

**CODE**  
**OF THE**  
**CITY OF PRAIRIE VILLAGE**  
**KANSAS**

Published Under the Authority and by the Direction of  
The Governing Body of the City of Prairie Village,  
Kansas, this 20th Day of August, 2020

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A Codification of the General Ordinances  
of the City of Prairie Village, Kansas

## PREFACE

This volume contains the Code of the City of Prairie Village, Kansas, 2003. As expressed in the adopting ordinance, the code supercedes all ordinances passed prior to October 1, 2003 which are not included herein or recognized as continuing in force by reference thereto. The code was prepared by the staff of the League of Kansas Municipalities and Prairie Village city officials under the authority of Sections 12-3014:3015 of the Kansas Statutes Annotated.

This code is arranged in chapters, articles, and sections in a manner similar to the Kansas Statutes Annotated arrangement. Headnotes and footnotes are included; however, these do not constitute a part of the code and no implication or presumption of intent or construction is to be drawn therefrom.

Any section of this code may be amended or repealed by ordinary ordinance by reference to the code section number as follows:

"Section 1-105 of the Code of the City of Prairie Village is hereby amended to read as follows: (the new provisions shall then be set out in full)."

A new section not heretofore existing in the code may be added as follows:

"The Code of the City of Prairie Village is hereby amended by adding a section (or article or chapter) which reads as follows: (the new provision shall be set out in full)."

All sections or articles or chapters to be repealed shall be repealed by specific reference as follows:

"Section 1-105 (or article or chapter) of the Code of the City of Prairie Village is hereby repealed."

The user's attention is directed to the League of Kansas Municipalities publication, **Handbook for the City Governing Body**, with the supplement for cities of the first class, both as a source of general information and as an index to the pertinent sections of the Kansas Statutes Annotated.

An index is included in this volume, and the user's attention is also directed to indexes which may appear in standard codes incorporated by reference in this Code.

PREPARED AND PUBLISHED BY  
THE LEAGUE OF KANSAS MUNICIPALITIES

Sandra Jacquot  
Legal Counsel

**ORDINANCE NO. 1883**

**AN ORDINANCE AUTHORIZING AND PROVIDING FOR THE CODIFICATION OF THE GENERAL ORDINANCES OF THE CITY OF PRAIRIE VILLAGE, KANSAS, AND THE PUBLICATION OF SUCH CODIFICATION IN PERMANENTLY BOUND OR LOOSELEAF BOOK FORM.**

Be it Ordained by the Governing Body of the City of Prairie Village:

Section 1. That a codification of the general ordinances of the City of Prairie Village, Kansas, including supplements thereto, as authorized by K.S.A. 12-3014 and 12-3015, is hereby ordered, authorized and provided for, the preparation of which shall be done by the League of Kansas Municipalities as provided by contract. When completed, the codification shall be adopted by ordinance and published together with the adopting ordinance in loose-leaf book form. No fewer than 10 copies shall be published. Such codification shall be entitled, "Code of the City of Prairie Village, Kansas," of the year in which the work is completed and ready for publication. The said code shall be duly certified by the City Clerk. One copy of the code shall be filed in the office of the City Clerk and shall be designated as and shall constitute the official ordinance book. Three additional copies shall be filed in the office of the city clerk and shall be designated for use by the public.

Section 2. That this ordinance shall take effect and be in force from and after its publication once in the official city newspaper.

Passed and Approved by the Governing Body this 21st day of August, 1995.

/s/ Monroe Taliaferro, Mayor

Approved as to form:

/s/ Charles E. Wetzler, City Attorney

ATTEST: /s/ Joyce Hagen Mundy, City Clerk

(SEAL)

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### ORDINANCE NO. 2091

AN ORDINANCE ADOPTING THE CODIFICATION OF ORDINANCES OF THE CITY OF PRAIRIE VILLAGE, KANSAS, AUTHORIZED BY ORDINANCE NO. 1883 PROVIDING FOR THE REPEAL OF CERTAIN OTHER ORDINANCES NOT INCLUDED THEREIN, EXCEPTING CERTAIN ORDINANCES FROM REPEAL AND SAVING CERTAIN ACCRUED RIGHTS AND LIABILITIES.

Be it Ordained by the Governing Body of the City of Prairie Village, Kansas:

Section 1. The codification of ordinances of the City of Prairie Village, Kansas, authorized by Ordinance No. 1883 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of Prairie Village, Kansas, 2003," is hereby adopted and ordained as the "Code of the City of Prairie Village, Kansas, 2003." Said Codification shall be effective after publication of this ordinance. A copy of this adopting ordinance along with a certificate of the City Clerk that the code, ordinance and the code published in book form are true and correct copies of the code, shall be on file with the City. At least 10 copies of this code shall be certified by the City Clerk as the true and correct copies and these copies shall impart absolute verity and be received in evidence in all courts and places without further proof.

Section 2. All ordinances and parts of ordinances of a general nature passed prior to January 1, 2005, in force and effect at the date of the publication of no fewer than 10 copies of the "Code of the City of Prairie Village, Kansas, 2003," and this ordinance, are hereby repealed as of the date of publication of said code except as hereinafter provided.

Section 3. In construing this ordinance, the following ordinances shall not be considered or held to be ordinances of a general nature:

- (a) Ordinances pertaining to the acquisition of property or interests in property by gift, purchase, devise, bequest, appropriation or condemnation;
- (b) Ordinances opening, dedicating, widening, vacating or narrowing streets, avenues, alleys and boulevards;
- (c) Ordinances establishing and changing grades of streets, avenues, alleys and boulevards;
- (d) Ordinances naming or changing the names of streets, avenues and boulevards;
- (e) Ordinances authorizing or directing public improvements to be made;
- (f) Ordinances creating districts for public improvements of whatsoever kind or nature;
- (g) Ordinances levying general taxes;
- (h) Ordinances levying special assessments or taxes;
- (i) Ordinances granting any rights, privileges, easements or franchises therein mentioned to any person, firm or corporation;
- (j) Ordinances authorizing the issuance of bonds and other instruments of indebtedness by the city;
- (k) Ordinances authorizing contracts;
- (l) Ordinances establishing the limits of the city or pertaining to annexation or exclusion of territory;
- (m) Ordinances relating to compensation of officials, officers and employees of the city;
- (n) Ordinances of a temporary nature;

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Provided, That the above enumeration of exceptions shall not be held or deemed to be exclusive, it being the purpose and intention to exempt from repeal any and all ordinances not of a general nature and general ordinances specifically excepted by this section.


Section 4. The arrangement and classification of the several chapters, articles, and sections of the code adopted by Section 1 of this ordinance and the headnotes and footnotes at the ends of the sections, are made for the purpose of convenience and orderly arrangement, and do not constitute a part of the ordinances, and therefore, no implication or presumption of legislative intent or construction is to be drawn therefrom.

Section 5. The repeal of ordinances as provided in Section 2 hereof, shall not affect any rights acquired, fines, penalties, forfeitures or liabilities incurred thereunder, or actions involving any of the provisions of said ordinances or parts thereof. Said ordinances above repealed are hereby continued in force and effect after the passage, approval and publication of this ordinance for the purpose of such rights, fines, penalties, forfeitures, liabilities and actions therefor.

Section 6. If for any reason any chapter, article, section, subsection, sentence, portion or part of the "Code of the City of Prairie Village, Kansas, 2003," or the application thereof to any person or circumstances is declared to be unconstitutional or invalid, such decision will not affect the validity of the remaining portions of this code.

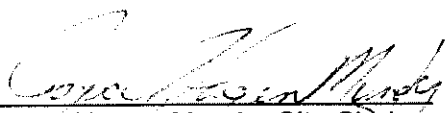
Section 7. This ordinance shall take effect and be in force from and after the publication of the "Code of the City of Prairie Village, Kansas, 2003," as provided in K.S.A. 12-3015.


Passed by the Governing Body of the City of Prairie Village, Kansas, this 7th day of February, 2005.

  
\_\_\_\_\_  
Ronald L. Shaffer, Mayor

**ATTEST:**

**APPROVED AS TO FORM**

  
\_\_\_\_\_  
Joyce Hagen Mundy, City Clerk

  
\_\_\_\_\_  
Charles E. Wetzler, City Attorney

(SEAL)

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**ORDINANCE NO. 2176**

**AN ORDINANCE AMENDING SECTION 1 OF ORDINANCE NO. 2091 OF THE CITY OF PRAIRIE VILLAGE, KANSAS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS:**

**Section I.**

Section 1 of Ordinance No. 2091 of the City of Prairie Village is deleted in its entirety and in lieu thereof, the following section of the same name and number is hereby adopted:

Section 1. The codification of ordinances of the City of Prairie Village, Kansas, authorized by Ordinance No. 1883 and K.S.A. 12-3014 and 12-3015, as set out in the following chapters, Chapters I to XVI and Appendices A and B, all inclusive, and entitled the "Code of the City of Prairie Village, Kansas, 2003," is hereby adopted and ordained as the "Code of the City of Prairie Village, Kansas, 2003." Said codification shall be effective after publication of Ordinance No. 2091. A copy of Ordinance No. 2091 as amended by this Ordinance 2176, along with a certificate of the City Clerk that the code, ordinance and the code published in book form are true and correct copies of the code, shall be on file with the City. At least 3 copies of this code shall be certified by the City Clerk as the true and correct copies and these copies shall impart absolute verity and be received in evidence in all courts and places without further proof.

**Section II.**

This Ordinance shall take effect and be in force from and after its passage, approval, and publication as provided by law.

**PASSED AND APPROVED this 6<sup>th</sup> day of October, 2008.**

\_\_\_\_\_  
Mayor Ronald L. Shaffer

**ATTEST:**

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Joyce Hagen Mundy, City Clerk

\_\_\_\_\_  
Catherine P. Logan, City Attorney

CERTIFICATE OF THE CITY CLERK


Office of the City Clerk  
City of Prairie Village, Kansas

State of Kansas            )  
  )  
Johnson County            )

I, Joyce Hagen Mundy, City Clerk of the City of Prairie Village, Johnson County, Kansas do hereby certify that said city is a city of the first class of the mayor-council form of government under the statutes of Kansas; that this codification of the general ordinances of said city and the publication thereof in book form were ordered and authorized by the governing body by Ordinance No. 1883 and in accordance therewith is entitled the "Code of the City of Prairie Village, Kansas, 2003" that said codification was adopted as the "Code of the City of Prairie Village, Kansas, 2003," by the governing body by Ordinance No. 2091 passed on the 7th day of February, 2005, as authorized by Section 12-3015 of the Kansas Statutes Annotated; that said Ordinance No. 2091 and said codification of general ordinances as contained in this volume will take effect upon publication of 10 or more copies; that the publication of 10 copies of this code and adoptive Ordinance No. 2091 constitute due passage of this code and all general ordinances contained therein; that the codification and adoptive Ordinance No. 2091 as contained herein are true and correct copies; and that said publication imports absolute verity and is to be received in evidence in all courts and places without further proof as provided by 12-3015 of the Kansas Statutes Annotated.

I further certify that the "Code of the City of Prairie Village, Kansas, 2003," and the matter therein contained will take effect upon publication and be in force from and after February 15, 2005.

Witness my hand and the seal of the City of Prairie Village, Kansas, at my office in Prairie Village, Kansas, this 7<sup>th</sup> day of February, 2005.

  
\_\_\_\_\_  
Joyce Hagen Mundy, City Clerk  
City of Prairie Village, Kansas

(SEAL)

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### ARTICLE 1. GENERAL PROVISIONS

- 1-101. CODE DESIGNATED. The chapters, articles and sections herein shall constitute and be designated as "The Code of the City of Prairie Village, Kansas," and may be so cited. The Code may also be cited as the "Prairie Village City Code." (Code 2003)
- 1-102. DEFINITIONS. In the construction of this code and of all ordinances of the city, the following definitions and rules shall be observed, unless such construction would be inconsistent with the manifest intent of the governing body or the context clearly requires otherwise:
- (a) City shall mean the City of Prairie Village, Kansas.
  - (b) City Council means 12 elected councilmembers or those persons appointed to fill vacancies on the council.
  - (c) Code shall mean "The Code of the City of Prairie Village, Kansas."
  - (d) Computation of Time. The time within which an act is to be done shall be computed by excluding the first and including the last day; and if the last day be a Saturday, Sunday, or legal holiday, that day shall be excluded.
  - (e) County means the County of Johnson in the State of Kansas.
  - (f) Delegation of Authority. Whenever a provision appears requiring or authorizing the head of a department or officer of the city to do some act or perform some duty, it shall be construed to authorize such department head or officer to designate, delegate and authorize subordinates to do the required act or perform the required duty unless the terms of the provision designate otherwise.
  - (g) Gender. Words importing the masculine gender include the feminine and neuter.
  - (h) Governing Body shall be construed to mean the mayor and city council of the city, or those persons appointed to fill a vacancy in the office of mayor or the city council as provided in this code.

(i) In the city shall mean and include all territory over which the city now has, or shall hereafter acquire jurisdiction for the exercise of its police powers or other regulatory powers.

(j) Joint authority. All words giving a joint authority to three or more persons or officers shall be construed as giving such authority to a majority of such persons or officers.

(k) Month shall mean a calendar month.

(l) Number. Words used in the singular include the plural and words used in the plural include the singular.

(m) Oath includes an affirmation in all cases in which, by law, an affirmation may be substituted for an oath, and in such cases the word "swear" is equivalent to the word "affirm."

(n) Officers, departments, etc. Officers, departments, boards, commissions and employees referred to in this code shall mean officers, departments, boards, commissions and employees of the city, unless the context clearly indicates otherwise.

(o) Owner applied to a building or land, shall include not only the owner of the whole but any part owner, joint owner, tenant in common or joint tenant of the whole or a part of such building or land.

(p) Person includes a firm, partnership, association of persons, corporation, organization or any other group acting as a unit, as well as an individual.

(q) Property includes real, personal and mixed property.

(r) Real Property includes lands, tenements and hereditaments, and all rights thereto and interest therein, equitable as well as legal.

(s) Shall, may. "Shall" is mandatory and "may" is permissive.

(t) Signature, subscription includes a mark when the person cannot write, when his or her name is written near such mark and is witnessed by a person who writes his or her own name as a witness.

(u) State shall be construed to mean the State of Kansas.

(v) Street means and includes public streets, avenues, boulevards, highways, roads, alleys, lanes, viaducts, bridges and the approaches thereto and all other public thoroughfares in the city.

(w) Tenant or occupant applied to a building or land, shall include any person holding a written or oral lease of, or who occupies the whole or a part of such building or land, whether alone or with others.

(x) Tenses. Words used in the past or present tense include the future as well as the past and present.

(y) Writing or written may include printing, engraving, lithography and any other mode of representing words and letters, except those cases where the written signature or the mark of any person is required by law.

(z) Year means a calendar year, except where otherwise provided.

(Code 1973, 1.04.010; Code 2003)

1-103. EXISTING ORDINANCES. The provisions appearing in this code, so far as they are in substance the same as those of ordinances existing at the time of the effective date of this code, shall be considered as continuations thereof and not as new enactments. (Code 2003)

1-104. EFFECT OF REPEAL. The repeal of an ordinance shall not revive an ordinance previously repealed, nor shall such repeal affect any right which has accrued, any duty

imposed, any penalty incurred or any proceeding commenced under or by virtue of the ordinance repealed, except as shall be expressly stated therein. (Code 1973, 1.04.050; Code 2003)

- 1-105. HEADINGS OF SECTIONS. The headings of the sections of this code printed in capital letters are intended as mere headings to indicate the contents of the section and shall not be deemed or taken to be titles of such sections, nor as any part of any section, nor unless expressly so provided, shall they be so deemed when any section, including its headings, is amended or reenacted. (Code 2003)
- 1-106. PARENTHETICAL AND REFERENCE MATTER. The matter in parenthesis at the ends of sections is for information only and is not a part of the code. Citations indicate only the source and the text may or may not be changed by this code. This code is a new enactment under the provisions of K.S.A. 12-3014 and 12-3015. Reference matter not in parenthesis is for information only and is not a part of this code. (Code 2003)
- 1-107. AMENDMENTS; REPEAL. Any portion of this code may be amended by specific reference to the section number as follows: "Section \_\_\_\_\_ of the code of the City of Prairie Village is hereby amended to read as follows: (the new provisions shall then be set out in full). . ." A new section not heretofore existing in the code may be added as follows: "The code of the City of Prairie Village is hereby amended by adding a section (or article or chapter) which reads as follows: . . .(the new provisions shall be set out in full). . ." All sections, or articles, or chapters to be repealed shall be repealed by specific reference as follows: "Section (or article or chapter) \_\_\_\_\_ of the code of the City of Prairie Village is hereby repealed." (Code 2003)
- 1-108. ORDINANCES. The governing body shall have the care, management and control of the city and its finances, and shall pass all ordinances needed for the welfare of the city. Except where otherwise required, all ordinances shall be valid when a majority of all the members of the city council shall vote in favor. Where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (K.S.A. 12-3002; Code 2003)
- 1-109. SAME; SUBJECT AND TITLE; AMENDMENT. No ordinance shall contain more than one subject, which shall be clearly expressed in its title; and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3004; Code 2003)
- 1-110. SAME; PUBLICATION. No ordinance, except those appropriating money, shall be in force until published in the official city newspaper, The Johnson County Sun or the Johnson County Legal Record, by the city clerk. One publication of any such ordinance shall be sufficient unless additional publications are required by statute or ordinance. The publisher of the newspaper shall prefix such published ordinance by a line in brackets stating the month, day and year of such publication. (K.S.A. 12-3007; Code 1973, 1.20.010; Code 2003)

- 1-111. SAME; ORDINANCE BOOK. Following final passage and approval of each ordinance, the city clerk shall enter the same in the ordinance book of the city as provided by law. Each ordinance shall have appended thereto the manner in which the ordinance was passed, the date of passage, the page of the journal containing the record of the final vote on its passage, the name of the newspaper in which published and the date of publication. (K.S.A. 12-3008; Code 2003)
- 1-112. RESOLUTIONS, MOTIONS. Except where a state statute or city ordinance specifically requires otherwise, all resolutions and motions shall be passed if voted upon favorably by a majority of a quorum of the city council. (Code 2003)
- 1-113. CITY RECORDS. The city clerk or any other officer or employee having custody of city records and documents shall maintain such records and documents in accordance with K.S.A. 12-120 to 12-121 inclusive, which is incorporated by reference herein as if set out in full and as provided in the state open records act and the city policy regarding open public records. (K.S.A. 12-120:121; Code 2003)
- 1-114. ALTERING CODE. It shall be unlawful for any person, firm or corporation to change or amend by additions or deletions, any part or portion of this code, or to insert or delete pages, or portions thereof, or to alter or tamper with such code in any manner whatsoever which will cause the law of the city to be misrepresented thereby. This restriction shall not apply to amendments or revisions of this code authorized by ordinance duly adopted by the governing body. (Code 2003)
- 1-115. SCOPE OF APPLICATION. Any person convicted of doing any of the acts or things prohibited, made unlawful, or the failing to do any of the things commanded to be done, as specified and set forth in this code, shall be deemed in violation of this code and punished in accordance with section 1-116. Each day any violation of this code continues shall constitute a separate offense. (Code 2003)
- 1-116. GENERAL PENALTY. Whenever any offense is declared by any provision of this code, absent a specific or unique punishment prescribed, the offender shall be punished in accordance with this section.
- (a) A fine of not more than \$1,000; or,
  - (b) Imprisonment in jail for not more than 179 days; or,
  - (c) Both such fine and imprisonment not to exceed (a) and (b) above.
- (Code 1973, 1.12.010; Code 2003)
- 1-117. RIGHT OF ENTRY. Whenever necessary to make an inspection to enforce any ordinance or resolution, or whenever there is reasonable cause to believe there exists an ordinance or resolution violation in any building or upon any premises within the jurisdiction of the city, any authorized official of the city may, upon presentation of proper credentials, enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon him or her by ordinance; provided, that except in emergency situation or when consent of the owner and/or occupant to the inspection has been otherwise obtained, he or she shall give the owner and/or occupant, if they can be located after reasonable effort, 12 hours written notice of the authorized official's intention to inspect. The notice transmitted to the owner and/or occupant shall state that the property owner has the right to refuse entry and that in

the event such entry is refused, inspection may be made only upon issuance of a search warrant by a duly authorized magistrate. In the event the owner and/or occupant refuses entry after such request has been made, the official is empowered to seek assistance from any court of competent jurisdiction in obtaining such entry. (Code 1973, 1.08.010)

1-118. PROHIBITED ACTS INCLUDE CAUSING, PERMITTING AND RELATED ACTS. Whenever in this code any act or omission is made unlawful, it shall include causing, allowing, permitting, aiding, abetting, suffering or concealing the fact of such act or omission. (Code 1973, 1.04.030)

1-119. SEVERABILITY. If for any reason any chapter, article, section, subsection, sentence, clause or phrase of this code or the application thereof to any person or circumstance, is declared to be unconstitutional or invalid or unenforceable, such decision shall not affect the validity of the remaining portions of this code. (Code 2003)

