighborhood special event permit shall be issued until an application has been submitted to the Police Department. The application shall be made on

forms provided by the Police Department, and shall be accompanied by the following items, as applicable:

1. A letter from the applicant identifying the address of the property at which the neighborhood special event shall be held, describing the event, the hours of operation, the duration of the event, an estimate of the per diem attendance, and any structures or signs used in conjunction with the event;
 2. A sketch plan showing the location of the activities, structure and signs in relation to existing buildings, parking areas, streets and property lines; and
 3. Any additional information deemed necessary by the City.
- B. The applicant shall be either the owner or occupant of the property at which the neighborhood special event shall be held. If the neighborhood special event will occur at multiple property addresses, the owner or occupant of each property address shall sign the application, or an owner or occupant may delegate in writing to a single representative the authority to apply for a special permit.
- C. A complete application shall be made at least two (2) weeks prior to the commencement date of a neighborhood special event.

Recognizing that an event may not initially fall within the definition of “neighborhood special event” set forth in Section 11-1403, or that an owner or occupant may reasonably believe that a planned event will not fall within the definition of “neighborhood special event” set forth in Section 11-1403, this article will also be complied with if, within five (5) business days after an event does in fact meet the definition of “neighborhood special event” set forth in Section 11-1403, an application is made.

Based upon the criteria set forth in subsection D below, the Police Department shall determine whether to approve, approve with conditions, or deny the permit within one (1) week after the application is received.

The Police Department shall have the authority to order any neighborhood special event which has commenced without a neighborhood special event permit to cease pending the processing of a valid application in order to protect the public safety and welfare.

- D. The Police Department may deny a neighborhood special event permit if it determines that there are no conditions which can be imposed which will protect the public safety and welfare.

The Police Department may grant a neighborhood special event permit with conditions deemed necessary to protect the public safety and welfare, including, but not limited to:

- (i) the placement by the Public Works department of signs, including limited turning signs, one way traffic signs, protected pedestrian crossing signs, and restricted parking signs, in order to regulate traffic flow, parking, and pedestrian safety,
- (ii) the presence of police officers during some or all of the neighborhood special event operating times in order to regulate and enforce traffic, pedestrian safety and parking and to insure that fire and police

- protection and ambulance service to the areas near such neighborhood special event are not unduly interfered with or prevented,
- (iii) limits on the hours of operation in order to prevent a diversion of police from normal services.

If the Police Department determines that signage or police presence is required, or if the City provides other services or equipment at the request of the applicant, the applicant shall be required to reimburse the City for the costs of such signage, equipment or services in accordance with section 11-1407 hereof.

(Ord. 2262, Sec. 1, 2012)

11-1407. PAYMENTS. If costs are to be reimbursed to the City pursuant to section 11-1406(D), the applicant shall pay the estimated costs upon issuance of the neighborhood special event permit. If the costs are less than the estimated cost advance, the City shall refund the difference to the applicant within thirty (30) days of the termination of the neighborhood special event. If the costs are more than the estimated cost advance, the City shall so notify the applicant who is obligated to pay such excess costs within thirty (30) days of demand therefor. (Ord. 2262, Sec. 1, 2012)

11-1408. DENIAL OF A NEIGHBORHOOD SPECIAL EVENT PERMIT APPLICATION; APPEALS FROM CONDITIONS OR DENIALS. If the Police Department disapproves any application, it shall give the reasons therefore in writing, file same with the City Clerk and mail or deliver a copy to the applicant. The applicant may appeal such disapproval by filing a written notice thereof with the City Clerk within 15 days after the Police Department files the statement of reasons for the disapproval. A hearing on such appeal shall be held by the Governing Body of the City no more than fourteen (14) days after the applicant files such notice of appeal. The Governing Body, after a hearing, may reverse or affirm the decision of the Police Department by a majority vote. Applicant may bring an action in the District Court of Johnson County to determine the reasonableness of any such decision. Such appeals must be filed in the District Court within thirty (30) calendar days after the date that the decision of the Governing Body was made. (Ord. 2262, Sec. 1, 2012)

11-1409. REVOCATION OF NEIGHBORHOOD SPECIAL EVENT PERMIT.

- A. Any neighborhood special event permit issued pursuant to this article is subject to revocation if the Police Department determines that:
 - 1. The permit holder has fraudulently obtained the permit by knowingly giving false information in the application; or
 - 2. The neighborhood special event cannot be conducted without violating the standards or conditions for neighborhood special event permit issuance or the provisions of this article; or
 - 3. The neighborhood special event is being conducted in violation of any condition of the neighborhood special event permit or this provision of this article; or
 - 4. The neighborhood special event poses a threat to health or safety; or
 - 5. The neighborhood special event organizer or any person associated with the event has failed to obtain any other permit required pursuant to this

article or that the neighborhood special event is otherwise being conducted in violation of other applicable provisions of the Prairie Village City Code, Zoning Regulations and Subdivision Regulations.