1-120. FEE SCHEDULE ESTABLISHED. (a) A fee schedule setting the amounts for all fees imposed by the city and which are not specifically provided in this code shall be established by the governing body of the city council and maintained by the city administrator.  
(b) A sufficient number of copies of the fee schedule shall be kept on file with the city clerk.  
(c) The fee schedule may be amended as becomes necessary from time to time. (Ord. 1777, Sec. 1)

1-121. CITY SEAL. The seal of the city shall consist of two concentric circles between which shall be the words "City of Prairie Village" around the top, and the words "State of Kansas" around the bottom. Across the middle of the inner circle is the word "Seal," and above the below in each half-moon space is an adjournment figure. When the seal is impressed in paper, the outer circle has a rope-like appearance and the inner circle a series of small indentations. The metal seal conforming to the above description and in the possession of the city clerk of August 15, 1966, is the official seal; provided, a facsimile seal printed, engraved, stamped, or otherwise placed, may be used as authorized by K.S.A. 75-4003. (Code 1973, 1-16.010)

1-122. SAME; CARE AND POSSESSION. The city clerk is ordered and directed to keep the city seal safe in his or her possession during his or her term of office, and to deliver it to his or her successor when such successor has been duly appointed and qualified. (Code 1973, 1.16.020)

## ARTICLE 2. GOVERNING BODY

- 1-201. GOVERNING BODY. The governing body shall consist of a mayor and city council to be elected as set out in Chapter 6 of this code. (Code 1973, 2.04.010; Code 2003)
- 1-202. SAME; POWERS GENERALLY. All powers exercised by cities of the first class or which shall hereafter be conferred upon them shall be exercised by the governing body, subject to such limitations as prescribed by law. All executive and administrative authority granted or limited by law shall be vested in the mayor and city council as governing body of the city. (K.S.A. 12-103; Code 1973, 2.04.030; Code 2003)
- 1-203. SAME; MEETINGS. (a) On the first Monday in January following certification of the results of the City election held in November 2019, as provided by Section 6-104 of this Code, the governing body, as constituted before said election, shall meet and proceed to any unfinished business, and thereafter seat the new governing body, and the new governing body shall proceed to the order of business. Thereafter, on the first Monday in December following certification of the results of the City election held the previous November as provided by Section 6-104 of this Code, the governing body, as constituted before said election, shall meet and proceed to any unfinished business, and thereafter seat the new governing body, and the new governing body shall proceed to the order of business.
- (b) Regular meetings of the governing body shall ordinarily be held on the 1st and 3rd Mondays of each month at 6:00 p.m. In the event the regular meeting day shall fall on any legal holiday or any day observed as a holiday by the city offices, the governing body shall ordinarily fix the succeeding day not observed as a holiday as a meeting day.
  - (c) Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.
  - (d) Regular or special meetings of the governing body may be adjourned for the completion of its business at such subsequent time and place as the governing body shall determine in its motion to adjourn.
  - (e) The governing body may cancel or modify any ordinarily-established meetings by motion and approval by a majority of a quorum at any regularly scheduled or special meeting. Notwithstanding the foregoing, the mayor (and, in the absence of the mayor, the president of the council), after consulting with the city administrator, shall be authorized to cancel a meeting and make a temporary change in a meeting date when such actions are reasonably necessary due to reasons of health, safety, or welfare, or the known inability to obtain a quorum. Appropriate notice of such cancellation or change in meeting date shall be provided to the public and council members. (K.S.A. 13-1410; Code 1973, 2.04.040; Code 2003; Ord. 2338, Sec. 1, 2015; Ord. 2371, Sec. 1, 2017; Ord. 2373, Sec. 1, 2017; Ord. 2379, Sec. 1, 2018; Ord. 2405, Sec. 1, 2019)



- 1-204. SAME; QUORUM-COMPELLING ATTENDANCE. Attendance by eight of the councilmembers elected shall constitute a quorum to do business, but a number fewer than eight may adjourn from day to day and may compel the attendance of absentees by attachment issued in the name of the city and directed to the police chief or his or her designee commanding him or her to arrest such absentees and bring them before the council, and the council may fine such absentees not exceeding \$10 for each offense, unless a reasonable excuse is offered. (Ord. 2012, Sec. 1)
- 1-205. POWERS OF THE MAYOR. The mayor shall preside at all meetings of the governing body. The mayor shall have the tie-breaking vote on all questions when the members present are equally divided. The mayor shall:
- (a) Have the superintending control of all officers and affairs of the city;
  - (b) Monitor that the ordinances of the city are complied with;
  - (c) Sign the commissions and appointments of all officers elected or appointed;
  - (d) Endorse the approval of the governing body on all official bonds;
  - (e) From time to time communicate to the city council such information and recommend such measures as he or she may deem advisable;
  - (f) Have power to approve or veto any ordinance in any manner as provided by state law;
  - (g) Sign all orders and drafts drawn upon the city treasury for money.
- (K.S.A. 13-502, 13-506:515; Code 1973, 2.04.060; Code 2003)
- 1-206. PRESIDENT OF THE COUNCIL. The city council shall elect one of its own body as president of the council. The president of the council shall preside at all meetings of the council in the absence of the mayor. In the absence of both the mayor and the president of the council, the council shall elect one of its members as "acting president of the council." The president and acting president, when occupying the place of mayor, shall have the same privileges as other council members but shall exercise no veto. (K.S.A. 13-1411; Code 1973, 2.04.070; Code 2003)
- 1-207. ADMINISTRATIVE POWERS. The governing body may designate whether the administration of a policy or the carrying out of any order shall be performed by a committee, an appointive officer, or the mayor. If no administrative authority is designated it shall be vested in the mayor or his or her designee. (Code 2003)
- 1-208. VACANCIES IN GOVERNING BODY; HOW FILLED.
- A. In case of a vacancy occurring by reason of resignation, death, removal from office or when the mayor no longer resides in the City, the president of the council will fill the vacancy by serving as Mayor until the Council elects a new Mayor. The Council shall elect, by a majority of those council members present, a new Mayor from those council members serving at the time of the vacancy within thirty (30) days from the vacancy to serve until the next regularly scheduled City election. The vacancy in the Council created by the council electing a new mayor will be filled in accordance with Section 1-208(b) of the Prairie Village Municipal Code.
  - B. In case of a vacancy occurring by reason of resignation, death, removal from office or when a councilmember no longer resides in the ward in which the council member has been elected, the mayor, by and with the consent of the

remaining council members may appoint some suitable elector residing in such ward to fill the vacancy until the next election for that council position. (C.O. No. 13, Sec. 3; C.O. No. 14, Sec. 2; Ord. 2300, Sec. 2, 2013; Ord. 2338, Sec. 2, 2015)

1-209. COMPENSATION. Members of the governing body shall receive as compensation such amounts as may be fixed by ordinance. (Code 2003)

1-210. EXPENSES. Each member of the governing body shall receive for his or her services and as reimbursement for his or her expenses, compensation as follows:

- (a) Mileage at the same rate as is established by law by the state of Kansas for state employees for each mile traveled by the shortest route upon the performance of duties assigned by the mayor and/or city council.
- (b) Reimbursement for costs incurred by the governing body member's attendance or participation at official city functions, including city council and committee meetings, conferences, seminars, etc. Such items shall include but not be limited to: food, lodging, telephone charges, child care expenses, tuition expenses, etc. All such requests for reimbursement shall be documented by proper receipts.

(Code 2003)

1-211. RULES AND ORDER OF BUSINESS. The following shall constitute guidelines for the rules and order of business of the city.

Rule 1. Adjourned Meetings. Adjourned meetings of the governing body may be held at such time and place as the governing body may determine in the motion to adjourn.

Rule 2. Special Meetings. Special meetings may be called by the mayor or acting mayor, on the written request of any three members of the council, specifying the object and purpose of such meeting, which request shall be read at a meeting and entered at length on the journal.

The call of a special meeting shall be in substantially the following form:

CALL FOR SPECIAL GOVERNING BODY MEETING

Prairie Village, Kansas  
\_\_\_\_\_, 20\_\_

To the Members of the Governing Body

A special meeting of the governing body is hereby called to be held at the city hall, \_\_\_\_\_, 20\_\_ at \_\_\_\_\_ o'clock \_\_m., the object of said meeting being to \_\_\_\_\_ (state object)

Signed:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

A notice of such special meeting, stating the time, place, and object of the meeting, directed to the governing body shall be issued by the city clerk to the chief of police, his or her deputy, or a law enforcement officer or other city employee, who shall be required to make service of said notice at once personally upon each member of the governing body or to leave it at his or her usual place of residence, and such notice must be served or left at the usual place of residence at least two hours before the time of meeting. The person serving the notice shall make a return in writing of the service, showing the manner of such service. Attendance at a special meeting by any member of the governing body shall constitute a waiver of the right to notice under this rule for that member. The notice and the return shall be in substantially the following form:

NOTICE OF SPECIAL GOVERNING BODY MEETING

Office of the City Clerk  
Prairie Village, Kansas

To \_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that there will be a special meeting of the Governing Body at \_\_\_\_\_ o'clock \_\_\_\_ m., \_\_\_\_\_, 20\_\_\_\_, at the city hall for the object of (state the same object as shown in the call).

Witness my hand and the seal of said city this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

State of Kansas

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

County of Johnson ss.

City of Prairie Village

To (chief of police, his or her deputy, or a law enforcement officer or other city employee).

Greeting:

You are hereby directed to serve the above notice at once personally upon \_\_\_\_\_ or to leave it at his or her usual place of residence before \_\_\_\_\_ o'clock \_\_\_\_ m., \_\_\_\_\_ 20\_\_\_\_, and to make a return in writing of said service, showing the manner of such service.

(SEAL)

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

RETURN

Received the original notice of special governing body meeting, of which the foregoing is a copy, at \_\_\_\_\_ o'clock \_\_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and (served the same personally on \_\_\_\_\_ or left said original notice at the usual place of residence of \_\_\_\_\_) at \_\_\_\_\_ o'clock \_\_\_\_\_ m., on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_

Signed:

\_\_\_\_\_

Person serving notice

Rule 3. Order of Business. At the hour appointed for meeting, the governing body shall be called together by the mayor, and in his or her absence by the acting mayor. The city clerk shall call the roll and note the absentees and announce whether a quorum be present. Upon the appearance of a quorum the governing body shall proceed to business. (Ord. 2379, Sec. 2, 2018)

Rule 4. Order. The mayor shall preserve order and decorum and shall decide questions of order subject to an appeal to the council.

Rule 5. Decorum. Every member previous to his or her speaking shall address himself or herself to the chair and shall not proceed until recognized by the chair. He or she shall indulge in no personalities and confine his or her remarks to the matter under debate.

Rule 6. Point of Order. A meeting called to order shall immediately suspend until the point of order raised is decided by the chair.

Rule 7. Certain Motions in Writing. Every motion except to adjourn, postpone, reconsider, commit, lay on the table, or for the previous question, shall be reduced to writing if the chair or any member requires it; when made and seconded, it shall be stated by the chairperson or being written shall be read by the clerk, and may be withdrawn before decision or amendment, or any disposition thereof has been made, or a vote thereon had.

Rule 8. Resolutions. All resolutions must be in writing.

Rule 9. Motions During Debate. When a question is under debate no motion shall be entertained except:

- (1) To adjourn;
- (2) To lay on the table;
- (3) To take the previous question;
- (4) To postpone;
- (5) To amend;

which several motions shall have precedence in the order in which they are named, and the first three shall be decided without debate.

Rule 10. Division. Any member may call for a division of a question when the same will admit thereof.

Rule 11. Voting; Abstaining From Voting. When a question is put by the chair, every member present shall vote unless for special reasons the chair shall excuse him or her. For those questions for which an abstention is permitted, such a vote shall be counted as a vote cast in favor of the position taken by the majority of those persons present and voting. In doubtful cases the chair may direct, or any member may call for, a division. The yeas and nays shall be called upon a requisition of the chair or any member, and upon the final passage of all ordinances in which case the names of the members voting and their votes shall be recorded in the minutes.

Rule 12. Precedence of Questions. All questions shall be put in the order in which they are moved, except in case of privilege questions, and in filling blanks the longest time and the largest sum shall be first.

Rule 13. Previous Question. The previous question shall be put in these words: "Shall the main question now be put?" It shall be admitted on demand of any member and until decided shall preclude all amendments and debate of the main question.

Rule 14. Passing of Ordinances. All ordinances shall be read by sections, at which time amendments, if any, may be offered, but the reading of any section shall not preclude the offering of an amendment to any preceding one. If amendments are made the chair shall so report, and each section shall be read as amended before the vote on the passage of the ordinance is taken. After reading and amendment (if any) of the ordinance, the question shall be: "Shall the ordinance pass?" The vote on the final passage of an ordinance shall be taken by yeas and nays, which shall be entered on the journal by the clerk; and no ordinance shall be valid unless a majority of (or otherwise as required by law) the members of the council vote in favor thereof: Provided, That no ordinance shall contain more than one subject, which shall be clearly expressed in its title, and no section or sections of an ordinance shall be amended unless the amending ordinance contains the entire section or sections as amended and the section or sections amended shall be repealed. (K.S.A. 12-3002, 12-3004)

Rule 15. Signing and Engrossing Ordinances. After an ordinance shall have passed it shall be correctly entered in the original ordinance book and the original and the book copy shall be signed by the mayor, or in the absence of the mayor by the acting mayor, and attested by the clerk, who shall secure publication of the ordinance as required by law.

Rule 16. Clerk Reads Communications. Petitions and other papers addressed to the governing body shall be read by the clerk under proper order of business upon presentation of the same to the board.

Rule 17. Robert's Rules of Order. In all points not covered by these rules the governing body shall be governed in its procedure by Robert's Rules of Order. (Code 2003)

1-212.

CODE OF ETHICS.

- A. Purpose. To establish guidelines for ethical standards of conduct.
- B. Scope. This policy applies to officials and employees.
- C. Policy. The proper operation of democratic government requires that public officials and employees be independent, impartial and responsible to the people; that government decisions and policy be made in the proper channels or governmental structures; that public office not be used for personal gain; and that the public have confidence in the integrity of its government. In recognition of these goals, there is hereby established a code of ethics for all officials and employees

The purpose of this code is to establish guidelines for ethical standards of conduct for all officials and employees by setting forth those acts or actions that are incompatible with the best interests of the city and by directing disclosure by such officials and employees of private financial or other interests in matters affecting the city. The provisions and purpose of this code of ethics are in the best interests of the city. This code of ethics shall not apply to persons who serve only as members of boards, committees, or commissions.

(1) Responsibilities of Public Office. Public officials and employees are agents of public purpose and hold office for the benefit of the public. They are bound to uphold the Constitution of the United States and the Constitution of this State and to carry out impartially the laws of the nation, state, and city and thus to foster respect for all government. They are bound to observe in their official acts the highest standards of morality and to discharge faithfully the duties of their office, regardless of personal consideration, recognizing that the public interest must be their primary concern. The conduct in both official and private affairs should be above reproach.

(2) Dedicated Service.

(a) All officials and employees of the city should be loyal to the objectives expressed by the electorate and the programs developed to attain those objectives. Appointive officials and employees should adhere to the rules of work and performance established as the standard for their positions by the appropriate authority.

(b) Officials and employees should not exceed their authority or breach the law or ask others to do so, and they should work in full cooperation with other public officials and employees unless prohibited from so doing by law or by officially recognized confidentiality of their work.

D. Fair and Equal Treatment. No official or employee shall grant any special consideration, treatment, or advantage to any citizen beyond that which is available to every other citizen, other than those established by council as employee fringe benefits.

E. Conflict of Interest.

(1) No councilmember or other official or employee, whether paid or unpaid, shall engage in any business or transaction or shall have a financial or other personal interest, direct or indirect, which is incompatible with the

- proper discharge of his or her duties in the public interest or would tend to impair his or her independence of judgment or action in the performance of his or her official duties.
- (2) Substantial Interest in Any Business. No councilmember or other official or employee shall act on any matter which will affect any business in which he or she holds a substantial (as defined in K.S.A. 75-4301) interest unless a written report of the nature of such interest has been filed with the county clerk.
  - (3) Participation in a City Contract. No councilmember or other official shall make or participate in the making of any contract by the city with any person or business by which he or she is employed or in whose business he or she has a substantial interest. Any official or employee does not participate in the making of a contract if he or she abstains from any action in regard to the contract. This rule does not apply (i) if the contract is let after the competitive bidding has been advertised for by public notice, or (ii) when a contract is for property or services for which the price or rate is fixed by law.
  - (4) Incompatible Employment - No councilmember or other official or employee shall engage in or accept private employment or render services for private interests when such employment or service is incompatible with the proper discharge of his or her official duties or would tend to impair his or her independence of judgment or action in the performance of his or her official duties, unless otherwise permitted by law and unless disclosure is made as provided in this code.
  - (5) Disclosure of Confidential Information - No councilmember or other official or employee, shall, without proper legal authorization, disclose confidential information concerning the property, government or affairs of the city. Nor shall he or she use such information to advance the financial or other private interest of himself, herself or others. When a question arises about classification of information, the departmental supervisor and/or the city attorney shall make the determination.
  - (6) Gifts and Favors. No councilmember or other official or employee shall accept any valuable gift, whether in the form of service, loan, thing or promise, from any person, firm, or corporation which to his or her knowledge is interested directly or indirectly in any manner whatsoever in business dealings with the city; nor shall any such official or employee (a) accept any gift, favor or thing of value that may tend to influence him or her in the discharge of his or her duties or (b) grant in the discharge of his or her duties any improper favor, service, or thing of value. The prohibition against gifts or favors shall not apply to: (a) an occasional nonpecuniary gift, of only nominal value or (b) an award publicly presented in recognition of public service or (c) any gift which would have been offered or given to him or her if not an official or employee.
  - (7) Late Case Interest. No public officer or employee shall, after the termination of service or employment with the city, appear before any board, commission, committee or agency of the city in relation to any case, proceeding or application in which he or she personally participated during the period of his or her service or employment, or which was under

his or her active consideration. This does not preclude ex-employees from testifying in court on city-related matters.

F. Political Activity. Employees are encouraged to vote in any and all elections for which they are eligible; however, to safeguard the city's policy of employment and advancement on the basis of merit and qualifications, employees are prohibited from participating in the election campaign of any candidate for city office or from holding any office in any political party organization "within the city" which may influence the election of any city official.

No official or employee, whether elected or appointed, shall promise an appointment to any municipal position as a reward for any political activity.

G. Misuse of City Property. No city official or employee shall request or permit the use of city-owned vehicles, equipment, materials or property for personal convenience or profit, except when such services are available to the public generally or are provided as municipal policy for the use of such official or employee in the conduct of official business.

H. Applicability of Code. When a councilmember or other official or employee has doubt as to the interpretation or the applicability of a provision of this code to a particular situation, he/she should apply in writing to the policy/services committee for an advisory opinion and be guided by that opinion when given. Any official, employee or citizen shall have the opportunity to present his or her interpretation of the facts at issue and of the applicable provision(s) of the code before such advisory decision is made. This code shall be operative in all instances covered by its provisions except when superseded by an applicable statutory or charter provision and statutory or charter action is mandatory, or when the application of a statutory or charter provision is discretionary but determined to be more appropriate or desirable.

I. Distribution of Code of Ethics. The city clerk shall cause a copy of this code of ethics to be distributed to every public officer and employee of the city within 30 days after enactment of this code. Each public officer and employee elected, appointed or employed thereafter, shall furnish a copy.

J. Enforcement of Code. Any alleged violation by a public official or employee shall be brought to the attention of the policy/services committee by a written complaint duly signed by a complaining party. The policy/services committee shall investigate the written complaint. The policy/services committee shall adopt its own rules for studying and investigating complaints. After investigating the complaint, the policy/services committee shall make recommendations in writing to the mayor and the department head of the employee. The mayor and department head shall take whatever action they deem appropriate. In the case of employees, action shall be based upon established employment policies of the city, including dismissal where appropriate. On the part of public officials, action, if any, shall either be public censor or ouster, provided that all action be in accordance with the applicable statutes of the State of Kansas.

(Code 2003)



### ARTICLE 3. OFFICERS AND EMPLOYEES

- 1-301. APPOINTIVE OFFICES; TERMS AND SALARY. The Mayor, with the approval of the City Council, and after receiving recommendation from the City Administrator, may appoint a City Attorney, Assistant City Attorney, Municipal Judges, City Prosecutor, City Clerk, City Treasurer, Deputy City Administrator, City Engineer, Director of Public Works, City Architect and Chief of Police. Subject to Section 1-303(b), the terms of office for employee-held offices shall be four years and until their successors have been appointed and duly qualified, and the terms of all other appointed offices shall be two years and until their successors have been duly appointed and qualified. The salary ranges of employee held offices shall be fixed by Resolution and the compensation of nonemployee held offices shall be fixed by agreement. (K.S.A. 13-527; Code 1973, 2.16.010; C.O. No. 14, Sec. 2; Code 2003; Ord. 2154, Sec. 2, 2007; Ord. 2330, Sec. 1, 2015; Ord. 2395, Sec.1, 2018)
- 1-302. APPOINTMENT OF CITY ADMINISTRATOR. The mayor, WITH THE APPROVAL OF THE City Council, shall appoint a City Administrator. (Code 2003; Ord. 2154, Sec. 2, 2007)
- 1-303. REMOVAL OF CITY ADMINISTRATOR AND APPOINTIVE OFFICERS.
- (a) The City Administrator may be removed either by the Mayor, with the approval of a majority of the City Council, or by the City Council alone if at least nine members vote in favor of removal. If requested by the City Administrator, the Mayor and the City Council shall grant the City Administrator a public hearing within 30 days following notice of such removal. During the interim, the Mayor, with the approval of a majority of the City Council, may suspend the City Administrator from duty, but shall continue his or her salary for two calendar months following the final removal date; provided, however, that if the City Administrator shall be removed for acts of dishonesty or acts of moral turpitude, such salary shall not be continued.
- (b) Subject to personnel system regulations, and after receiving a recommendation from the City Administrator, all other appointive officers may be removed either by the Mayor, with the approval of a majority of the City Council, or by the City Council alone if at least nine members vote in favor of removal. (K.S.A. 13-2103; Code 1973, 2.16.010, 2.16.020; Code 2003; Ord. 2154, Sec. 3, 2007)
- 1-304. VACANCY IN OFFICE. Whenever a vacancy occurs in any appointive office for whatever reason, the vacancy shall be filled by the governing body. Any person appointed to fill such vacancy shall serve only until the next regular time for appointment. (K.S.A. 13-304:305; Code 2003)
- 1-305. CITY CLERK; CREATED; QUALIFICATIONS.
- (a) There is hereby created the office of city clerk.
- (b) The city clerk shall demonstrate the ability to acquire comprehensive knowledge of applicable state statutes and city ordinances, business

practices, English and composition; ability to supervise others; and ability to work with the public and other governmental officials.

- (c) Completion of college or completion of high school supplemented by courses in secretarial, business or governmental subjects required. Five years experience in city government in responsible clerical or administrative position preferred.

(Code 1973, 2.16.034; Ord. 1592, Sec. 2.)

1-306. CITY CLERK; DUTIES AND RESPONSIBILITIES. The city clerk shall have and exercise the following duties and responsibilities of office:

- (a) The city clerk shall maintain all official public and legal records of the city, have use and custody of the corporate seal, administer oaths pertaining to city business, officials and functions, supervise assigned departmental clerical personnel and provide delegated administrative and clerical support services to the mayor, governing body, commissions, committees, and other city departments.
- (b) The city clerk shall have authority to plan, organize, supervise and review the work of assigned subordinates of the general clerical staff.
- (c) The city clerk shall attend all meetings of the city council, make and keep a true record of all proceedings, supervise and participate in the recording and preparation of minutes of committees, boards and commissions, shall maintain official records and files pertaining to ordinances, financial affairs, elections and other official city activities.
- (d) The city clerk shall supervise the publication of official election notices, preparation of correspondence as directed by the mayor, issuance and processing of registrations, permits and licenses. The city clerk shall sign checks as required by the city's financial procedures.
- (e) The city clerk shall maintain the city's election records, voter registration procedures and supervise the registration of voters.
- (f) The city clerk shall perform such other duties as may be required by state statute or city ordinance or as may be directed by the mayor.

(Code 1973, 2.16.036)

1-307. SAME; WITHHOLDING AGENTS. The city clerk and/or his or her designee is designated as the withholding agent of the city for the purposes of the Federal Revenue (Income) Act, and shall perform the duties required of withholding agents by said act or any other act requiring withholding from the compensation of any city officer or employee. The clerk shall perform such other duties as may be prescribed by the governing body or the Kansas statutes. (Code 2003)

1-308. CITY TREASURER; OFFICE CREATED; QUALIFICATIONS.

- (a) There is created and established the office of city treasurer.
- (b) The city treasurer shall have thorough knowledge of municipal accounting, finance, auditing and expenditure control systems and procedures; considerable knowledge of accounting principles and procedures as applied to city accounting systems; considerable knowledge of applicable laws, regulations, ordinances, procedures and processes governing the receipt, custody, investment and expenditures of public funds; the ability to prepare meaningful and informative financial and statistical reports.

- (c) Graduation from an accredited college or university with major course work in accounting, business administration or related subject area, or an equivalent combination of education and experience with a minimum of five years professional experience in governmental or business accounting shall be requirements for holding the office of city treasurer. Direct experience in public accounting and/or financial management will be preferred. Recognition as a certified public accountant will be preferred.
  - (d) The city treasurer shall furnish to the city, at the expense of the city, a corporate surety bond with a surety company, qualified to do business in the State of Kansas, in the amount of \$50,000. Such bond shall be conditioned for the faithful discharge of the duties of city treasurer and the city treasurer shall safely keep all public moneys entrusted to his or her care, and save such city free and harmless from all loss caused by neglect of duty or malfeasance in office. Such bond shall be approved by the city attorney before acceptance and filed with the city clerk.
- (Code 1973, 2.16.044)

- 1-309. SAME; DUTIES. The city treasurer shall have and exercise the following duties and responsibilities of office:
- (a) The treasurer shall provide to the mayor and to other public officials or employees as designated by the mayor, technical advice in the field of accounting and finance.
  - (b) The treasurer shall perform periodic internal audits of any accounting records and reports considered necessary to ensure reasonable standards of internal control. The treasurer shall approve all warrants and shall reconcile bank accounts on a monthly basis.
  - (c) The treasurer shall coordinate with the city administrator in auditing the practices of financial management and control of municipal fiscal affairs, and when requested, shall provide technical advice in the analysis of present accounting systems and in the development of new and/or revised procedures.
  - (d) The treasurer shall prepare the quarterly reports required in K.S.A. 12-1608, and perform such other duties as directed by the mayor and/or governing body, and shall perform such other duties as required by law.
- (Code 1973, 2.16.046)

- 1-310. CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of city attorney. No person shall be eligible for the office of city attorney who is not an attorney at law admitted to practice in the Supreme Court of the State of Kansas. The city attorney shall be charged with the general direction and supervision of the legal affairs of the city. The city attorney shall:
- (a) Provide legal advice to the mayor, governing body, city administrator, department heads, commissions, committees and appointed officials on matters pertaining to the operation of city government;
  - (b) Represent the city as the attorney of record in any court action where the city is an interested party;
  - (c) Supervise the assistant city attorney and prosecution of cases involving violations of ordinances of the city;
  - (d) Attend meetings of the governing body and attend committee meetings when requested by the mayor or committee chairperson;

- (e) Perform all duties required of city attorneys by state statutes or ordinances of the city;
  - (f) Assist in the drafting of ordinances of the city.
- (Code 1973, 2.16.050)

- 1-311. ASSISTANT CITY ATTORNEY; OFFICE; DUTIES. There is hereby established the office of assistant city attorney. No person shall be eligible for the office of assistant city attorney who is not an attorney at law admitted to practice in the Supreme Court of Kansas. The assistant city attorney shall be appointed by the mayor with the approval of the governing body. The assistant city attorney shall:
- (a) Prosecute all municipal court cases, including cases appealed to another court, when the city is a party litigant.
  - (b) Assist city attorney on legal matters concerning the city when requested by the city attorney, mayor or governing body.
  - (c) Perform duties of city attorney when the city attorney is unavailable or is unable to perform the duties of the office.
- (Code 1973, 2.16.060)

- 1-312. CITY ADMINISTRATOR; OFFICE GENERALLY.
- (a) There is hereby created and established the office of city administrator for the city. The city administrator was formerly referred to as the director of administration. Wherever the term director of administration appears in any section of this code, the term is synonymous to the term city administrator.
  - (b) A qualified person shall be appointed city administrator for the city by the mayor, such appointment shall be approved by a majority of the entire city council. The term of office and manner of termination shall be in accordance with sections 1-301 and 1-303.
  - (c) The person appointed to the office of city administrator shall be a resident of the city at the time of the effective date of such appointment, or shall become a resident within the time limit established by council policy; and shall be a graduate of an accredited university or college, majoring in public administration shall have the equivalent qualifications and experience.
- (Ord. 1527, Secs. 1:3)

- 1-313. CITY ADMINISTRATOR; DUTIES.
- (a) Administrative Office: The City Administrator shall be the chief administrative assistant to the Mayor and Governing Body and, as such, shall be the administrative officer of the City government. Except as otherwise specified by Ordinance or by law of the State of Kansas, the City Administrator shall coordinate and generally supervise the operation of all departments of the City.
  - (b) Purchasing: The city administrator shall be the purchasing agent for the city and all purchases shall be made under the direction and supervision of this office and all such purchases shall be made in accordance with purchasing rules and procedures approved by the city council.
  - (c) Budget: The city administrator shall be the budget officer of the city and with the assistance of all departments heads shall assemble estimates of the financial needs and resources of the city for each ensuing year and shall prepare a program of activities within the financial power of the city, embodying

in it a budget document with proper supporting schedules and an analysis to be proposed to the mayor and city council for their final approval.

- (d) Financial Reports: The city administrator shall make periodic reports to the mayor and the city council relative to the financial condition of the city. Such reports shall show the financial condition of the city in relation to the budget.
- (e) Annual Report: The city administrator shall prepare and present an annual report of the city's affairs to the mayor and city council, including in such report a summary of reports of all departments and such other reports as the mayor and city council may require.
- (f) Personnel System: The City Administrator shall act as the personnel officer of the City. The City Administrator shall directly supervise all department heads and make recommendations to the Governing Body concerning their appointment, salaries and removal. In addition, subject to the personnel system regulations the City Administrator shall have the power to hire all other employees of the City, and, after consultation with department heads, shall approve all terminations and advancement of such employees. The City Administrator, after consultation with department heads, shall also approve appropriate pay increases for all such City employees within the pay plan and position classification system adopted by the City Council. For purpose of this Ordinance, the term "department heads" shall mean the City Clerk, Deputy City Administrator, Director of Public Works and Chief of Police and shall further include any additional employee or officer that the Governing Body may designate in the future as a "department head".
- (g) Policy Formulation: The city administrator shall recommend adoption of such measures as may be necessary or expedient for the health, safety or welfare of the City or for the improvement of administrative services for the City.
- (h) City Council Agenda: The city administrator shall submit a proposed agenda for each council meeting to the mayor.
- (i) Board and Committees: The city administrator shall work with all city boards and committees to help coordinate the work of each.
- (j) Attend City Council Meetings: The city administrator shall attend all meetings of the city council.
- (k) Bid Specifications: All bid specifications for service and equipment shall be coordinated through the city administrator in accordance with council policy.
- (l) State and Federal Aid Programs: The city administrator shall coordinate federal and state programs, which may have application to the city.
- (m) Conference Attendance: The city administrator shall attend state and regional conferences and programs applicable to the office and the business of the city when such attendance is directed and approved by the mayor.
- (n) Press Releases: The city administrator shall be responsible for keeping the public informed of the purposes and methods of city government through all available news media, as approved by the mayor.
- (o) Record Keeping: The city administrator shall keep full and accurate records of administrative actions, and shall safely and properly keep all such records and papers, which shall be and remain the property of the city and be open to inspection by the mayor and city council at all times.
- (p) Miscellaneous: In addition to the foregoing duties the city administrator shall perform any and all other duties or functions prescribed by the mayor.

- (q) City Property: The city administrator shall have responsibility for all real and personal property of the city and all inventories of such property and upkeep of such property. Personal property may be sold only with approval of the city council. Real property may be sold only with the approval of the city council, by resolution or ordinance.
  - (r) Coordinate Departments: The city administrator shall have responsibility for coordinating the work of all departments of the city, and at times of an emergency, shall have authority to assign the employees of the city to any department where they are needed for the most effective discharge of the functions of city government.
  - (s) Investigate and Report: The city administrator shall have the power to investigate and to examine or inquire into the affairs or operation of any department of the city, and shall report on any condition or fact concerning the city government requested by the mayor or city council.
  - (t) Appear Before the City Council: The city administrator shall have the authority to appear before and address the city council at any meeting.
- (Ord. 1527, Sec. 4; Ord. 2154, Sec. 4, 2007; Ordinance 2395, Sec. 2, 2018).

1-314.

DEPUTY CITY ADMINISTRATOR; OFFICE GENERALLY.

- (a) There is hereby created and established the office of deputy city administrator for the city.
  - (b) A qualified person shall be appointed deputy city administrator by the mayor, with approval of a majority of the members of the governing body. The term of office and manner of termination shall be in accordance with sections 1-301 and 1-303.
  - (c) The person appointed to the office of deputy city administrator shall demonstrate the ability to acquire comprehensive knowledge of applicable state statutes and city ordinances, business practices, English and composition; ability to work with the public, government officials and the press; knowledge of municipal administrative policies and procedures. A graduate degree from an accredited four-year college or university in public or business administration or related field is preferred. Five years of experience in municipal government with some supervisory experience preferred.
- (Code 1973, 2.16.150:170; Ord. 1592, Sec. 4; Ord. 2395, Sec. 3, 2018)

1-315.

DEPUTY CITY ADMINISTRATOR.

- (a) The deputy city administrator shall have and exercise under specific administrative direction of the city administrator, the duties and responsibilities of office, as designated by the city administrator with approval of the mayor; and shall serve as staff assistant to committees, commissions, and boards as directed by the city administrator with approval of the mayor.
  - (b) The deputy city administrator shall assist the mayor, governing body and other city officials in planning, organizing and coordinating the delegated city programs and services and shall perform special studies and projects at the direction of the mayor and/or city administrator.
- (Code 1973, 2.16.180; Ord. 2395, Sec. 4, 2018)

1-316.

DIRECTOR OF PUBLIC WORKS; OFFICE GENERALLY.

- (a) The director of public works was formerly referred to as the superintendent of public works. Wherever the term superintendent of public works appears in any section of this code, the term is synonymous to the term director of public works.
  - (b) The director of public works shall possess considerable knowledge of the materials, methods and techniques utilized in the maintenance and repair of streets, sidewalks, storm sewers and park areas, the ability to plan, organize, direct and coordinate public works and park activities and projects; shall be a high school graduate and have five years of experience in public works programs, two of which should have been in a supervisory position.
- (Ord. 1480, Secs. 3:4)

1-317.           DIRECTOR OF PUBLIC WORKS; DUTIES. The director of public works shall have and exercise the following duties and responsibilities of office:

- (a) Planning, organization and review of duties of assigned public works personnel and inspection of job sites to ensure compliance with directions or plans;
- (b) Inspection of equipment to ensure proper condition at the job site or public works facilities;
- (c) Supervision of the administrative personnel assigned to the department; approval of requisitions, purchase orders, vouchers and payroll reports;
- (d) Supervision of preparation of special reports or information requested by the mayor or governing body;
- (e) The superintendent shall attend meetings of the city council as required and coordinate activities with appropriate committees and commissions;
- (f) Performance of related duties as requested;

(Ord. 1480, Sec. 2)

1-318.           APPOINTMENT OR EMPLOYMENT IN MORE THAN ONE POSITION. The same person may be appointed to more than one appointive office, or employed in more than one department, except that the same person shall not be appointed to incompatible offices. Salaries or wages of such persons shall be prorated between the proper funds of the several offices or departments. (Code 1973, 2.16.070; Code 2003)

1-319.           CONFLICT OF INTEREST. All employees and officers of the city shall comply with K.S.A. 75-4301 as amended from time to time. (K.S.A. 75-4301; Code 2003)

#### **ARTICLE 4. PERSONNEL POLICY AND EMPLOYEE BENEFITS**

1-401.

PERSONNEL POLICIES AND GUIDELINES. There is hereby incorporated by reference for the purpose of establishing employee personnel rules and regulations the document entitled "The Personnel Manual of Prairie Village, Kansas." No fewer than three copies of said document shall be marked or stamped "Official Copy as adopted by the Code of the City of Prairie Village" and which there shall be attached a copy of this section. Said official copies shall be filed with the city clerk and shall be open to inspection and available to the public at all reasonable hours. All departments of the city shall be supplied with copies of such rules and regulations as may be deemed necessary. (Code 2003)



## ARTICLE 5. OATHS AND BONDS

- 1-501. OATH. All officers and employees of the city, whether elected or appointed, either under the laws of the State of Kansas or ordinances of the city, shall before entering upon the duties of their respective offices, take and subscribe an oath or affirmation as follows:  
"I do solemnly swear (or affirm, as the case may be) that I will support the Constitution of the United States and the Constitution of the State of Kansas and faithfully discharge the duties of \_\_\_\_\_ (here enter name of office or position). So help me God." (K.S.A. 75-4308; Code 1973, 2.12.010; Code 2003)
- 1-502. OATHS FILED. All officers and employees required to take and subscribe or sign an oath or affirmation shall be supplied the forms for the purpose at the expense of the city and upon taking and subscribing or signing any such oath or affirmation, the same shall be filed by the city clerk. (Code 1973, 2.12.020; Code 2003)
- 1-503. BONDS REQUIRED. (a) The following city officers shall each, before entering upon the duties of his or her office, give a good and sufficient corporate surety bond to the city. The bond shall be in the following amount, to wit:  
(1) City treasurer - \$50,000;  
(2) City clerk - \$5,000;  
(3) Judge of municipal court - \$5,000.  
(b) The governing body may provide for the coverage by blanket bond of such officers and employees and in such amounts as the governing body may, by resolution, designate.  
(Code 1973, 2.12.030; Code 2003)
- 1-504. SAME; PREMIUMS. All premiums on surety bonds shall be paid by the city. (K.S.A. 78-111; Code 1973, 2.12.060; Code 2003)
- 1-505. CONDITION OF BONDS. Each of the bonds required in section 1-503 of this article shall be conditioned for the faithful performance of duty and all acts required by the laws of Kansas and of the city, and for the application and payment over to the proper persons of all moneys or property coming into the hands of each such officer by virtue of his or her office. (Code 1973, 2.12.040; Code 2003)
- 1-506. APPROVAL OF BONDS. All bonds given to the city shall be approved as to their form by the city attorney and as to surety and sufficiency by the governing body, unless otherwise provided by the laws of the State of Kansas. (Code 1973, 2.12.070; Code 2003)

## ARTICLE 6. OPEN RECORDS

- 1-601. POLICY. (a) It is hereby declared to be the policy of the city that all public records which are made, maintained or kept by or are in the possession of the city, its officers and employees, shall be open for public inspection as provided by, and subject to the restrictions imposed by, the Kansas Open Records Act.
- (b) Any person, upon request, shall have access to such open public records for the purpose of inspecting, abstracting or copying such records while they are in the possession, custody and control of the clerk, finance director, and treasurer. (Code 1973, 1.50.010; Code 2003)
- 1-602. RECORD CUSTODIANS. (a) All city officers and employees appointed or designated as record custodians under this article shall: protect public records from damage and disorganization; prevent excessive disruption of the essential functions of the city; provide assistance and information upon request; insure efficient and timely action and response to all applications for inspection of public records; and shall carry out the procedures adopted by this city for inspecting and copying open public records.
- (b) The official custodian shall prominently display or distribute or otherwise make available to the public a brochure in the form prescribed by the Local Freedom of Information Officer that contains basic information about the rights of a requester, the responsibilities of a public agency, and the procedures for inspecting or obtaining a copy of public records under the Kansas Open Records Act. The official custodian shall display or distribute or otherwise make available to the public the brochure at one or more places in the administrative offices of the city where it is available to members of the public who request public information in person. (Code 2003)
- 1-603. LOCAL FREEDOM OF INFORMATION OFFICERS. The Local Freedom of Information Officer shall:
- (a) Prepare and provide educational materials and information concerning the Kansas Open Records Act;
- (b) be available to assist the city and members of the general public to resolve disputes relating the Kansas Open Records Act;
- (c) respond to inquiries relating to the Kansas Open Records Act;
- (d) establish the requirements for the content, size, shape and other physical characteristics of a brochure required to be displayed or distributed or otherwise made available to the public under the Kansas Open Records Act. In establishing such requirements for the content of the brochure, the Local Freedom of Information Officer shall include plainly written basic information about the rights of a requester, the responsibilities of the city, and the procedures for inspecting and obtaining a copy of public records under the Act. (Code 2003)
- 1-604. PUBLIC REQUEST FOR ACCESS. All city offices keeping and maintaining open public records shall establish office hours during which any person may make a request for access to an open public record. Such hours shall be no fewer than the hours each business day the office is regularly open to the public. For any city office not open Monday through Friday, hours shall be established by the record

custodian for each such day at which time any person may request access to an open public record. (Code 2003)

1-605. FACILITIES FOR PUBLIC INSPECTION. All city offices keeping and maintaining open public records shall provide suitable facilities to be used by any person desiring to inspect and/or copy an open public record. The office of the city clerk, being the principal recordkeeper of the city, shall be used as the principal office for providing access to and providing copies of open records to the maximum extent practicable. Requesters of records shall be referred to the office of the city clerk except when the requested records are not in that office and are available in another city office. (Code 2003)

1-606. PROCEDURES FOR INSPECTION. Any person requesting access to an open public record for purposes of inspecting or copying such record, or obtaining a copy thereof, shall abide by the procedures adopted by the governing body for record inspection and copying, including those procedures established by record custodians as authorized by the governing body. Such procedures shall be posted in each city office keeping and maintaining open public records. (Code 2003)

1-607. APPOINTMENT OF OFFICIAL CUSTODIANS. The following city officers are hereby appointed as official custodians for purposes of the Kansas Open Records Act and are hereby charged with responsibility for compliance with that Act with respect to the hereinafter listed public records:

(a) City Clerk - All public records kept and maintained in the city clerk's office and all other public records not provided for elsewhere in this section.