- B. If the Police Department revokes a neighborhood special event permit, it shall state the reasons therefor and notify the permit holder in writing by mail or by leaving copy of such notice at the location of the neighborhood special event, whereupon the permit holder or holders shall immediately cease the neighborhood special event. The applicant may appeal such revocation by filing a written notice thereof with the City Clerk within 15 days after the Police Department files the statement of reasons for the disapproval. A hearing on such appeal shall be held by the Governing Body of the City no more than fourteen (14) days after the applicant files such notice of appeal. The Governing Body, after a hearing, may reverse or affirm the decision of the Police Department by a majority vote. Applicant may bring an action in the District Court of Johnson County to determine the reasonableness of any such decision. Such appeals must be filed in the District Court within thirty (30) calendar days after the date that the decision of the Governing Body was made.

(Ord. 2262, Sec. 1, 2012)

11-1410. GENERAL NEIGHBORHOOD SPECIAL EVENT STANDARDS. All neighborhood special events shall comply with the following standards:

- A. The total duration of each allowable neighborhood special event shall not exceed 60 days.
- B. The neighborhood special event shall not endanger or be materially detrimental to the public health, safety or welfare or injurious to property or improvements in the immediate vicinity of the neighborhood special event.
- C. The neighborhood special event shall not cause undue traffic congestion or accident potential.

(Ord. 2262, Sec. 1, 2012)

11-1411. COMPLIANCE WITH OTHER PROVISIONS OF THE CODE. Neighborhood special events shall also be subject to all other applicable provisions of the Prairie Village City Code, Zoning Regulations and Subdivision Regulations, including, but not limited to, provisions governing (a) short term special use permits, (b) temporary structures, (c) signs, (d) amplified sound permits, (e) parade permits, and (f) race permits. (Ord. 2262, Sec. 1, 2012)

11-1412. PENALTY AND ENFORCEMENT. Any person violating any provision of the article shall be guilty of a class A violation upon conviction thereof, and shall be subject to a fine of not more than \$2,500, and not more than one year in jail, or both a fine and jail sentence. Each day of such violation is committed or allowed to continue shall constitute a separate violation. Prosecution of any offender under this article does not limit the City's right to pursue declaratory or injunctive relief which may be available by other laws. (Ord. 2262, Sec. 1, 2012)

**ARTICLE 15. RECREATIONAL VEHICLES AND EQUIPMENT –
PARKING AND STORAGE**

11-1501. DEFINITIONS

- A. “Converted vehicles” means any combination of the vehicles described in this Section, which although not originally designed and not suitable for occupancy, have been converted or modified to provide temporary, movable living quarters containing facilities for cooking, sleeping, or sanitation.
- B. “House trailer” means a trailer or semi-trailer which is designed, constructed and equipped as a dwelling place, living abode, or sleeping place, either permanently or temporarily, and is equipped as a conveyance on streets or highways.
- C. “Permanent parking” means the parking on the permanent driveway of a residence or on a pad, or in the yard of any of vehicles or equipment for a period greater than seven (7) days in a thirty (30) day period.
- D. “Person” means any individual, partnership, joint venture, corporation, or other business or legal entity.
- E. “Recreational conveyance” means a vehicular type unit built on or for use on a chassis and designed primarily as living quarters for recreational, camping, vacation or travel use, and which has its own motor power or is mounted on or drawn by another vehicle.
- F. “Recreational equipment” means that which an occupant or owner may desire for convenience to store on his lot, but which item is normally and principally transported for use off the lot on a trailer or other vehicle which is not used by the very nature and utility of the item in connection with customary accessory residential uses on the lot. Included in the meaning of equipment are such large items of equipment as slide-in campers, folding tent trailers, boats, hang gliders, snow mobiles, floats, rafts and jet skis. However, it is provided that in the case of those items which are transported on trailers designed to carry more than one item, such as jet skis and snowmobiles, such trailer shall be considered as the unit of recreational equipment and the item transported shall not be so considered.
- G. “Recreational vehicles” means any recreational conveyance, house trailer, trailer, and converted vehicle. The term “recreational vehicle” shall not include buses or commercial vehicles as those terms are defined in Section 11-701 of Article 7 in this Chapter.
- H. “Slide-in campers, shells and truck caps” mean those items structured and designed to be mounted temporarily or permanently in the bed of a pickup or light truck, to provide enclosed storage space for transportation of property or quarters for recreational, camping, vacation or travel use. When mounted, the entire unit, consisting of the pickup or light truck, and the slide-in camper, shell or truck cap constitutes a recreational vehicle. When dismounted, the slide-in camper, shell, or truck cap becomes an item of recreational equipment.
- I. “Storage” means the placing of any of vehicles or equipment within an enclosed structure which obscures such vehicles from view.
- J. “Temporary parking” means the parking on the permanent portion of a resident’s driveway of any of the above described recreational vehicles or recreational equipment for the purpose of loading, unloading, cleaning and minor emergency type repairs, and for a period not to exceed seven (7) days within any thirty (30) day period.