(b) City Treasurer - All public records not on file in the office of the city clerk and kept and maintained in the city treasurer's office.

(c) Chief of Police - All public records not on file in the office of the city clerk and kept and maintained in the city police department.

(d) Fire Chief - All public records not on file in the office of the city clerk and kept and maintained in the city fire department.

(e) City Attorney - All public records not on file in the office of the city clerk and kept and maintained in the city attorney's office.

(f) Clerk of the Municipal Court - All public records not on file in the office of the city clerk and kept and maintained in the municipal court.

(Code 2003)

1-608. APPOINTMENT OF LOCAL FREEDOM OF INFORMATION OFFICER. The city clerk is hereby appointed as the local freedom of information officer and charged with all of the duties as set forth in section 1-603. (Code 2003)

1-609. DESIGNATION OF ADDITIONAL RECORD CUSTODIANS.

(a) Each of the official custodians appointed in section 1-606 is hereby authorized to designate any subordinate officers or employees to serve as record custodian. Such record custodians shall have such duties and powers as are set out in the Kansas Open Records Act.

(b) Whenever an official custodian shall appoint another person as a record custodian he or she shall notify the city clerk of such designation and the city clerk shall maintain a register of all such designations.

(Code 2003)

1-610.

**REQUESTS TO BE DIRECTED TO CUSTODIANS.**

(a) All members of the public, in seeking access to, or copies of, a public record in accordance with the provisions of the Kansas Open Records Act, shall address their requests to the custodian charged with responsibility for the maintenance of the record sought to be inspected or copied.

(b) Whenever any city officer or employee appointed or designated as a custodian under this article is presented with a request for access to, or copy of, a public record which record the custodian does not have in his or her possession and for which he or she has not been given responsibility to keep and maintain, the custodian shall so advise the person requesting the record. Further, the person making the request shall be informed as to which custodian the request should be addressed to, if such is known by the custodian receiving the request.

(Code 2003)

1-611.

**FEE ADMINISTRATION.** The city clerk is hereby authorized to provide the clerk's office, and the office of each record custodian, with sufficient cash to enable the making of change for record fee purposes. Each custodian shall transmit all record fee moneys collected to the city treasurer not less than monthly. Each custodian shall maintain duplicates of all records and copy request forms, completed as to the amount of fee charged and collected, which amounts shall be periodically audited by the clerk-finance officer and treasurer of the city. (Code 2003)

1-612.

**INSPECTION FEE.**

(a) Where a request has been made for inspection of any open public record which is readily available to the record custodian, inspection fee may be waived by the record custodian..

(b) In all cases not covered by subsection (a) of this section, a record inspection fee may be charged at the rate established by the governing body.

(Code 1926, Sec. 1; Code 2003)

1-613.

**COPYING FEE.** (a) A fee per page may be charged for photocopying public records, such fee to cover the cost of labor, materials, and equipment, as established by the governing body.

(b) For copying any public records which cannot be reproduced by the city's photocopying equipment, the requester shall be charged the actual cost to the city, including staff time, in reproducing such records.

(Ord. 1926, Sec. 1; Code 2003)

1-614.

**PREPAYMENT OF FEES.**

(a) A record custodian may demand prepayment of the fees established by this article whenever he or she believes this to be in the best interest of the city. The prepayment amount shall be an estimate of the inspection and/or copying charges accrued in fulfilling the record request. Any overage or underage in the prepayment shall be settled prior to inspection of the requested record or delivery of the requested copies.

(b) Prepayment of inspection and/or copying fees shall be required whenever, in the best estimate of the record custodian, such fees are estimated to exceed \$50.

(c) Where prepayment has been demanded by the record custodian, no record shall be made available to the requester until such prepayment has been made.

(Code 2003)

1-615. PAYMENT. All fees charged under this article shall be paid to the custodian of the records inspected and/or copied unless the requester has established an account, for purposes of billing and payment, with the city. (Code 2003)

## ARTICLE 7. INVESTMENT OF IDLE FUNDS

### 1-701. AUTHORITY TO INVEST.

(a) Public moneys or funds of the city which are not immediately required for the purposes for which the moneys were collected or received, and the investment of which is not subject to or regulated by other Kansas General Laws, may be invested in all investments prescribed by K.S.A. 12-1675 and amendments thereto.

(b) The governing body shall, from time to time, adopt policies that will describe which investments may be purchased with temporarily idle funds of the city; provided, however, that no policy shall allow an investment that is contrary to the provisions of K.S.A. 12-1675 and amendments thereto or any other Kansas state statute. (Ord. 1891, Sec. 2)

### 1-702. INCOME FROM INVESTMENTS. The interest and other earnings from investments made pursuant to this chapter shall be credited to the general fund of the city and shall be used, insofar as possible, to relieve the ad valorem tax levies of the city. A complete and detailed record of all investments made pursuant to this chapter shall be maintained at all times. The provisions of this section shall not apply where the credit and allocation is prohibited by state or federal statutes or law; provided, however, all interest earned from the investment of the solid waste management fund at the city shall be returned to the fund to reduce any special assessments to participants who receive solid waste collection service from the city. (Ord. 1891, Sec. 3)

## **ARTICLE 8. COMMITTEES**

- 1-801.           **GOVERNING BODY; PERMANENT STANDING COMMITTEES; ESTABLISHED.** The following committees are established as permanent standing bodies to the governing body:  
(a) Park and Recreation Committee;  
(b) Council Committee of the Whole;  
(c) Police Civil Service Commission.  
(Code 1973, 2.40.010; Ord. 1875, Sec. 1; Ord. 2164, Sec. 2, 2008)
- 1-802.           **COMPENSATION.** No member of either a standing committee or a primary subcommittee shall receive compensation for serving on a committee unless compensation is approved by an ordinance of the governing body. (Code 1973, 2.50.010; Ord. 2164, Sec. 2, 2008)
- 1-803.           **PARK AND RECREATION COMMITTEE; MEMBERSHIP, DUTIES AND MEETINGS.**  
(a) The park and recreation committee shall consist of 12 members. The mayor shall appoint one member of the council to serve as chairperson and one to serve as vice-chairperson of the park and recreation committee for the period of one year. In addition, the committee will include a member from each ward in the city, two members from the city at large, and one member each representing the swimming pool and tennis programs, who shall be appointed by the governing body to serve a two-year term. Committee vacancies shall be filled by appointment of the mayor and council for the balance of the unexpired term.  
(b) The park and recreation committee shall meet at a regularly scheduled time and place which will be posted in the municipal building. The park and recreation committee may also meet at such times and places as shall from time to time be designated by the governing body and/or the chairperson of the committee.  
(c) The park and recreation committee shall recommend policies and guidelines to the governing body on matters pertaining to: recreational activities in the parks, intergovernmental agreements pertaining to park and recreation facilities, use of park system facilities, development of park system facilities, short and long-range plans for city parks, operations and activities related to the park system.  
(Code 1973, 2.40.040; Ord. 1875, Sec. 1; Ord. 2164, Sec. 2, 2008; Ord. 2361, Sec. 1, 2017)
- 1-804.           **COUNCIL COMMITTEE OF THE WHOLE; MEMBERSHIP, DUTIES AND MEETINGS.**  
(a) The council committee of the whole shall consist of the twelve (12) members of the city council and the mayor. The council president shall serve as chairman of the council committee of the whole. Except as otherwise provided by city council policies, only city council members, including the council president may vote, except that the mayor may vote to cast a tiebreaking vote on questions when the council members present are equally divided.  
(b) The council committee of the whole shall ordinarily meet twice each month as part of the regularly scheduled meeting of the Governing Body, which may go into the council committee of the whole as and if appropriate. The council committee of the whole may also meet at such times as shall from time to time be designated by

the Governing Body and/or the chairperson of the committee. Attendance by seven (7) of the councilmembers elected shall constitute a quorum to do business, but a number fewer than seven may adjourn from day to day.

(c) The council committee of the whole may make recommendations to the Governing Body on matters pertaining to: issues where a public hearing is necessary to solicit citizens' input on an issue, long-range planning, the city's budget, capital expenditure plan, policy issues of a major impact and items that need to be expedited.

(d) The council committee of the whole may also make recommendations to the Governing Body on matters pertaining to: construction projects if the project has been included in the capital expenditure plan, public safety, petitions for new services, council policies, personnel policies, changes to city services or new service, proposed legislation, city codes, ordinance changes, regulation of franchise agreements, zoning and land use planning, interlocal agreements, services agreements, grants, assistance programs, wage/salary ordinance, employee benefit programs, financial planning, investment of city funds and audits of city records.

(Code 1973, 2.40.050; Ord. 1875, Sec. 1; Ord. 2164; Sec. 2, 2008; Ord. 2382, Sec. 1, 2018; Ord. 2399, Sec. 1, 2019)

1-805. POLICE CIVIL SERVICE COMMISSION; MEMBERSHIP, DUTIES AND MEETINGS.

(a) The police civil service commission shall be composed of five members appointed by the governing body. One appointed member shall serve as chairperson and shall be designated by the mayor. Each member of the commission shall be appointed for a term of three years which terms shall begin in January. In the event an appointed member of the commission fails for any reason to complete the term of the appointment, a successor shall be appointed by the mayor, with approval of the council, to fill the vacancy. The appointee shall serve the unexpired portion of the term. Members of the commission need not be residents of the city, but residents will be given preferential consideration.

Members of the commission shall serve without compensation, and none shall hold any other public office of the city.

(b) The police civil service commission shall meet at such times and at such places as may from time to time be designated by the chairperson of the committee.

(c) The police civil service commission shall assist in determining qualifications and fitness of applicants for the position of commissioned police officer, for promotion of officers; and further, shall serve as an appeals board for commissioned police officers of the city for suspensions, demotions, or terminations other than administrative suspensions which are by definition non-appealable. To carry out its functions, the police civil service commission shall have, but not limited to, the following duties and powers:

(1) To adopt rules and regulations for the proper conduct of its business and for holding examination for purposes of determining the qualifications of fitness of applicants for the position of a commissioned police officer of the city;

(2) To request professional counsel and advice for the purpose of preparing examinations or assisting in the examination of applicants and interpreting the results of the examination;



(3) To assist the chief of police in establishment of qualifications and criteria to be followed in the selection of new commissioned police officers to be hired, the commission shall:

(A) Upon notification by the chief of police that vacant positions of police patrol officers are available, the civil service commission shall set the time, date, location, and methods of testing to be used to establish an eligibility list of acceptable applicants for the position.

(B) Upon completion of testing procedures, an eligibility list shall be given to the chief of police listing those applicants approved for appointment.

(C) The chief of police shall hire only those applicants from the eligibility list prepared by the commission, following an interview with each candidate. The chief of police may reject any applicant on the eligibility list after a determination has been made by means of background investigations, polygraph, physical, or psychological testing, or interviews that the applicant does not meet the requirements of a police officer for the city.

(D) Eligibility lists shall remain in effect for a period of one year. Eligibility may be extended if approved by both the commission and chief of police.

(E) The chief of police, subject to review by the city administrator for compliance with applicable policies, shall have the final authority to hire all commissioned and noncommissioned police employees for the city.

(4) To assist the chief of police in the establishment of qualifications and criteria to be followed for promotion to the rank of corporal, sergeant, lieutenant, the commission shall:

(A) Recommend to the chief of police testing procedures to be used for selection purposes. Any form of written, interview, or psychological testing procedure may be used, including the assessment center approach.

(B) Upon selection of a testing procedure, each applicant will be notified of the method of testing, and each applicant will be given an equivalent amount of time to study and prepare for the test. If more than one test method is required, each step of the test procedure will be assigned a score weight, and applicants will so be notified prior to testing.

(C) Upon completion of the testing procedure, the civil service commission shall forward to the chief of police a listing of those applicants meeting the requirements of promotion.

(D) The final decision on promotion shall rest with the chief of police and shall be made after he or she has interviewed the candidates being considered.

(5) To serve as an appeals board for all commissioned police officers of the city on suspensions, demotions, or terminations other than administrative suspensions which are by definition non-appealable. The appeal process shall be conducted in the following manner:

(A) The police office shall, within five calendar days after notice of the disciplinary action which is the subject of the appeal, submit to the chief of police and the chairperson of the civil service commission a written appeal specifying the basis for appeal and the specific remedy requested.

(B) Within seven calendar days of receipt of the written statement described in subsection (A), the police civil service commission shall set a date to hear the appeal. The hearing shall be held within 14 calendar days of receipt of written appeal, unless otherwise mutually agreed upon by the police officer and the police civil service commission.

(C) The following rules of procedure are established for formal hearings before the police civil service commission:

(i) The chairperson shall conduct the proceedings, but shall not vote, except in the case of a tie. He or she shall appoint the vice-chairperson to act in his or her absence. A majority of the members of the commission must be present at the appeal hearing. Any decision on an officer's appeal must be approved by a majority of those commissioners present.

(ii) The commission and employee shall have the right to call witnesses and request all relevant records.

(iii) The employee shall have the right to legal representation at his or her own expense.

(iv) The chief, the appealing officer and his or her legal counsel, and the city attorney shall have the right to be present during the hearings, but shall not be present during deliberation. No other parties may be present during the hearing except witnesses while they are testifying.

(v) The appealing officer, the chief of police, and the city administrator, shall have the right to receive copies of the minutes, the official record and the final decision of the police civil service commission

(vi) Within three days of the completion of the hearing, the civil service commission shall provide its findings of fact and decision to the city administrator and chief of police. The city administrator shall review the findings for compliance with any applicable policies. The city administrator shall have five working days to review the findings of the civil service commission and request that the commission meet again to continue consideration if its findings are not in compliance with applicable policies. The appealing officer will be notified if an extension of time is necessary in order to bring its findings into compliance.

(vii) If the city administrator finds the recommendation in compliance with applicable policies, the chairperson of the commission shall sign the findings of the commission and copies shall be delivered to the chief of police and the appealing officer.

(viii) According to the laws of the State of Kansas, a police officer may appeal the findings of the civil service commission to the district court of the State of Kansas.

(ix) The chairperson of the civil service commission, upon approval by the commission, shall prepare a written procedures manual to be followed in all appeals. The manual shall be presented to each commissioned officer as part of the department's standard operations procedure manual and shall serve as proper notification of the requirements in the appeals process. Changes in the appeals process shall be updated in the standard operations procedure manual as they occur.

(Code 1973, 2.44.040; Ord. 1614, Sec. 1)

## ARTICLE 9. ORDINANCES

1-901. ORDINANCE AND CHARTER ORDINANCE DEFINED. Charter ordinance as used in this code, is an ordinance which exempts the city from the whole or any part of any enactment of the legislature as referred to in Section 5 of Article 12 of the constitution of Kansas.

Ordinance as used in this code, means any ordinance other than a charter ordinance. (Code 1973, 2.04.020)

1-902. CHARTER ORDINANCE ORDINANCES; ADOPTION; RECORDING. Every charter ordinance shall be so titled, shall designate specifically the enactment of the legislature or part thereof made inapplicable to the city by the adoption of such ordinance and contain the substitute and additional provisions, if any, and shall require a two-thirds vote of the members-elect of the governing body of such city. Every charter ordinance shall be published once each week for two consecutive weeks in the official city newspaper or, if there is none, in a newspaper of general circulation in the city.

No charter ordinance shall take effect until 60 days after its final publication. If within 60 days of its final publication a petition signed by a number of electors of the city equal to not less than 10 percent of the number of electors who voted at the last preceding regular city election shall be filed in the office of the city clerk demanding that such ordinance be submitted to a vote of the electors, it shall not take effect until submitted to a referendum and approved by a majority of the electors voting thereon. An election, if called, shall be called within 30 days and held within 90 days after the filing of the petition. The city council shall pass an ordinance calling the election and fixing the date on which ordinance shall be published once each week for three consecutive weeks in the official city newspaper or, if there is none, in a newspaper of general circulation in the city, and the election shall be conducted as elections for officers and by the officers handling such elections. The proposition shall be: "Shall Charter Ordinance No. \_\_\_\_, entitled (title of ordinance) take effect?" The governing body may submit any charter ordinance to a referendum without petition by the same publication of the charter ordinance and the same publication of the ordinance calling the election as for ordinances upon petition and such charter ordinance shall then become effective when approved by a majority of the electors voting thereon. Each charter ordinance becoming effective shall be recorded by the clerk in a book maintained for that purpose with a statement of the manner of adoption and a certified copy shall be filed with the secretary of state, who shall keep an index of the same.

Each charter ordinance enacted shall control and prevail over any prior or subsequent act of the governing body of the city and may be repealed or amended only by charter ordinance or by enactments of the legislature applicable to all cities. (Code 1973, 1.40.010)

1-903. ORDINANCES; PASSAGE. All ordinances of the city shall be considered at a public meeting of the governing body except as otherwise herein provided or where a statute provides a different procedure for an ordinance for a specific purpose. (Code 1973, 1.40.020)

- 1-904.           ORDINANCES; VOTE; MAJORITY REQUIRED. The vote on any ordinance, except as otherwise provided herein, or where a statute provides a different procedure for an ordinance for a specific purpose, shall be by yeas and nays, which shall be entered on the journal by the clerk. No ordinance shall be valid unless a majority of all the members elect of the council votes in favor thereof; provided, that where the number of favorable votes is one less than required, the mayor shall have power to cast the deciding vote in favor of the ordinance. (Code 1973, 1.40.030)
- 1-905.           SIGNING OR VETO BY MAYOR. The mayor shall have the power to sign or veto any ordinance passed by the council; provided, that with respect to ordinances on which he or she casts the deciding vote and appropriation ordinances, he or she shall have no veto and he or she shall sign such ordinances if he or she is present at the meeting, and if he or she refuses or neglects to sign or is not present at the meeting, they shall take effect without his or her signature. Any ordinance vetoed by the mayor may be passed over the veto by a vote of three-fourths of the whole number of councilmembers elected, notwithstanding the veto; provided, that if the mayor does not sign his or her approval of the ordinance, or return the same with his or her veto, stating his or her objection in writing, on or before the next regular meeting of the council, the ordinance shall take effect without his or her signature, such fact to be endorsed by the city clerk on the ordinance and at the end of the ordinance as entered in the ordinance book; provided further, that the president of the council or acting president of the council shall have no power to sign or veto any ordinance. After the last section of each ordinance shall be a statement substantially as follows: "Passed by the council the \_\_\_ day of \_\_\_\_\_, 20\_\_" followed by Approved by the mayor with the signature of the mayor; or Passed over the mayor's veto or The mayor not having approved the ordinance on or before the next regular meeting, the ordinance took effect without his or her signature; or in the case of appropriation ordinances were the mayor refuses or neglects to sign or is absent from the meeting an appropriate statement. The city clerk shall attest the signature and affix the seal of the city thereto. (Code 1973, 1.40.040)
- 1-906.           STYLE OR ORDAINING CLAUSE. The style or ordaining clause of all ordinances shall be: "Be it ordained by the Governing Body of the City of Prairie Village:" (Code 1973, 1.40.050)
- 1-907.           NUMBERING. After an ordinance shall have been passed, the city clerk shall assign to it a number; provided, that appropriation ordinances may be numbered in a separate series and titled "Appropriation Ordinance No. \_\_\_\_\_, 20\_\_." (Code 1973, 1.40.060)
- 1-908.           PUBLICATION; EFFECTIVE DATE. The city clerk shall cause all ordinances, except appropriation ordinances, as soon as practicable after they have been passed and signed, passed over the mayor's veto or will take effect without signature, to be published once in the official city newspaper, unless a statute requires more publications. Ordinances shall take effect the day of publication unless a different and later day is stated in the ordinance or otherwise specified by statute; provided, that appropriation ordinances shall take effect upon passage and

without publication. The publisher shall print in a line preceding the number of the ordinance a statement in parentheses as follows: "(Published \_\_\_\_\_, 20\_\_\_\_)," giving the month, day and year. (Code 1973, 1.40.070)

1-909.

**ORDINANCE BOOKS; CERTIFICATIONS BY CITY CLERK.** The city clerk shall keep an ordinance book in which shall be entered at length in plain and distinct handwriting or typewriting or printed copy, a copy of every ordinance immediately after its publications, or in the case of appropriate ordinances, immediately after passage; provided, that if the ordinance book be a looseleaf book, the original ordinance, typed on paper designed for the purpose, may be inserted therein; provided further, that appropriation ordinances may be entered in a separate ordinance book. The ordinances as entered in the ordinance book need not be signed by the mayor or attested by the city clerk but such signatures may be written or typed or as shown on an attached printed copy.