- K. "Trailer" means any vehicle without motor power designed to carry property or passengers wholly on its own structure and to be drawn by a motor vehicle. (Ord. 2323, Sec. 1, 2015)

11-1502 Parking and Storage

Recreational vehicles and recreational equipment may be stored or parked only within any district of the City which is zoned for residential use and only in accordance with the following:

- A. Recreational vehicles and recreational equipment as defined in this Article may be stored within an enclosed structure (which structure otherwise conforms to the zoning requirements of the City), or may be permanently parked upon the premises of the owner of such recreational vehicle or recreational equipment; provided, however, that, except as otherwise provided in the Section, said recreational vehicles or recreational equipment shall not be permanently parked on or within any required front yard or on or within fifteen (15) feet of any street. Recreational vehicles and recreational equipment shall not be permanently parked within five (5) feet of a rear or side property line. Recreational vehicles and recreational equipment shall not be permanently parked in front of the front building line of the property in which the recreational vehicle or recreational equipment resides, or in front of the front building line of the properties directly adjacent.
- B. Recreational vehicles and recreational equipment shall be fully screened provided that if such recreational vehicle or recreational equipment is taller than six (6) feet, screening above six (6) feet is not required. For the purpose of this article, full screening may be the use of evergreen plantings or fencing otherwise permitted by the City Code, to substantially screen the recreational vehicle or recreational equipment from public and ground level view from a neighboring property.
- C. The total number of recreational vehicles and recreational equipment, excluding those which are parked in an enclosed structure, which may be permanently parked at a residence, shall not exceed one.
- D. Recreational vehicles and recreational equipment may be permanently parked or stored at the approved locations; provided that such vehicles and equipment are operable and carry a current license where required; that any point of such vehicle or equipment which touches the ground shall only be set on a hard non permeable surface; provided further that such vehicles or equipment have been safely secured for said storage or parking by disconnecting all utilities and life support systems, including liquefied petroleum gas containers, sewer drainage lines and repair of any valve defects all to be accordance with the storage guidelines recommended by the manufacturer of such recreational vehicle or recreational equipment.
- E. Recreational equipment or recreational vehicles may be temporarily parked on the permanent driveway portion of the residence for the purpose of loading, unloading, cleaning and minor emergency-type repair for a period not to exceed seven (7) days within any thirty (30) day period. (Ord. 2323, Sec. 1, 2015)
- F. All covers for any item (if present) must be custom fit to the contours of the recreational vehicles or recreational equipment. No tarps or other non-custom fit covers, or ready-fit or semi-custom covers may be used. A custom fit cover is designed, manufactured or tailored to closely fit the body style and size group of the specific make, model and year of the item to be covered. (Ord. 2323, Sec. 1, 2015)

11-1503 Inhabitation

At no time shall a permanently or temporarily parked or stored recreational vehicle or item of recreational equipment be occupied or used for living, sleeping, or housekeeping purposes except as provided in Section 11-1504 of the Article. (Ord. 2323, Sec. 1, 2015)

11-1504 Visitors.

Visitors to the City may be permitted to park a recreational vehicle or item of recreational equipment on the permanent driveway portion of a residence and occupy said vehicle or equipment for sleeping purposes only, or occupy for sleeping purposes a recreational vehicle or recreational equipment already stored or permanently parked upon the premises, by making application to the Department of Public Works for a visitor's permit. The Director of Public Works is authorized to annually grant three (3) visitor's permits for each residence within a twelve (12) month period. Each permit shall be valid for a period of seven (7) days. Visitors may also park such vehicles or equipment on the street for a period of forty-eight (48) hours by permit. (Ord. 2323, Sec. 1, 2015)

11-1505 Utilities

A recreational vehicle or recreational equipment may be connected only to the residential electrical utility system and only when said vehicle is temporarily parked as defined in the Article or when a visitor's permit has been issued. Such connection must be in accordance with the city electrical code, and said connection be made available for inspection during regular business hours by a city inspector. (Ord. 2323, Sec. 1, 2015)

11-1506 Storage of Commercial Items.

Commercial items, including inventory, equipment or goods used, transported or consumed in the course of a trade or business, shall only be stored within a recreational vehicle or item of recreational equipment if completely enclosed within such vehicle or equipment and not visible from adjacent property. (Ord. 2323, Sec. 1, 2015)

11-1507 Buses and Commercial Vehicles

Nothing contained in this Article shall be deemed to permit the storage or parking of commercial vehicles or buses (as each are defined in Section 11-701 of Article 7 of this Chapter) within any district of the City which is zoned as a residential district except as permitted in Article 7 of this Chapter. (Ord. 2323, Sec. 1, 2015)

11-1508 Penalty for Violations and Civil Remedies

- A. The violation of any provision of this Article is hereby declared to be a public offense and, pursuant to the authority of K.S.A. 12-761, a misdemeanor, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed \$500 or by imprisonment for not more than six months for each violation or both such fine and imprisonment. Each day's violation of this article shall constitute a separate offense.
- B. The City shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this Article and to abate nuisances maintained in violation thereof. In the event any recreational vehicle is or is proposed to be in violation of this Article, the City may, in addition to other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent unlawful activities, or to correct or abate such violation. (Ord. 2323, Sec. 1, 2015)