The city clerk shall append at the end of each ordinance entered in the ordinance book a certificate substantially as follows: "I hereby certify that the foregoing is a true and correct copy of the original ordinance; that the ordinance was passed on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_; that the record of the final vote on its passage is found on page \_\_\_\_ of journal \_\_\_\_; that it was published in the (name of newspaper) on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_."

Each ordinance book shall be appropriately designated by number or by letter or letters, or by years, or otherwise.

All ordinances of the city may be proved by the certificate of the city clerk, under the seal of the city. (Code 1973, 1.40.080)

## ARTICLE 10. OFFICIAL DEPOSITORY

1-1001. APPOINTMENT. The following financial institutions are designated as official depositories of the city:

Any state and national bank, state and federally chartered savings and loan associations and federally chartered savings banks which have offices in Johnson County, Kansas, and which can qualify as a depository of public funds as required by Kansas statutes, and any other financial institution or entity authorized by Kansas statutes that are specifically designated as an additional depository by the governing body of the city in its city financial management policy. (Code 1973, 3.04.010; Ord. 1738, Sec. 2; Ord. 1807, Sec. 2; Ord. 1823, Sec. 1)

1-1002. OFFICIALS DESIGNATED. The city treasurer, city clerk, or bonded deputy of either, shall deposit the public moneys or funds of the city in the official depositories as directed by the mayor or governing body in a manner consistent with financial management policies as adopted by the governing body. (Code 1973, 3.04.020)

1-1003. SECURITY REQUIREMENTS. Before any deposits of moneys or funds, to demand accounts, time deposit open accounts, certificates of deposits, savings accounts or such other deposit accounts as may hereafter be provided for the deposit of public moneys or funds shall be made, such designated official shall have the duty and responsibility to determine and obtain security for such deposit as follows:

(a) If such deposit to any account, together with other moneys or funds which may be on deposit in such account, does not exceed the then available amount of deposit insurance provided for any single account by the Federal Deposit Insurance Corporation, Federal Savings and Loan Insurance Corporation, or such amount of federal or state guaranteed deposit insurance as may hereafter be provided, such security will be deemed adequate.

(b) If such deposit exceeds the amount of security provided in subsection (a) of this article, then for such additional amount the depositing official shall require the depository to deposit and maintain securities equal in amount, at their bid market value, to 100 percent of such additional amount of deposit. The depository shall certify in writing, by an officer, as to the market value of such securities deposited on the date of deposit and at such other times as requested by such depositing official of the city. The securities shall be held in possession of the city, or by joint custody receipt, issued by a federal reserve bank, a state or national bank or trust company, describing in detail the securities pledged and certifying that such securities are on deposit in safekeeping and subject to release only on instructions jointly issued by an officer of the depository institution and of the city. Such securities shall consist of direct obligations of, or obligations that are guaranteed as to principal and interest by, the United States of America, or of any agency thereof, or bonds of the State of Kansas, or general obligation bonds of any municipality thereof.

At the option of the city for such amount as may be the excess of 70 percent of the additional security required, general obligation bonds of any other state or general obligation bonds of any other city or school district of any other state, rated /in the top three categories of rating by a nationally recognized

municipal security rating service, may be used for such security deposit.  
(Code 1973, 3.04.030)

**ARTICLE 11. SUITS AND CLAIMS AGAINST  
OFFICERS AND EMPLOYEES**

- 1-1101.        **PAYMENT.** In the event any officer or employee of the city shall be sued for damages or is subject to a claim, administrative procedure or investigation for any alleged nonfeasance, misfeasance or malfeasance of the duties of his or her office or employment, or in the event any former officer or employee of the city shall be sued for damages for any alleged nonfeasance or misfeasance or malfeasance of duty of office occurring while holding such office or while so employed, the city, except as otherwise provided in section 1-1104, may provide necessary legal counsel and pay other necessary expenses for the defense of the action. The legal counsel may be the city attorney or other counsel employed for such purpose. (Ord. 1577)
- 1-1102.        **INSURANCE.** In lieu of furnishing legal counsel as authorized by section 1-1101, the city may pay the premiums on insurance protecting its officers and employees in event of such suit and providing for the defense of any such action. (Ord. 1577)
- 1-1103.        **JUDGMENTS.** The governing body may pay any judgment against any officer or employee thereof for nonfeasance or misfeasance while acting within the scope and in the performance of the duties of his or her office or employment. Payment of any such judgments may be made out of the general or other fund of the city from moneys received from the issuance of no-fund warrants or general obligation bonds when approved by the State Board of Tax Appeals as provided by K.S.A. 75-4356 et seq., as amended. (Ord. 1577)
- 1-1104.        **NOTICE REQUIRED.** The city shall not provide for the defense of any officer or employee in the manner provided by section 1-1101 unless notified in writing of such action by the plaintiff or the officer or employee involved within 15 days after the commencement of the action. Such notice shall be filed with the city clerk. (Ord. 1577)
- 1-1105.        **INVESTIGATION; FINDINGS AND DETERMINATION.** The governing body prior to obligating the city for such expense, shall make or cause to be made an investigation of the facts relating to the claim, action or proceeding against such person. Thereafter, the governing body by resolution shall make findings of fact, a determination as to whether or not assistance will be provided, the type thereof, and the estimated amount of expense. (Ord. 1577)
- 1-1106.        **CRITERIA FOR AUTHORIZATION TO PAY.** In making its findings of fact and determination, the governing body shall not authorize the payment of such expense unless it finds all of the following:
- (a) The claim action or proceeding arose out of and in the line of duty or employment of such person;
  - (b) The city has a direct interest in the matter as opposed to a collateral interest;
  - (c) The officer or employee acted in good faith and had reasonable cause to believe his or her conduct was lawful;



(d) That it would be in the interests of the city to authorize the payment of such expense. (Ord. 1577)

1-1107. TERMINATION OF PREVIOUS RESOLUTIONS AUTHORIZING PAYMENT. The governing body shall have the right to terminate and revoke by resolution at any time any previous resolution authorizing the payment of expense without further liability or obligation to any such officer or employee, or third parties contracting with such officer or employee. (Ord. 1577)

1-1108. APPROVAL BY COMMISSION. All findings and determination required by this article shall be made by a majority of the councilmembers elect. (Ord. 1577)

1-1109. AUTHORIZATION FOR ADOPTION. The ordinance codified in this article is adopted by authority of and under the provisions of Article 12, Section 5 of the Kansas constitution and K.S.A. 1971 Supp. 12-101, and K.S.A. 75-4356, et seq., as amended. (Ord. 1577)

**ARTICLE 12. DISPOSITION OF UNCLAIMED PROPERTY**

**Repealed Ord. 2165, Sec. 1, 2008**

**ARTICLE 13. EMERGENCY ASSISTANCE AND  
NATIONAL EMERGENCY SITUATIONS**

- 1-1301.        **DEFINITIONS.** For the purpose of this title, certain terms or words used herein shall be interpreted or defined as follows in this article:  
(a) Municipality -- Any city, county or township;  
(b) Public Safety Agency -- Any municipal fire department, law enforcement office, sheriff's department, volunteer and non-volunteer fire protection associations, emergency management department, public works department or other similar public or private agency; and  
(c) Disaster -- The occurrence or imminent threat of widespread or severe damage, injury or loss of life or property resulting from any natural or man-made cause, including, but not limited to, fire, flood, earthquake, wind, storm, epidemics, pandemics, disease, air contamination, blight, drought, infestation, explosion or riot. (Ord. 1884, Sec. 1; Ord. 2423, Sec. 1)
- 1-1302.        **REQUEST FOR ASSISTANCE.** In the event of a disaster when there is a request for assistance from a municipality or public safety agency within or outside the State of Kansas, if the city can provide assistance to the municipality or agency without unduly jeopardizing the protection of its own community, this section hereby authorizes the city administrator or his or her designee, to provide such assistance as may be required under authority granted in K.S.A. 12-16,117, with all the privileges and immunities provided therein. (Ord. 1884, Sec. 2)
- 1-1303.        **ASSISTANCE AGREEMENT.** Nothing in this article is intended to conflict or circumvent any existing interlocal agreement, any automatic aid, intergovernmental or mutual aid agreement, or any authority to enter into such agreements in the future. (Ord. 1884, Sec. 3)
- 1-1304.        **LIMITATION OF ASSISTANCE.** It is the intent of this article to provide assistance in any form of service including, but not limited to police, public works, administrative, and clerical during times of disaster as defined in K.S.A. 12-16,117 with all the privileges and immunities described therein. (Ord. 1884, Sec. 4)
- 1-1305.        **TEMPORARY LOCATION OF GOVERNMENT.** Whenever, due to an emergency resulting from the effects of enemy attack, or the anticipated effects of a threatened enemy attack, it becomes imprudent, inexpedient or impossible to conduct the affairs of local government at the regular or usual place or places thereof, the governing body may meet at any place within or without the city limits on the call of the presiding officer or any two members of such governing body, and shall proceed to establish and designate by ordinance, resolution or other manner, alternate or substitute sites or places as the emergency temporary location, or locations, of government where all, or any part of the public business may be transacted and conducted during the emergency situation. Such sites or places may be within or without the city limits and within this state. (Code 1973, 2.64.010)
- 1-1306.        **SAME; POWERS OF GOVERNING BODY.** During the period when the public business is being conducted at the emergency temporary location, or locations, the governing body and other officers of the city shall have and possess and shall

exercise, at such location, or locations, all of the executive, legislative and judicial powers and functions conferred upon such body and officers by or under the laws of this state. Such powers and functions may be exercised in the light of the exigencies of the emergency situation without regard to our compliance with time consuming procedures and formalities prescribed by law and pertaining thereto, and all areas of the governing body and officers of the city shall be as valid and binding as if performed within the territorial limits of their political subdivision. (Code 1973, 2.64.020; Ord. 2423, Sec. 2)

1-1307.           **MAYOR; VACANCY IN THE EVENT OF NATIONAL EMERGENCY.** When any vacancy occurs in the office of mayor by reason of a catastrophe which is declared to be a national, regional, state or local emergency, the president of the council for the time being shall exercise the duties of the office of the mayor, and should the president of the council not be available, then the councilmembers of the governing body shall succeed respectively, for the time being, to exercise the duties of the office of mayor, in the order of the councilmembers with the longest period of service, as such, who might survive to assume the duties of the office. In the event two or more councilmembers shall be eligible to assume the duties of the office of mayor in the event of a national, regional, state, or local emergency, and shall have equal service in time as councilmember, then in such event the councilmember from the lowest numbered ward shall be next in line for the succession to the office of mayor. (Code 1973, 2.64.030; Ord. 2423, Sec. 3)

1-1308.           **POWERS OF SUCCESSOR TO MAYOR.** The president of the council or the respective successive councilmember, who for the time being shall exercise the duties of the office of the mayor in the event of national, regional, state, or local emergency as provided in this article, shall have all the rights, privileges and jurisdiction of the mayor, until such vacancy is filled or such disability is removed, or in case of temporary disability, until the mayor shall return; and in case of such vacancy, other than temporary absence or disability, the person exercising the office of mayor shall cause a new mayor to be selected in accordance with the provisions of section 1-208 of the city code as amended. (Code 1973, 2.64.040; Ord. 1701, Sec. 1; Ord. 2423, Sec. 4)

1-1309.           **EMERGENCY OPERATION PLAN AND NATIONAL INCIDENT MANAGEMENT SYSTEM.** The City of Prairie Village, Kansas, hereby adopts the Johnson County Emergency Operations Plan, as may be amended by Johnson County, Kansas from time to time, as the Emergency Operation Plan of the City of Prairie Village, Kansas. The City of Prairie Village, Kansas, hereby additionally adopts the National Incident Management System, as the same may be amended from time to time by the Federal Department of Homeland Security, to the extent it is not inconsistent with the Johnson County Emergency Operations Plan. (Ord. 2423, Sec. 5).

1-1310.           **EMERGENCY PREPAREDNESS COMMITTEE.** There is created within the city an Emergency Preparedness Committee, whose members shall consist of the city administrator, chief of police, public works director, fire chief and other members as may be required. The governing body may appoint an emergency preparedness coordinator who shall be the chairperson of the emergency preparedness

committee. The duties of the committee are primarily, but not limited to, carrying out the provisions of the Prairie Village Emergency Operation Plan as adopted in section 1-1309. (Code 1973, 2.64.060; Ord. 2423, Sec. 6)

1-1311. EMERGENCY PROCLAMATION; ACTION. Subject to the provisions of section 1-1313 below, whenever, in the judgment of the mayor (or in the event of his or her inability to act, the president of the council) determines that an emergency exists, or is continuing, as a result of mob action, public or natural disaster, or other civil disobedience causing danger of injury to or damages to persons or property, the mayor shall have power to declare such an emergency by proclamation, and the mayor may, by one or more subsequent orders issued pursuant to such proclamation, impose any or all of the following regulations necessary to preserve the health, safety, peace, or order of the city, which regulations shall have the force and effect of law during the period of the proclaimed emergency or as otherwise established in the applicable order:

- (a) To impose a curfew or issue stay-at-home orders upon all or any portion of the city requiring all persons in such designated areas to remove themselves from the public streets, alleys, parks or other places or buildings that are otherwise generally open to the public; provided, however, that physicians, nurses and ambulance operators performing medical services, utility personnel maintaining essential public services, firefighters, city-authorized or requested law enforcement officers and personnel, and such other individuals and/or individuals performing specified activities may be exempted from such curfew or stay-at-home order;
- (b) To order the closing of any business establishments and other buildings or facilities generally open to the public anywhere within the city for the period of the emergency, such businesses to include, but not be limited to, those selling intoxicating liquors, cereal malt beverages, gasoline or firearms;
- (c) To designate any public street, thoroughfare or vehicle parking areas closed to motor vehicles and pedestrian traffic;
- (d) To call upon regular and auxiliary law enforcement, peacekeeping and/or public safety agencies and organizations within or without the city to assist in preserving and keeping the peace, and to ensure the public health, safety and welfare within the city;
- (e) To impose such other regulations as are necessary or appropriate, consistent with applicable law, to preserve the health, safety, peace, or order of the city; provided, that such other regulations are for the purpose of adopting or incorporating by reference requirements or recommendations, or portions thereof, contained in health or emergency orders issued by applicable Federal, State, or County officials related to the same emergency or disaster that is the basis for the mayor's proclamation, whether the same are imposed as to the city or not; and further provided that, and notwithstanding the foregoing, such regulations may be equally or more restrictive than such Federal, State, or County orders. (Code 1973, 2.64.070; Ord. 2423, Sec. 7)

1-1312. EMERGENCY PROCLAMATION; EFFECTIVE WHEN. Proclamations of emergency as provided in section 1-1311, and any orders issued pursuant to such proclamation, and any resolutions of the governing body as provided in section 1-1313 below, shall become effective upon issuance and dissemination to the public

by appropriate news media or other outlets designated for informing the general public. (Code 1973, 2.64.080; Ord. 2423, Sec. 8)

1-1313. EMERGENCY PROCLAMATION; TERMINATION.

- (a) Any emergency proclaimed in accordance with the provisions of section 1-1311, and/or any orders imposed by pursuant to such proclamation, shall terminate upon the earliest of the following:
- (i) after seven (7) days from the issuance thereof, unless extended as provided in subsection (b) below;
  - (ii) upon the issuance of a proclamation by the mayor determining an emergency no longer exists or that a particular order is no longer necessary or advisable; or
  - (iii) upon resolution of the governing body, exercisable at any time, terminating the emergency proclamation and/or any orders promulgated therewith.
- If the governing body terminates the emergency proclamation and/or any such orders, then the mayor shall not have the authority to issue a subsequent proclamation as to the same emergency or continued emergency, or re-issue an order pursuant thereto, in substantially the same form or content as that terminated by the governing body, without further approval by the governing body in each such case, unless there is a new emergency or a material increase in the severity of or risks to the health, safety, peace, or order of the city presented by a continuing emergency.
- (b) Notwithstanding the foregoing, any emergency proclamation may be extended for such additional periods of time as determined necessary by resolution of the governing body.
- (c) The governing body may condition extension of a proclamation or any order on the mayor's modifying or amending such proclamation or order in accordance with the governing body's resolution within forty-eight (48) hours after the effectiveness of such resolution, provided that such amendments are themselves consistent with the powers and authorities granted to the mayor under section 1-1311 above and other applicable law. If the mayor fails or refuses to modify or amend any proclamation or order within such forty-eight (48) hours, then such proclamation or order shall be deemed terminated as provided in subsection (a)(iii) above. (Code 1973, 2.64.090; Ord. 2423, Sec. 9)

- 1-1314. EMERGENCY PROCLAMATION; VIOLATION, PENALTY. Any person who willfully fails or refuses to comply with the orders of duly authorized law enforcement officers or personnel charged with the responsibility of enforcing the proclamation of emergency authorized in sections 1-1311 through 1-1313, inclusive, is guilty of a misdemeanor, and upon conviction therefore, shall be punished by a fine of not more than \$500 or by imprisonment in jail for a period of not to exceed six months, or by both such fine and imprisonment. (Code 1973, 2.64.100; Ord. 2423, Sec. 10)

## CHAPTER II. ANIMAL CONTROL AND REGULATION

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### ARTICLE 1. GENERAL PROVISIONS

#### 2-101 PURPOSE

The purpose of this Chapter is to promote harmonious relationships in the interaction between humans and animals by:

- a) Protecting animals from improper use, abuse, neglect, exploitation, inhumane treatment and health hazards;
- b) Delineating the responsibility of persons for the acts and behavior of such persons' animals at all times;
- c) Providing regulations that foster a reduced risk to residents from annoyance, intimidation, injury and health hazards by animals; and
- d) Encouraging responsible pet ownership. (Ord. 2325, Sec. 1, 2015; Ord. 2368, Sec. 1, 2017)

#### 2-102 DEFINITIONS

- a) Abandon includes the leaving of an animal by the person responsible therefor without making effective provisions for its proper care.
- b) Adequate care means normal and prudent attention to the needs of an animal, including that care which is normally necessary to maintain good health in a specific animal.
- c) Adequate food means supplying at suitable intervals (not to exceed 24 hours) of a quantity of food suitable and sufficient to maintain reasonable level of nutrition for each animal.
- d) Adequate health care means the provision to each healthy animal of all immunizations and preventative care required to maintain good health, space adequate to allow the animal rest and exercise sufficient to maintain good health, and the provision to each sick, diseased, or injured animal of necessary veterinary care or humane death.
- e) Adequate shelter means a structurally sound, properly ventilated, sanitary and weatherproof shelter, which provides access to shade from direct sunlight and regress from exposure to inclement weather conditions.
- f) Adequate water means a continual access to a supply of clean, fresh, potable water provided in a sanitary manner.
- g) Animal is any living creature, other than humans.
- h) Animal bite is any contact between an animal's mouth, teeth, or appendages and the skin of a bite victim that causes any visible puncture, scratch, or break to the skin.
- i) Animal control officer is a duly authorized person employed by the City who is charged with the duties of enforcing this Chapter and/or related ordinances.
- j) At-large is to be off the property of the person responsible for an animal, except when the animal is taken off such person's property on a leash, in a cage, or other conveyance.
- k) City is a reference to the City of Prairie Village, Kansas and its corporate limits.
- l) Confined to the premises means confined or restricted either inside the residential structure of the person responsible for an animal; or if outside the residential structure, confined or restricted to the backyard of the premises fenced in a manner that prohibits escape, or by being physically restrained on a chain or leash or other proper method of physical restraint from which the animal cannot escape.
- m) Dangerous wild animal means any animal, which is wild by nature and of a species which, due to size, vicious nature or other characteristics, would constitute a danger to human life, physical well-being, or property, including but not limited to lions, tigers, leopards, panthers, bears, wolves, wolf hybrids, apes, gorillas, monkeys of a species whose average adult weight is 20 pounds or more, foxes, elephants, alligators, crocodiles, and animals

which are venomous and/or poisonous, and any animals which could otherwise present a risk or serious physical harm or death to human beings as a result of their nature or physical makeup, including all constrictors.

- n) Dangerous animal means an animal which:
  - 1) When unprovoked, aggressively bites, attacks or endangers the safety of humans or domestic animals;
  - 2) When unprovoked, has a known propensity, tendency or disposition to attack, cause injury to, or otherwise threaten the safety of human beings or domestic animals;
  - 3) Has been found to be potentially dangerous and after the person responsible therefor has notice that the animal is potentially dangerous, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals; or
  - 4) Is owned, harbored, sheltered, kept, controlled, managed, or possessed primarily or in part for the purpose of fighting or is trained for fighting.
- o) Domesticated cat or dog is a cat or dog that tends to possess reliability of temperament, tractability, docility, predictability and trainability, and has adapted to life among humans.
- p) Impound means taking any animal into the confinement, care, or custody of the City.
- q) Municipal Court means the Municipal Court of the City.
- r) Person is any natural person, association, firm, partnership, organization, or corporation.
- s) Person responsible (for an animal) includes any person which owns, harbors, shelters, keeps, controls, manages, possesses, or has a part interest in any animal. An occupant of any premises on which a dog or cat remains or customarily returns is a person responsible for it under this Chapter. There may be more than one (1) person responsible for an animal. Any person keeping any animal in the City for three (3) consecutive days shall be conclusively presumed to be the person responsible for such animal.
- t) Potentially dangerous animal means any animal which, when unprovoked:
  - 1) Inflicts bites on a human or domestic animal either on public or private property; or
  - 2) Any animal with a known propensity, tendency, or disposition to attack unprovoked, to cause injury, or otherwise to threaten the safety of humans or domestic animals.
- u) Unprovoked means that the person or domestic animal approached, chased, bitten or attacked:
  - 1) Did not mischievously or carelessly provoke or aggravate the animal;
  - 2) Was not committing a willful trespass or other tort upon the premises occupied by the person responsible for the animal;
  - 3) Was not tormenting, abusing, assaulting or attacking the animal;
  - 4) Has not in the past been observed or reported to have tormented, abused assaulted or attacked the animal; or
  - 5) Was not committing or attempting to commit a crime.
- v) Vicious animal means an animal which has:
  - 1) When unprovoked, has inflicted a vicious bite to any person or domestic animal on public or private property;
  - 2) When unprovoked, has killed a domestic animal while off the property of the person responsible for such vicious animal; or
  - 3) Been declared to be dangerous and after the person responsible therefor has notice that the animal has been declared dangerous, the animal aggressively bites, attacks or endangers the safety of humans or domestic animals.



- w) Vicious bite is any attack by any animal, which results in serious physical injury or death to a human and/or other domestic animal in which the attacking animal uses its teeth and/or claws.

(Ord. 1562 (part), 1985; Ord. 1677, ss2 (a), 3(d), 1988; Ord. 2091 (part); Ord. 2106 (part), 2005; Ord. 2213, Sec. 1 & 2, 2009; Ord. 2325, Sec. 1, 2015; Ord. 2368, Sec. 1, 2017)

## **2-103 KEEPING OF LIVESTOCK, POULTRY AND FOWL PROHIBITED**

- a) Except as provided in subsection (b) below, and as provided in Section 2-143 below, it shall be unlawful for any person to own, harbor, shelter, keep, control, manage, or possess livestock, poultry or fowl on any premises within the City and no special or temporary permit will be issued for these. For the purpose of this section, livestock, poultry, and fowl include, but are not limited to: cows, pigs, horses, donkeys, mules, sheep, goats, chickens, ducks, geese, guinea fowl, peacocks, pigeons, swans and those animals considered miniature or pygmy breeds, e.g., pot-bellied pigs, miniature donkeys, miniature horses, and pygmy goats.
- b) The following persons or organizations shall be allowed to own, harbor, shelter, keep, control, manage, or possess any livestock, poultry and fowl:
1. The keeping of such animals in zoos, bona fide educational or medical institutions, museums or any other place where there are kept live specimens for the public to view or for the purpose of instruction or study;
  2. The keeping of such animals for exhibition to the public of such animals by a circus, carnival or other exhibit or show;
  3. The keeping of such animals in a bona fide, licensed veterinary hospital for treatment;
  4. Commercial establishments processing such animals for the purpose of sale or display; and
  5. The keeping of chickens as provided in Section 2-143 below.

(Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2325, Sec. 1, 2015; Ord. 2368, Sec. 1, 2017; Ord. 2421, Sec. 3, 2020)

## **2-104 KEEPING OF DANGEROUS WILD ANIMALS PROHIBITED**

- a) No person shall keep or permit to be kept on such person's premises any dangerous wild animals for display or for exhibition purposes whether gratuitously or for a fee. This section will not be construed to apply to zoological parks, performing animal exhibits or circuses, bona fide licensed veterinary hospital for treatment, bona fide educational or medical institutions, museums or any other place where they are kept as live exhibits or for study.
- b) No person shall keep or permit to be kept any dangerous wild animal as a pet.

(Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2325, Sec. 1, 2015; Ord. 2368, Sec. 1, 2017)

## **2-105 [RESERVED FOR FUTURE USE]**

(Ord. 1677 Sec. 4, 1988; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2325, Sec. 1, 2015; Ord. 2368, Sec. 1, 2017; Ord. 2413, Sec. 1, 2020)

## **2-106 POTENTIALLY DANGEROUS, DANGEROUS AND VICIOUS ANIMALS**

- a) Determination.

1. In the event that the animal control officer or a law enforcement officer has probable cause to believe that an animal is potentially dangerous, dangerous or vicious, as defined in Section 2-102, such officer may petition the Municipal Court to set a hearing for the purpose of determining whether or not the animal in question should be declared potentially dangerous, dangerous or vicious. Whenever possible, any complaint received from a member of the public which

serves as the evidentiary basis to support a finding of probable cause shall be made by declaration under penalty of perjury by the complainant in the manner provided by K.S.A. 53-601, and shall be attached to the petition. The Municipal Court, upon the finding of probable cause, shall notify the person responsible for the animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible may present evidence to the Municipal Court as to why the animal should not be declared potentially dangerous, dangerous or vicious.

2. The failure of the person responsible to attend or participate in the hearing shall not prevent the Municipal Court from hearing evidence in the matter and making a determination whether the animal is potentially dangerous, dangerous or vicious as alleged, or from entering further orders pursuant to such finding. The hearing shall be informal and shall be open to the public.
  3. The Municipal Court, after considering the evidence, may issue its determination and order declaring the animal to be potentially dangerous, dangerous or vicious based upon such evidence. The order shall be delivered to the person responsible either personally or by first class mail. If a determination is made that the animal is potentially dangerous, dangerous or vicious, the person responsible shall comply with the provisions of this Chapter as directed by the Municipal Court in accordance with a timetable established by the Municipal Court, within thirty (30) days after the date of the determination. If the person responsible for the animal contests the determination, he or she may within ten (10) days, exclusive of Saturdays, Sundays and holidays, of such determination appeal to the district court.
  4. In the event that pending the determination by the Municipal Court and/or in any appeals taken, the animal is not restrained, and the animal control officer or law enforcement officer has probable cause to believe that the animal in question may pose a threat of serious harm to human beings or other domestic animals, the animal control officer or law enforcement officer may seize and impound the animal pending the aforesaid Municipal Court determination and/or the determination in any appeals taken. Upon the Municipal Court's determination that the impounded animal is potentially dangerous, dangerous or vicious, the person responsible for the animal shall be liable to the City for the costs and expenses of impounding such animal.
- b) Control of Potentially Dangerous and Dangerous Cats or Dogs. If the Municipal Court determines that an animal is potentially dangerous or dangerous, the person responsible for such animal shall comply with the requirements of sections 2-107, 2-109 and 2-117 through 2-121 of this Chapter.
  - c) Disposition of Vicious Animals. If the Municipal Court determines that an animal is vicious, the Municipal Court shall order that the animal be euthanized or that the person responsible for such animal remove the animal from the City limits and shall provide the Municipal Court with the exact location, address, and contact information for the new person responsible where the animal has been moved. The Municipal Court shall notify the receiving jurisdiction that the animal has been determined to be a vicious animal. The animal shall not be returned to the City limits after removal. It shall be unlawful for the person responsible for a vicious animal to maintain such animal in violation of the Municipal Court's order and this section.
  - d) Dangerous and Potentially Dangerous Animal Designation Review. Beginning one (1) year after an animal is declared potentially dangerous or dangerous, a person responsible therefor may petition annually that the Municipal Court review the designation by

requesting a review hearing in the Municipal Court. If a petition for a review hearing is filed, the Municipal court shall notify the person responsible for the animal, personally or by certified mail, and the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence that the animal is no longer potentially dangerous or dangerous due to the animal's age, neutering, environment, completion of obedience training that includes modification of aggressive behavior, or other factors. The City Prosecutor may present evidence as well. The hearing shall be informal and shall be open to the public. If the Municipal Court finds sufficient evidence that the animal's behavior has changed, the Municipal Court may rescind that potentially dangerous or dangerous animal designation. (Ord. 2368, Sec. 1, 2017)

#### **2-107 POTENTIALLY DANGEROUS OR DANGEROUS ANIMAL PERMIT REQUIRED**

- a) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal which has been declared to be potentially dangerous or dangerous by the Municipal Court of the City, or any other jurisdiction, shall secure and renew an annual potentially dangerous or dangerous animal permit in accordance with this Chapter and comply with all terms and conditions this Chapter to maintaining such permit.
- b) Failure to obtain and maintain a potentially dangerous or dangerous animal permit as required by subsection (a) shall be adequate grounds for the animal control officer to impound the animal until a permit is obtained. (Ord. 2368, Sec. 1, 2017)

#### **2-108 EXEMPTIONS**

- a) The provisions of this Chapter shall not apply to the transportation of prohibited animals or potentially dangerous, dangerous or vicious cats or dogs through his City when such transport has taken adequate safeguards to protect the public and has notified the local law enforcement agency of the proposed route of transportation and the time thereof. (Ord. 2368, Sec. 1, 2017)

#### **2-109 HARBORING OR KEEPING OF PERMITTED ANIMALS**

- a) No person shall own, harbor, shelter, keep, control, manage, or possess, within the City, any potentially dangerous or dangerous animal, or any safe animal including the domestic dog (*Canis familiaris*) and the domestic cat (*Felis domesticus*), without obtaining permits and licenses required under this Chapter. The following animals are the only animals allowed without a permit or license:
  1. Gerbils (*Tateriltus gracillio*);
  2. Hamsters (*Critecus critecus*);
  3. Rabbits (*Lepus Cunicullus*);
  4. Domestic Mice (*Mus musculus*);
  5. Domestic Rat (*Rattus norvegicus*),
  6. Any animal, usually tame and commonly sold at pet stores, including: Ferrets (*Mustela furo*), Chinchillas (*Chinchillidae*), Canaries (*Serinus canaria*), Cockatoos, Macaws, Parakeets, and Parrots (*Psittacines*);
  7. Bees, subject to Section 2-140; and
  8. Chickens, subject to Section 2-143.
- b) Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, any animal without a permit, except as exempted by this section, shall be charged with a misdemeanor and upon conviction thereof, shall be subject to the penalties in section 2-144, and/or such specific penalties as be provided elsewhere in this article. This shall include instances where any person owns, harbors, shelters, keeps, controls,

manages, or possesses, within the City, an animal which has been declared by another municipality to be potentially dangerous or dangerous, or similar designation.  
(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2325, Sec. 1, 2015; Ord. 2368, Sec. 1, 2017; Ord. 2421, Sec. 4, 2020)

### **2-110 REGISTRATION – TAGS**

The person responsible for any cat or dog present in the City shall cause the same to be registered at the office of the City Clerk. The registration shall contain the name, address and phone number of the person responsible for such animal, the animal's breed, name, sex, whether neutered, color and description and such other information as may be deemed necessary by the City Clerk. Subject to the provisions of section 2-114, the City Clerk or authorized assistant shall upon payment of the license fee as provided in section 2-111, issue a permanent tag, bearing a number and Prairie Village, KS.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

### **2-111 LICENSE FEE – DESIGNATED**

- a) In addition to any permit fees required by this Chapter, there is levied and imposed an annual license fee upon the person responsible for each cat or dog of the age of over six months, attaining such age during the license year. The license fee shall be adopted by the Governing Body and the amount of the fee will be kept on record in the office of the City Clerk.
- b) The license year shall be for a twelve (12) month period commencing on the date the animal is first licensed. The license is valid for one year from issuance of license or until the expiration of rabies vaccination whichever is greater. The fee shall be payable within 60 days of the expiration of the license. An animal for which a licensed fee is required as set forth in this section; over six months of age should be licensed within thirty days of being brought into the City or attaining six months of age.

(Ord. 1562 (part), 1985; Ord. 1650, Sec. 2, 1988; Ord. 1764, Sec. 2, 1991; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 6, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

### **2-112 LICENSE FEE – OVERDUE**

- a) If the license fee required in section 2-111 is not paid within the time provided in this section, penalties will apply in addition to the normal license fee. The amount and dates penalty will be charged shall be adopted by the Governing Body and on record in the Office of the City Clerk.
- b) After 60 days after the due date, if the fee imposed and required to be paid by section 2-111 remains unpaid, the City Prosecutor may issue a complaint against the person responsible for violation of section 2-111.

(Ord. 1562 (part), 1985; Ord. 1773, Sec. 2, 1991; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 7, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

### **2-113 LICENSE FEE – EXEMPTIONS**

Any person who owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, a dog which is a "service animal" as defined by the Americans with Disabilities Act, 42 U.S.C. 12101 *et seq.*, or a dog that is utilized by law enforcement personnel, shall be exempt from the license fee payment upon submittal of adequate proof that the animal is current for the year on its rabies vaccination.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 7, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-114 INOCULATION AGAINST RABIES REQUIRED**

- a) No City license tag required by this section shall be issued until the person responsible for a cat or dog shall furnish to the City Clerk a current inoculation certificate signed by a registered veterinarian, showing thereon that the cat or dog has been vaccinated against rabies. The inoculation certificate shall be deemed current if it has not expired before the person responsible submits it to the City along with the application for license.
- b) It shall be the responsibility of the person responsible for the cat or dog to ensure that the animal's inoculation against rabies is maintained throughout the license period.
- c) A rabies vaccination shall not be required if a licensed veterinarian recommends that a dog or cat not be inoculated with rabies vaccine for health purposes, and the person responsible provides the office of the City Clerk with a statement from a licensed veterinarian on official letterhead specifying the reason that the animal shall not be vaccinated for health purposes.

(Ord. 2005, Sec. 1, 2001; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-115 ENUMERATION OF ANIMALS**

The Governing Body may require the annual enumeration of all cat or dogs present within the City. The enumeration shall account for the number and persons responsible for all cats and dogs. (Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 7, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-116 LIMITATIONS ON NUMBER OF ANIMALS**

No person, residential premises or household within this City shall have, hold, maintain or contain more than a combined total of four dogs and cats over three months of age; provided, however, that in no event shall the combination of dogs or cats exceed three dogs or three cats. Any violation of this section is, upon conviction thereof, a misdemeanor and subject to the penalties provided in this Chapter.

(Ord. 1562 (part), 1985; Ord. 1689, Sec. 2, 1989; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-117 APPLICATION FOR POTENTIALLY DANGEROUS AND DANGEROUS ANIMAL PERMIT**

An application for any permit required pursuant to Section 2-107 shall be made to the City Clerk in writing upon a form furnished by the City Clerk. Said application shall be verified by the person who desires to have, keep, maintain or have in his/her possession or under his or her control, in the City, the animal for which a permit is required, and shall set forth the following:

- a) The name, address and telephone number of the applicant.
- b) The applicant's interest in such animal.
- c) The proposed location, and the name, address and telephone number of the owner of such location, and of the lessee, if any.
- d) The number and general disposition of all animals for which the permit is being sought.
- e) Any information known to the applicant concerning dangerous propensities of said animals.
- f) Housing arrangements for all said animals with particular details as to the safety, structure, locks, fences, warning sign, etc.
- g) Safety precautions proposed to be taken.
- h) Noises or odors anticipated in the keeping of such animals.
- i) The prior history of incidents involving the public health or safety involving any of said animals.

- j) A statement, signed by the applicant, indemnifying the City and its agents and employees for any and all injuries that may result from the animal.
- k) Proof of liability insurance, when a permit is issued in accordance with this Chapter and is for an animal deemed a “dangerous cat” or “dangerous dog”, in the minimum amount of \$300,000 per occurrence covering any damage or injury which may be caused by such dangerous animal shall be required. The City shall be listed as certificate holder, and shall be required to be notified of any cancellation, termination or expiration of the liability insurance policy. The person responsible shall maintain the liability insurance required by this subsection at all times, unless and until the person responsible shall cease to own, harbor, shelter, keep, control, manage, or possess the dangerous animal.
- l) Any additional information required by the animal control officer or law enforcement officer authorized by the Chief or Police or his or her designee to enforce the provisions of this Chapter at the time of filing such application or thereafter. (Ord. 2368, Sec. 1, 2017)

**2-118 PROVISIONS AND/OR REQUIREMENTS FOR KEEPING POTENTIALLY DANGEROUS AND DANGEROUS CATS OR DOGS**

The keeping of potentially dangerous and dangerous cats and dogs in the City shall be subject to, but not be limited to the following provisions and/or requirements:

- a) Leash and muzzle. An animal that has been declared to be a potentially dangerous or dangerous animal and is kept in this City will be required to be securely leashed and, in the case of dogs which have been declared dangerous, muzzled when it is taken outside of its area of confinement. The leash shall be no longer than four feet in length and under control of an adult capable of exercising control over the animal. The muzzling device must not cause injury to the dog or interfere with its vision or respiration, but shall prevent it from biting any human or animal.
- b) Confinement.
  - 1. A dog that has been declared to be a potentially dangerous or dangerous animal shall be securely confined indoors or in a securely enclosed and locked pen or kennel; or in a yard fenced in a manner that prohibits escape, except when leashed and muzzled as above provided. Such pen, kennel or structure must have secure sides and a secure top attached to the sides. All structures used for confinement must be locked with a key or combination lock when such animals are within the structure. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition.
  - 2. A cat which has been declared to be a potentially dangerous or dangerous animal shall be securely confined indoors at all times, except when secured on a leash or in a carrier for transport to the veterinarian.
- c) Confinement Indoors. No animal that has been declared to be a potentially dangerous or dangerous animal may be kept on a porch, patio or in any part of a house or structure that would allow the animal to exit such building on its own volition. In addition, no such animal may be kept in a house or structure when the windows are open or when screen windows or screen doors are the only obstacles preventing the animal from exiting the structure.
- d) Signs. All persons responsible for any dog that has been declared to be a dangerous dog must display in a prominent place on their premises a sign which shall be at least 10 inches by 14 inches using the words “Beware of Dog” in at least two-inch block letters. In addition, a similar sign is required to be posted on the kennel or pen of such animal, and on each entry point of fences that will be used to confine the dog.
- e) Identification Photographs. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must provide to the City Clerk two color photographs of such animal clearly showing the general appearance, color and approximate size of the animal.

- f) Microchip Identification. The person responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must have a microchip implanted in the animal for identification, and the name of the microchip manufacturer and the identification number of the microchip must be provided to the City Clerk.
- g) Mandatory Spay and Neuter. All declared potentially dangerous and dangerous cats and or dogs shall be required to be spayed or neutered.
- h) Training. All declared potentially dangerous and dangerous dogs shall be required to be enrolled in a behavior modification program administered by a Certified Pet Dog Trainer (CPDT), Certified Dog Behavior Consultant (CDBC), Veterinary Behaviorist certified through the American College of Veterinary Behaviorists (ACVB), or comparable certification. Upon successful completion of said program, verification must be provided to the City Clerk.
- i) Reporting requirements. All persons responsible for any animal that has been declared to be a potentially dangerous or dangerous animal must provide written notification to the City Clerk at least ten days prior to any of the following situations:
  1. The removal from the City of such animal, and provide the City Clerk with the contact information of the new person responsible for such animal.
  2. The birth of offspring of such animal.
  3. The new address of the person responsible for such animal should the person responsible move within the corporate City limits.
  4. In the event of the death of such animal, the City Clerk must be notified in writing within ten days of the death.
- j) Sale or Transfer Prohibited. No person shall sell, transfer, barter or in any other way dispose of a declared potentially dangerous or dangerous animal to any person within the City unless the recipient person resides permanently in the same household and on the same premises as the registered person responsible for such animal; provided that the registered person responsible for such animal may sell or otherwise dispose of such animal to persons who do not reside within the City.

(Ord. 2368, Sec. 1, 2017)

## **2-119 POTENTIALLY DANGEROUS OR DANGEROUS ANIMAL PERMIT FEE**

The fee for a potentially dangerous or dangerous animal permit application shall be adopted by the Governing Body and on record in the Office of the City Clerk. The fee will be based upon the number of potentially dangerous and dangerous animal permits being applied for and shall be non-refundable. The fee shall be payable to the City Clerk at the time of application. Accretions by natural birth shall not require additional permits during the period of a valid permit.

(Ord. 2368, Sec. 1, 2017)

## **2-120 TERM AND RENEWAL OF DANGEROUS AND POTENTIALLY DANGEROUS ANIMAL PERMIT**

No potentially dangerous or dangerous animal permit required by this Chapter shall be granted for a period in excess of one year. An application for renewal of any such permit shall be made not less than forty-five (45) days prior to the expiration thereof, and shall be accompanied by the same fee as required upon making the original application.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-121 INSPECTIONS FOR RENEWAL**

The holder of a potentially dangerous or dangerous animal permit shall notify the City at least forty-five (45) days prior to the permit expiration date of any request for renewal. Prior to the annual renewal of any potentially dangerous or dangerous animal permit, an animal control officer

or law enforcement officer shall inspect the premises subject to such permit to determine whether the person to whom it has been issued is continuing to comply with all of the conditions specified in this Chapter. If the animal control officer or law enforcement officer determines during any such inspection that any of the conditions therein specified are being violated, the officer shall recommend denial of a renewal of any such permit or shall recommend the immediate revocation of such permit in the event that such violation is not corrected within such period of time as the officer shall direct. Upon completion of the inspection process provided herein, the animal control officer or law enforcement officer shall report to the Municipal Court that the dangerous animal permit has been renewed, that the renewal application has been denied, or that the permit has been revoked. If the application is denied, or there is a revocation of a permit, a copy of the report shall be given to the person responsible for the potentially dangerous or dangerous animal. The report shall include the basis for the denial or revocation. The person responsible shall have the right to appeal the denial or revocation of permit to the Municipal Court. An appeal shall be taken by the filing of a written request for a review hearing with the Municipal Court within thirty (30) days of the denial or revocation of the permit. If an appeal is filed, the Municipal Court shall notify the animal control officer or law enforcement officer and City Prosecutor, by best means possible, that a hearing will be held within fourteen (14) days, at which time the person responsible must provide evidence of compliance with the conditions of this Chapter. The hearing shall be informal and shall be open to the public. The Municipal Court, after considering the evidence, shall issue its determination as to whether the permit should be renewed, denied or revoked. The determination of the Municipal Court shall be final.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-122 COLLAR OR HARNESS REQUIRED**

The person responsible for any cat or dog shall cause the same to wear a collar or harness outside the dwelling of the person responsible. The registration tag required in section 2-110 shall be securely affixed to the collar or harness of each cat or dog registered. The tags shall be situated on the collar or harness in such a manner that it may at all times be easily visible to law enforcement officers or animal control officers of the City. Replacement tags shall be issued for a fee which is recorded in the City Clerk's office and may be changed from time to time.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-123 CAT AND DOG CONTROL**

- a) All cats must be under the control of the person responsible therefor at all times. For the purpose of this section, a cat shall be considered not under control and in violation of this section in the following situations:
  1. If a neighbor complains orally or in writing to the person responsible for a cat, that the cat is entering upon the neighbor's property, then the cat's presence on the neighbor's property at any time subsequent to the neighbor's complaint shall constitute a violation of this section;
  2. If a cat causes injury to persons or animals.
  3. If a cat causes damage to property off the property of the person responsible for such cat, to include, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flowerbed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
- b) It is unlawful for the person responsible for any dog to permit such dog to run at large within the City. For the purpose of this section, a dog shall be considered running at large and in violation of this section in the following situations:



1. If a dog is off the property of the person responsible for such dog, and is not firmly attached to a hand-held leash and under the physical control of the person responsible. Electronic collars may not be used to control a dog when off the property of the person responsible for such dog.
2. If a dog is off the property of the person responsible for such dog, and is not prevented from making uninvited contact with humans or other animals. This includes a situation when a dog is secured on a leash.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 7, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-124 ELECTRONIC FENCES AND ELECTRONIC COLLARS**

Dogs may be confined to the residential property of the person responsible for such dogs by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or collar that controls the movement of the dog by emitting an electrical shock when the animal wearing the collar nears the boundary of such property. Dogs confined to residential property by an electronic fence or collar shall at all times be required to wear the collar or other required device which must be functional, and shall not be permitted to be nearer than 10 feet from any public walkway or street. All persons who use an electronic fence or an electronic collar shall clearly post their property to indicate to the public that such a fence or collar is in use. Electronic collars may not be used to control a dog when it is off the property of the person responsible for such dog. An electronic fence or electronic collar shall not be used to confine a potentially dangerous or dangerous dog.

(Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-125 PUBLIC NUISANCE**

a) A Public Nuisance is:

1. Any animal that materially damages private or public property;
2. Any animal that scatters solid waste that is bagged or otherwise contained;
3. Any animal that excessively barks, whines, howls, or creates any other disturbance which is continuous or during times covered by the City Noise Ordinance as amended from time to time (disturbance factors include, but are not limited to: time of day, volume, length of time, etc.). If the violation is not witnessed by the animal control officer and/or law enforcement officer, the complainant making such statement must agree to sign a complaint and testify in court if requested; or
4. Any violation of this Article that constitutes a health hazard, or that unreasonably interferes with the use and enjoyment of neighboring property.

b) It is unlawful for the person responsible for any animal to negligently, carelessly, willfully or maliciously permit such animal to become a public nuisance.

c) Anyone having the authority of an animal control officer, including but not limited to law enforcement officers, is given the authority to seize and impound any animal which is a public nuisance as defined by this section.

(Ord. 2213, Sec. 4, 2009; Ord. 2325, Sec. 1, 2015; Ord. 2368, Sec. 1, 2017; Ord. 2421, Sec. 5, 2020)

## **2-126 UNLAWFUL TO HARBOR OR KEEP ANY ANIMAL WITHOUT PROPER AND NECESSARY PRECAUTIONS**

a) Any person responsible for an animal within the City shall take all proper and necessary precautions to ensure and promote conditions that restrict the animal when unleashed to such person's property and prevent injury to other humans, domestic animals and/or damage to property.

- b) No person responsible for an animal shall fail to provide the animal with adequate care, adequate food, adequate water, adequate health care, and adequate shelter. Such shelter should be clean, dry, and compatible with the condition, age and species. An animal must also have the opportunity for adequate daily exercise. This requires that the person responsible must offer some freedom from continuous chaining and tethering.

(Ord. 1562 (part), 1985; Ord. 1809, Sec. 1, 1992; Ord. 2106 (part), 2005; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-127 TETHERING**

- a) It is unlawful to attach chains or other tethers, restraints or implements directly to a dog without the proper use of a collar, harness or other device designed for that purpose and made from a material that prevents injury to the dog.
- b) It is unlawful for any person to:
  1. Continuously tether a dog for more than one continuous hour. A dog may be tethered 3 hours total within a 24 hour time period providing there is a 3 hour break between each period of tethered time. For the purpose of tethering a dog, a chain, leash, rope or tether must be at least ten feet in length.
  2. Use a chain, leash, rope, collaring device, tether, which restricts the free movement of the animal (i.e., the device should not weigh more than one eighth of the animal's body weight).
  3. Tether a dog in such a manner as to cause injury or strangulation, or entanglement of the dog on fences, trees, posts or other manmade or natural obstacles.
  4. Tethered for any length of time anywhere in the City when they are off the property of the person responsible for such animal.
  5. Tether without providing adequate care, food, shelter, and water as outlined in sections 2-126 and 2-128.

(Ord. 1562 (part), 1985; Ord. 1776, Sec. 2, 1991; Ord. 1779, Sec. 2, 1991; Ord. 1860, Sec. 1, 1994; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2268, Sec. 1, 2013; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-128 CRUELTY TO ANIMALS**

Reference the Kansas Animal Cruelty Act, K.S.A. 21-6411 *et seq.*, incorporated in part into Section 11.11 of the 2019 Uniform Public Offense Code for Kansas Cities, as either may be amended from time to time.

(Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 3, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017; Ord. 2421, Sec. 6, 2020)

## **2-129 AUTHORITY OF ANIMAL CONTROL OFFICER OR LAW ENFORCEMENT OFFICER TO RESCUE AN ENDANGERED ANIMAL**

- a) Whenever an animal is found confined and/or unattended in a motor vehicle or other location, which subjects it to certain weather conditions that endangers its life as determined by the animal control officer or law enforcement officer, the animal control officer may enter such vehicle or property with the assistance from the police for the purpose of rescuing such animal, and transporting it to a shelter house designated by the Governing Body for treatment, boarding, or care. A written notice shall be left on or in the motor vehicle or other applicable property advising that the animal has been removed under authority of this section and the location where the animal has been impounded.
- b) Nothing in this section shall be deemed to prevent the animal control officer law enforcement officer from entering upon property without consent when the condition or animal is found in plain sight and not within a private structure or under conditions constituting an emergency.

- c) No animal control officer or law enforcement officer shall be held criminally or civilly liable for action under this section, provided the officer acts lawfully, in good faith, on probable cause and without malice.

(Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 3, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

### **2-130 SEIZURE PROHIBITED ANIMALS**

- a) Upon the written complaint of any person that a person owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or a law enforcement officer shall conduct an investigation and if the investigation reveals evidence that indicates that such person named in the complaint in fact owns, harbors, shelters, keeps, controls, manages, or possesses, within the City, an animal prohibited by this Chapter, the animal control officer or law enforcement officer shall forthwith send written notice to such person requiring such person to safely remove said animal from the City within three (3) days of the date of said notice. Notice as herein provided shall not be required where such animal has previously caused serious physical harm or death to any person or has escaped and is at large, in which case the animal control officer or law enforcement officer shall cause said animal to be immediately seized and impounded or killed, if seizure and impoundment are not possible without risk of serious physical harm or death to any person.
- b) The animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any animal prohibited by this Chapter where the person responsible therefor has failed to comply with the notice sent. Upon a seizure and impoundment, said animal shall be delivered to a place of confinement, which may be with any organization which is authorized by law to accept, own, keep or harbor such animals. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, the animal control officer or law enforcement officer may render said animal immobile by means of tranquilizers or other safe drugs, or if that is not safely possible, then said animal may be killed.
- c) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal prohibited in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter.

(Ord. 1562 (part), 1985; Ord. 1776, Sec. 2, 1991; Ord. 1779, Sec. 2, 1991; Ord. 1860, Sec. 1, 1994; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

### **2-131 SEIZURE PERMITTED ANIMALS**

- a) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any dog found running at large in violation of section 2-123 and any cat which is not under control as defined in section 2-123 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the cat or dog, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-123 of this Chapter.
- b) Any animal control officer, law enforcement officer or other person designated by the Governing Body of the City is authorized to capture any animal which is a public nuisance as defined by section 2-125 and place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to or in lieu of seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating section 2-125 of this Chapter.

- c) An animal control officer or law enforcement officer shall forthwith cause to be seized and impounded any potentially dangerous or dangerous animal, when the person responsible for such animal has failed to comply with the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. Such officer may place such animal in an animal shelter designated by the Governing Body for that purpose. In addition to seizing the animal, the animal control officer, law enforcement officer or City Prosecutor may charge the person responsible for such animal with violating the requirements of this Chapter relating to permitting and keeping potentially dangerous or dangerous cats and dogs. If during the course of seizing and impounding any such animal, the animal poses a risk of serious physical harm or death to any person, or the animal is considered a threat to public safety by the animal control officer or any law enforcement officer, such officer may render said animal immobile by means of tranquilizers or other safe drugs; or if that is not safely possible, then said animal may be destroyed.
- d) Any reasonable costs incurred by the animal control officer or law enforcement officer in seizing, impounding and for confining any animal permitted in the City by this Chapter shall be charged against the person responsible for such animal. Such charges shall be in addition to any fine or penalty provided for violating this Chapter, and payment of such charges shall be a condition to the redemption and release to persons responsible for such animals.

(Ord. 1562 (part), 1985; Ord. 1776, Sec. 2, 1991; Ord. 1779, Sec. 2, 1991; Ord. 1860, Sec. 1, 1994; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

#### **2-132 PROCEDURE FOR FAILURE TO REDEEM**

Any animal captured or apprehended under the terms and conditions of this Chapter shall be held in a shelter approved by the City for a period of three (3) business days from the date of impoundment, such period of time beginning at nine a.m. the morning following the day of impoundment. If the person responsible does not reclaim his or her animal during the period specified in the preceding sentence, or if the animal control officer or animal shelter is unable to locate and notify the person responsible after making a good faith effort to do so within the three (3) business day period then the animal becomes the property of the intake facility.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

#### **2-133 PRESENTATION OF ANIMAL**

The person responsible for any animal shall physically produce the animal for observation, identification or inspection when requested to do so by an animal control officer or law enforcement officer investigating a violation of the animal control and/or welfare laws of the City, provided the officer has probable cause to believe a crime or violation of the animal control laws has been committed. Failure to do so is a violation of this section.

(Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

#### **2-134 DUTY TO REPORT ANIMAL BITES AND SCRATCHES**

When any animal, while within the boundaries of the City, inflicts an animal bite on any person or domestic animal, or when an animal is suspected of having rabies; it shall be the duty of any person having knowledge of such facts to report the same immediately, or as soon as practicable, to the Police Department or the animal control officer.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-135 ANIMAL BITE PROCEDURE**

- a) Except as provided in subsection (e) of this section, an animal which inflicts an animal bite on any person or domestic animal shall immediately, or as soon as practicable, be quarantined at the expense of the person responsible for such animal with a licensed veterinarian of such person's choice or with the City's approved animal shelter for a period of not less than ten (10) days nor more than twelve (12) days.
- b) If the person responsible for the animal cannot be immediately notified, City personnel shall immediately, or as soon as practicable, impound such animal with a City approved shelter, at the expense of the person responsible, for a period of not less than ten (10) days nor more than twelve (10) days. If the address of the person responsible for the animal can be determined, the animal control officer or Police Department shall make a reasonable effort to notify such person that said animal is impounded under the provisions of this section and that such person has the right to redeem the animal at the expiration of confinement upon the payment of impoundment fees, any veterinarian fees, and any license and penalty fees then due and owing to the City.
- c) In the event the original place of impoundment is not the choice of the person responsible for such animal, such person may cause the animal's place of impoundment to be changed to a licensed veterinarian of such person's choice; provided all other provisions of this Chapter are complied with. The total period of confinement of the animal at the one or more locations is to be for a period of not less than ten (10) days nor more than twelve (12) days.
- d) The veterinarian or City approved shelter with whom the animal is impounded, shall give immediate written notice to the Chief of Police that such animal has been confined and will be confined for not less than ten (10) days no more than twelve (12) days. At the expiration of the aforesaid confinement period, the veterinarian or City approved shelter shall give immediate written notice to the Chief of Police as to the health of such animal pertaining to the diagnosis of rabies.
- e) In the event the investigating officer determines that the animal had an effective rabies inoculation, and was duly licensed under this Chapter at the time of the injury, or the animal had an effective rabies inoculation and caused bite or injury to an immediate family member, and agrees to obtain a City license for the animal prior to the completion of rabies observation, provided both the victim and person responsible agree, then the animal need not be impounded in accordance with subsection (a) of this section but the following alternative procedure shall be followed:
  1. If the injured person, his parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in subsection (a) of this section notwithstanding any other provision of this Chapter.
  2. If the injured party, his parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain confined in the residence or enclosed yard of the person responsible; provided no animal shall be allowed to remain on the property of the person responsible therefor under this section unless such person signs a written agreement to keep the animal on the property in confinement for the period specified in subsection (a) of this section and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. At the end of the observation period, the animal control officer may require that a licensed veterinarian examine the animal and furnish written notification to the animal control officer regarding the animal's health. All costs associated with the exam are the responsibility of the person responsible. If the

person responsible for such animal is unwilling to sign such an agreement, the animal shall be immediately, or as soon as practicable, impounded in accordance with subsection (a) of this section.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

### **2-136 ANIMAL BITE VIOLATION**

Persons who are responsible for or in control of animals in the City shall prevent such animals from inflicting animal bites on any person or domestic animal. It shall be a violation of this section by the person responsible for or in control of an animal if the animal, when unprovoked, inflicts an animal bite on any person or domestic animal. (Ord. 2368, Sec. 1, 2017)

### **2-137 DISEASE CONTROL**

- a) When rabies or other communicable diseases associated with animals are known to exist in the community, or when they are known to exist in neighboring communities the Mayor may declare a quarantine of any or all animals. It shall be the duty of the person responsible for such animal to keep such animal confined to the premises of the person responsible therefor and under control. For the purposes of this section, animals are not to be considered confined to the premises of the residential property the person responsible therefor if the only restraining device is an invisible electric fence.
- b) It shall be the duty of all animal control officers or law enforcement officers, or those having the authority of law enforcement officers to enforce such quarantine. The Mayor and Chief of Police shall have a right to deputize other persons as needed. Such deputized persons need not seize such animals, but shall aid in determining the person responsible to the end that warrants of arrest can be issued against violating persons responsible.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

### **2-138 REMOVAL OF ANIMAL FECES**

- a) Any person in charge of an animal, when such animal is off the property of the person responsible therefor, shall be responsible for the removal of any feces deposited by such animals on public walks, streets, recreation areas, or private property, and it shall be a violation of this provision for such person to fail to remove or provide for the removal of such feces before the animal leaves the immediate area where such defecation occurred.
- b) It shall be unlawful for any person to dispose of removed feces by intentionally or recklessly depositing, or causing to be deposited, feces removed pursuant to this section into, upon or about any public place, or any private property without the consent of the owner or occupant of the property.

(Ord. 1921, Sec. 1, 1997; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

### **2-139 REMOVAL OF DEAD ANIMAL**

It shall be the responsibility of the person responsible for a deceased animal to provide for its removal from private property. (Ord. 2325, Sec. 1, 2015; Ord. 2368, Sec. 1, 2017)

### **2-140 FEES TO GENERAL FUND**

All fees, charges and penalties paid to or collected by any officers of the City under or pursuant to the provisions of this Chapter shall be paid over to the City Treasurer and credited to the general operating fund.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-141 ENFORCEMENT**

It is the duty of the animal control officer or anyone having the authority of an animal control officer, including but not limited to law enforcement officers, to enforce the terms and provisions of this Chapter and the Mayor or the Chief of Police may appoint by and with the consent of the Governing Body some suitable person to be known as an animal control officer whose duties it shall be to assist in the enforcement of this Chapter and to work under an immediate supervision and direction of the Police Department. Anyone having the authority of an animal control officer is given the authority to seize any animal found outside the City limits when he/she has reasonable grounds to believe said animal committed any act within the City which is prohibited by the provisions of this Chapter or which subjects said animal to seizure if found within the City. Any private person may, upon signed complaint, bring charges against any person responsible for an animal for the violation of any of the provisions of this Chapter.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

## **2-142 BEEKEEPING**

Any person keeping bees shall comply with the following:

- a) Minimize swarming of bees;
- b) Provide and maintain a source of water located on the premises;
- c) Maintain no more than two (2) hives per property/lot;
- d) Hives will be located only within a fenced back yard. The minimum height of fence will be 42 inches. A flyway structure/barrier (shrubbery or fencing) is necessary if the exterior fence is less than 6 feet in height;
- e) Hives will be maintained at least ten (10) feet from all property lines; and
- f) Maintain and manage such boxes or hives so as not to create a nuisance by any of the following circumstances: unhealthy condition(s), interfere with the normal use and enjoyment of human or animal life, or interfere with the normal use and enjoyment of any public property or private property of others.
- g) Remove hives if established guidelines are not maintained as determined by Codes or animal control officers.

(Ord. 2325, Sec. 1, 2015; Ord. 2368, Sec. 1, 2017)

## **2-143 KEEPING OF CHICKENS WITHIN THE CITY LIMITS.**

a) Definitions.

- (1) "Chicken" means *Gallus gallus domesticus* of the female sex; This definition does not include male chickens or roosters, or other fowl, such as, but not limited to, peacocks, turkeys, or waterfowl, all of which are not permitted under this Section.
- (2) "Chicken Coop" or "Coop" means an enclosed structure for housing chickens that provides shelter from the elements.
- (3) "Chicken Run" or "Run" means an enclosed outside yard or area for keeping chickens.
- (4) "Chicken Tractor" or "Tractor" means a movable *chicken coop* lacking a floor.
- (5) "Chick" means a chicken of less than sixteen (16) weeks of age.
- (6) "Dwelling" shall have such meaning as provided in Chapter 16 (zoning and subdivision regulations).
- (7) "Lot" shall have such meaning as provided in Chapter 16 (zoning and subdivision regulations).

Other terms used herein but not defined herein shall have such meanings as provided in Section 2-102 of this Article, if so defined.

b) Keeping of Chickens Allowed. Subject to the provisions of this Section 2-143, and the other provisions of this Article, the keeping of chickens shall be permitted within the city limits.

(1) No person or household shall own or harbor more than six (6) chickens of sixteen (16) weeks of age or older, or more than one clutch (eight) of chicks on any one lot, regardless of how many dwellings are on the lot.

(2) Only female chickens are allowed.

(3) The keeping of chickens, as outlined in this section, shall only be permitted in the R-1A, R-1B, and R-2 zoning districts, as defined in the city's zoning and subdivision regulations.

(4) Nothing in this Section shall permit the keeping and selling of chickens for profit, and commercial chicken operations are prohibited.

It shall be unlawful to keep chickens except in accordance with this Section.

c) Requirements for Enclosures; Locations and Setbacks.

(1) Chickens must be kept in a coop or chicken tractor at all times. A coop must include an attached adjacent chicken run. A chicken tractor must include an enclosed coop portion and a separate attached area lacking a floor. Only one coop (with run) or one chicken tractor may be maintained on any one lot.

(2) Coops (including the chicken run) and tractors must be built with a minimum of twelve (12) square feet per chicken not to exceed 84 square feet total. Of this, a minimum of two-square-feet-per-chicken of inside or enclosed space in the coop or tractor must be provided. If and to the extent setbacks or other requirements of this Section limit the size of a coop/run or tractor, then a person shall only own or harbor such number of chickens as may fit within such limited size, in consideration of the minimum requirements for coops, runs, and chicken tractors.

(a) Coops (including the coop portion of any chicken tractor) shall be enclosed on all sides and shall have a roof and doors. Access doors must be able to be shut and locked. Opening windows and vents, whether in the coop, the run, or the tractor, must be covered with predator- and bird-proof wire of less than one-inch openings.

(b) The coop, run, and tractor shall be constructed with durable materials that will hold up to weather and the environment. Sturdy wire and/or wooden fencing shall be used to keep chickens within the run or tractor. New materials shall be used, unless used or reclaimed materials are approved by the City building inspector. The use of scrap, waste board, sheet metal, or similar materials is prohibited.

(3) Coops, runs, and tractors may only be located in the rear yard of a parcel, as such rear yard is defined in Chapter 16 (zoning and subdivision regulations). Coops, runs, and tractors must be located at least ten (10) feet from the property line of a lot, and at least twenty-five (25) feet from any dwelling, church, school, or business structure located on any other parcel.

d) Standards of Care; Feed; Waste.



- (1) Chickens shall be provided with adequate care, adequate food, adequate health care, adequate shelter, and adequate water, as defined in this Article.
  - (2) All feed and other items associated with the keeping of chickens shall be protected from or to prevent rats, mice, or other rodents or other vermin from gaining access to or coming into contact with the feed. The owner and persons responsible for the chickens shall take such actions as are necessary to reduce the attraction of predators and rodents and the potential infestation of insects and parasites.
  - (3) Odors from chickens, chicken manure, chicken waste, chicken feed, or other substances related to the keeping of chickens shall not be perceptible beyond the property lines of any lot. Noise from chickens shall not be loud enough at the property lines of any lot as to disturb persons of reasonable sensibilities.
  - (4) Owners and persons responsible for chickens shall handle the care and disposal of any chicken waste. The coop, yard, and tractor, and the whole of any lot, must be kept free from trash and accumulated waste or droppings. Any composting of droppings/manure must comply with the provisions of Chapter XV, Article 2, of the city code, including but not limited to as to aggregate size of any compost pile which may contain chicken waste.
  - (5) Notwithstanding any provision or exception contained under Section 2-128 and the Kansas animal cruelty act, K.S.A. 21-6411 *et seq.* (incorporated in part into Section 11.11 of the 2019 Uniform Public Offense Code for Kansas Cities as adopted by the city), as any of the foregoing may be amended from time to time, no person shall kill or slaughter any chicken on such person's lot.
  - (6) The provisions of this Article, including but not limited to Sections 2-125 (Public Nuisance), 2-126 (Unlawful to Harbor or Keep any Animal without Proper and Necessary Precautions), 2-128 (Cruelty to Animals), 2-137 (Disease Control), 2-138 (Removal of Animal Feces), and 2-139 (Removal of Dead Animal) shall otherwise apply as to the keeping of chickens as described in this Section.
- e) Application of Dangerous Animal Regulations. Notwithstanding anything in this Article to the contrary, the attack or killing of a chicken by an animal shall not, by itself, cause such animal to be classified as a dangerous animal, a potentially dangerous animal, or a vicious animal.
  - f) Enforcement. Violations of this Section shall be handled by either the City building inspector, code enforcement, animal control, the director of solid waste management, or through police action, as may be necessary given the nature of the violation.

(Ord. 2421, Sec. 2, 2020)

#### **2-144 VIOLATION – PENALTY**

- a) It is unlawful for any person to violate any of the provisions of this Chapter. Any person convicted of the violation of any provision of this Chapter where a specific penalty is not otherwise prescribed shall be fined up to \$1,000 or 30 days imprisonment, or a combination of fine and imprisonment. Upon conviction, the Municipal Court may order restitution be paid to the victim of the violation.
- b) Each day any violation of this Chapter to which this penalty applies continues constitutes a separate offense.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

#### **2-145 NUISANCE, INJUNCTION**

In addition to any other relief provided by this Chapter, the City Attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this Chapter. Such application for relieve may include the seeking of temporary and permanent injunctive relief.

**2-146 SEVERABILITY**

If any section, subsection, subdivision, paragraph, sentence, clause or phrase in this Chapter or any part thereof, is for any reason held to be unconstitutional or invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Chapter or any part thereof.

(Ord. 1562 (part), 1985; Ord. 2091 (part), 2005; Ord. 2106 (part), 2005; Ord. 2213, Sec. 8, 2009; Ord. 2325, Sec. 1, 2015, Ord. 2368, Sec. 1, 2017)

**CHAPTER III. BEVERAGES**

- Article 1. Definitions
- Article 2. Cereal Malt Beverages
- Article 3. Alcoholic Liquor
- Article 4. Drinking Establishments and Clubs
- Article 5. Caterers
- Article 6. Temporary Permits

**ARTICLE 1. DEFINITIONS**

3-101. **DEFINITIONS.** Unless otherwise expressly stated or the context clearly indicates a different intention, the following terms shall, for the purpose of this chapter, have the meanings indicated in this section.

(a) Alcohol means the product of distillation of any fermented liquid, whether rectified or diluted, whatever the origin thereof, and includes synthetic ethyl alcohol but does not include denatured alcohol or wood alcohol.

(b) Alcoholic Liquor means alcohol, spirits, wine, beer and every liquid or solid, patented or not, containing alcohol, spirits, wine or beer and capable of being consumed as a beverage by a human being, but shall not include any cereal malt beverage.

(c) Beer means a beverage, containing more than 3.2 percent alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt and hops in water and includes beer, ale, stout, lager, beer, porter and similar beverages having such alcoholic content.

(d) Caterer means an individual, partnership or corporation which sells alcoholic liquor by the individual drink, and provides services related to the serving thereof, on unlicensed premises which may be open to the public, but does not include a holder of a temporary permit selling alcoholic liquor in accordance with the terms of such permit.

(e) Cereal Malt Beverage means any fermented but undistilled liquor brewed or made from malt or from a mixture of malt or malt substitute or any flavored malt beverage, but does not include any such liquor which is more than 3.2 percent alcohol by weight.

(f) Class A Club means premises which are owned or leased by a corporation, partnership, business trust or association and which is operated thereby as a bona fide nonprofit social, fraternal or war veterans' club, as determined by the State of Kansas, for the exclusive use of the corporate stockholders, partners, trust beneficiaries or associates (hereinafter referred to as members), and their families and guests accompanying them.

(g) Class B Club means premises operated for profit by a corporation, partnership or individual, to which members of such club may resort for the consumption of food or alcoholic beverages and for entertainment.

(h) Club means a Class A or Class B club.

(i) Director means the director of alcoholic beverage control of the department of revenue.

(j) Distributor means the person importing or causing to be imported into the state, or purchasing or causing to be purchased within the state, alcoholic liquor for sale or

resale to retailers licensed under this act, or cereal malt beverage or enhanced cereal malt beverage for sale or resale to retailers licensed under K.S.A. 41-2702 and amendments thereto.

(k) Domestic Beer means beer which contains not more than 8 percent alcohol by weight and which is manufactured from agricultural products grown in this state.

(l) Domestic Table Wine means wine which contains not more than 14 percent alcohol by volume and which is manufactured without rectification or fortification from agricultural products grown in this state.

(m) Drinking Establishment has the meaning provided by K.S.A. 41-2601 and amendments thereto.

(n) Enhanced Cereal Malt Beverage means cereal malt beverage, as defined herein, and such term shall also include beer containing not more than 6% alcohol by volume when such beer is sold by a retailer licensed under the Kansas cereal malt beverage act and the provisions of this Chapter III.

(o) Farm Winery means a winery licensed by the director to manufacture, store and sell domestic table wine.

(p) Food Establishment has the meaning provided by K.S.A. 65-656 and amendments thereto.

(q) General Retailer means a person who has a license to sell enhanced cereal malt beverages at retail.

(r) Legal Age for Consumption of Enhanced Cereal Malt Beverage means 21 years of age, except that legal age for consumption of cereal malt beverage shall mean 18 years of age if at any time the provisions of P.L. 98-363 penalizing states for permitting persons under 21 years of age to consume cereal malt beverage are repealed or otherwise invalidated or nullified.

(s) Limited Retailer means a person who has a license to sell enhanced cereal malt beverages at retail only in original and unopened containers and not for consumption on the premises.

(t) Manufacture means to distill, rectify, ferment, brew, make, mix, concoct, process, blend, bottle or fill an original package with any alcoholic liquor, beer, enhanced cereal malt beverage, or cereal malt beverage.

(u) (1) Manufacturer means every brewer, fermenter, distiller, rectifier, wine maker, blender, processor, bottler or person who fills or refills an original package and others engaged in brewing, fermenting, distilling, rectifying or bottling alcoholic liquor, beer, enhanced cereal malt beverage, or cereal malt beverage.

(2) Manufacturer does not include a microbrewery or a farm winery.

(v) Microbrewery means a brewery licensed by the director to manufacture, store and sell domestic beer.

(w) Microdistillery means a facility which produces spirits from any source or substance that is licensed by the director to manufacture, store and sell spirits.

(x) Minor means any person under 21 years of age.

(y) Nonbeverage User means any manufacturer of any of the products set forth and described in K.S.A. 41-501 and amendments thereto, when the products contain alcohol or wine, and all laboratories using alcohol for non-beverage purposes.

(z) Original Package means any bottle, flask, jug, can, cask, barrel, keg, hogshead or other receptacle or container whatsoever, used, corked or capped, sealed and labeled by the manufacturer of alcoholic liquor, to contain and to convey any alcoholic liquor.

(aa) Person means any natural person, corporation, partnership or association.

(bb) Place of Business. Any place at which cereal malt beverages, enhanced cereal malt beverages, or alcoholic beverages or both are sold.

(cc) Restaurant means:

(1) In the case of a club, restaurant means a licensed food establishment which, as determined by the director, derives from sales of food for consumption on the licensed club premises not less than fifty percent (50%) of its gross receipts from all sales of food and beverages on such premises in a 12-month period;

(2) In the case of a drinking establishment subject to a food sales requirement under K.S.A. 41-2642 and amendments thereto, restaurant means a licensed food establishment which, as determined by the director, derives from sales of food for consumption on the licensed drinking establishment premises not less than thirty percent (30%) of its gross receipts from all sales of food and beverages on such premises in a 12-month period; and

(3) In the case of drinking establishment subject to no food sales requirement under K.S.A. 41-2642 and amendments thereto, restaurant means a licensed food establishment.

(dd) Retailer means a person who sells at retail, or offers for sale at retail, alcoholic liquors, but does not include a microbrewery, microdistillery, or farm winery.

(ee) Sale means any transfer, exchange or barter in any manner or by any means whatsoever for a consideration and includes all sales made by any person, whether principal, proprietor, agent, servant or employee.

(ff) Salesperson means any natural person who:

(1) Procures or seeks to procure an order, bargain, contract or agreement for the sale of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage; or

(2) Is engaged in promoting the sale of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage, or in promoting the business of any person, firm or corporation engaged in the manufacturing and selling of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage, whether the seller resides within the state of Kansas and sells to licensed buyers within the state of Kansas, or whether the seller resides without the state of Kansas and sells to licensed buyers within the of Kansas.

(gg) (1) Sell at Retail and Sale at Retail refer to and mean sales for use or consumption and not for resale in any form and sales to clubs, licensed drinking establishments, licensed caterers or holders of temporary permits.

(2) Sell at Retail and Sale at Retail do not refer to or mean sales by a distributor, a microbrewery, a farm winery, a licensed club, a licensed drinking establishment, a licensed caterer or a holder of a temporary permit.

(hh) Spirits means any beverage which contains alcoholic obtained by distillation, mixed with water or other substance in solution, and includes brandy, rum, whiskey, or other spirituous liquors, and such liquors when rectified, blended or otherwise mixed with alcohol or other substances.

(ii) Supplier means a manufacturer of alcoholic liquor, enhanced cereal malt beverage, or cereal malt beverage or an agent of such manufacturer, other than a salesperson.

(jj) Temporary Permit means a permit, issued in accordance with the laws of the State of Kansas, which allows the permit holder to offer for sale, sell and serve alcoholic liquor for consumption on unlicensed premises, open to the public.

(kk) To Sell includes to solicit or receive an order for, to keep or expose for sale and to keep with the intent to sell.

(ll) Wholesaler or distributor. Any individuals, firms, copartnerships, corporations and associations which sell or offer for sale any beverage referred to in this chapter, to persons, copartnerships, corporations and associations authorized by this chapter to sell enhanced cereal malt beverages or cereal malt beverages at retail.

(mm) Wine means any alcoholic beverage obtained by the normal alcoholic fermentation of the juice of sound, ripe grapes, fruits, berries or other agricultural products, including such beverages containing added alcohol or spirits or containing sugar added for the purpose of correcting natural deficiencies.

(Code 1976, 5.10.010, 5.12.080; Ord. 1611, Sec. 1; Ord. 1815, Sec. 1; Code 2003; Ord. 2397, 2019)

## ARTICLE 2. CEREAL MALT BEVERAGES

### 3-201. LICENSE REQUIRED OF RETAILERS.

(a) It shall be unlawful for any person to sell any enhanced cereal malt beverage at retail without a license for each place of business where enhanced cereal malt beverages are to be sold at retail.

(b) It shall be unlawful for any person, having a license to sell enhanced cereal malt beverages at retail only in the original and unopened containers and not for consumption on the premises, to sell any enhanced cereal malt beverage in any other manner.

(c) The "cereal malt beverage license" issued by the City pursuant to this Article authorizes the sale of enhanced cereal malt beverages by those retailers in compliance with this Article and such other laws and regulations that may apply.

(K.S.A. 41-2702; Code 1973, 5.12.020; Code 2003; Ord. 2397, 2019)

### 3-202. APPLICATION. Any person desiring a license shall make an application to the governing body of the city and accompany the application by the required license fee for each place of business for which the person desires the license. The application shall be verified, and upon a form prepared by the attorney general of the State of Kansas, and shall contain:

(a) The name and residence of the applicant and how long he or she has resided within the State of Kansas;

(b) The particular place for which a license is desired;

(c) The name of the owner of the premises upon which the place of business is located;

(d) The names and addresses of all persons who hold any financial interest in the particular place of business for which a license is desired.

(e) A statement that the applicant is a citizen of the United States and not less than 21 years of age and that he or she has not within two (2) years immediately preceding the date of making application been convicted of a felony or any crime involving moral turpitude, or been adjudged guilty of drunkenness, or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States;

(f) Each application for a general retailer's license shall be accompanied by a certificate from the city health officer certifying that he or she has inspected the

premises to be licensed and that the same comply with the provisions of Chapter 8 of this Code.

(g) Each application for a general retailer's license must be accompanied by a certificate from the city fire chief certifying that he or she has inspected the premises to be licensed and that the same comply with the provisions of Chapter 7 of this Code. The application shall be accompanied by a statement, signed by the applicant, authorizing any governmental agency to provide the city with any information pertinent to the application. One copy of such application shall immediately be transmitted to the chief of police of the city for investigation of the applicant. It shall be the duty of the chief of police to investigate such applicant to determine whether he or she is qualified as a licensee under the provisions of this chapter. The chief shall report to the governing body not later than five (5) working days subsequent to the receipt of such application. The application shall be scheduled for consideration by the governing body at the earliest meeting consistent with current notification requirements. (Code 1973, 5.12.030; Code 2003; Ord. 2397, 2019)

3-202A. **LICENSE APPLICATION PROCEDURES.**

(a) All applications for a new and renewed enhanced cereal malt beverage license shall be submitted to the city clerk ten (10) days in advance of the governing body meeting at which they will be considered.

(b) The city clerk's office shall notify the applicant of an existing license thirty (30) days in advance of its expiration.

(c) The clerk's office shall provide copies of all applications to the police department, to the fire department, and to the city-county health department, when they are received. The police department will run a records check on all applicants and the fire department and health department will inspect the premises in accord with chapters 7 and 8 of this code. The departments will then recommend approval, or disapproval, of applications within five (5) working days of the department's receipt of the application.

(d) The governing body will not consider any application for a new or renewed license that has not been submitted ten (10) days in advance and been reviewed by the above city departments.

(e) An applicant who has not had a cereal malt beverage license or enhanced cereal malt beverage license in the city shall attend the governing body meeting when the application for a new license will be considered.

(f) Pursuant to K.S.A. 41-2703a, as amended, any limited liability company applying for a license under the Kansas cereal malt beverage act shall submit a copy of its articles of organization and operating agreement to the director in such form and manner as prescribed by the director. (Code 2003; Ord. 2397, 2019)

3-203. **LICENSE FEE.**

(a) Fees for general and limited retailers of enhanced cereal malt beverages shall be as adopted by the governing body and on record in the office of the city clerk from time to time. Such fee shall be in addition to such fees as are to be remitted to the Division of Alcohol Beverage Control pursuant to K.S.A. 41-2701, as amended. License fees are non-refundable and non-transferable.

(b) The full amount of the license fee shall be required regardless of the time of year in which the application is made, and the licensee shall only be authorized to operate under the license for the remainder of the calendar year in which the license is issued. (Code 1973, 5.12.040:5.12.060; Code 2003; Ord. 2397, 2019)

3-204. **LICENSE, DISQUALIFICATION.**

- (a) No license shall be issued to:
  - (1) A person who has not been a resident in good faith of the state of Kansas for at least one (1) year immediately preceding application and a resident of Johnson County for at least six (6) months prior to filing of such application.
  - (2) A person who is not a citizen of the United States.
  - (3) A person who is not of good character and reputation in the community in which he or she resides.
  - (4) A person who, within two (2) years immediately preceding the date of making application, has been convicted of a felony or any crime involving moral turpitude, or has been adjudged guilty of drunkenness or driving a motor vehicle while under the influence of intoxicating liquor or the violation of any other intoxicating liquor law of any state or of the United States.
  - (5) A partnership, unless all the members of the partnership shall otherwise be qualified to obtain a license.
  - (6) A corporation or a limited liability company if any member, manager, officer or director thereof, or any stockholder or member owning in the aggregate more than twenty-five percent (25%) of the stock or the ownership interests of such corporation or limited liability company would be ineligible to receive a license hereunder for any reason other than non-residence within the city or county.
  - (7) A corporation or a limited liability company, if any member, manager, officer or director thereof, or any stockholder or member owning in the aggregate more than twenty-five percent (25%) of the stock or the ownership interests of such corporation or limited liability company, has been an officer, manager or director, or a stockholder owning in the aggregate more than twenty-five percent (25%) of the stock or the ownership interests of a corporation or limited liability company which: (A) Has had a retailer's license revoked under K.S.A. 41-2708 and amendments thereto; or (B) has been convicted of a violation of the drinking establishment act or the cereal malt beverage laws of this state.
  - (8) A person whose place of business is conducted by a manager or agent unless such manager or agent possesses the same qualifications required of the licensee.
  - (9) A person whose spouse would be ineligible to receive a retailer's license for any reason other than citizenship, retailer residency requirements or age, except that this subsection (9) shall not apply in determining eligibility for a renewal license.

(Code 1973, 5.12.040; Ord. 1817, Sec. 1; Code 2003; Ord. 2397, 2019)

3-205. **LICENSE GRANTED; DENIED.**

- (a) The journal of the governing body shall show the action taken on the application.
- (b) If the license is granted by the governing body, the city clerk shall issue the license which shall show the name of the licensee and the year for which issued.
- (d) No license shall be transferred to another licensee.
- (e) If the license shall be denied, the license fee shall be immediately returned to the person who has made application.



(f) Enhanced cereal malt beverage licenses shall be issued either on an annual basis or for the remainder of the then-calendar year. If such licenses are issued on an annual basis, the governing body of the city shall notify existing licensees on or before April 1st of the year if such licensee's license is not renewed. (Ord. 2397, 2019)

3-206. **LICENSE TO BE POSTED.** Each license shall be posted in a conspicuous place in the place of business for which the license is issued. (Ord. 2397, 2019)

3-207. **RESTRICTION UPON LOCATION.**

No license shall be granted to sell enhanced cereal malt beverages on premises which are located in areas not zoned for such purpose, or if the premises does not comply with other city laws, including building and health codes.

(a) No license shall be granted to sell enhanced cereal malt beverages at any place of business or location within 200 feet of any public or parochial school or church; provided, that if any such facility shall be established within 200 feet after such premises have been licensed, then such premises shall be an eligible location for licensing. For schools, the distance shall be measured from the nearest property line of the school to the nearest portion of the building occupied by the business selling or serving the beverages. For churches, the distance shall be measured from the church building to the portion of the building occupied by the business selling or serving the beverage.

(b) The prohibition set out in subsection (b) of this section shall further not apply to any business that obtains an enhanced cereal malt beverage, club, drinking establishment, caterer, temporary permit, farm winery, or microbrewery license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation from the governing body. The governing body shall grant such waiver only following notice to property owners within such 200-foot distance (in such manner as the city may require) and a public hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.

(Ord. 2014, Sec. 1; Ord. 2397, 2019)

3-208. **CHANGE OF LOCATION.** If a licensee desires to change the location of his or her place of business, he or she shall make an application to the governing body showing the same information relating to the proposed location as in the case of an original application. Such application shall be accompanied by a fee equal to the amount of the application or license fee then charged by the city. If the application is in proper form and the location is not in a prohibited zone and all other requirements relating to such place of business are met, a new license shall be issued for the new location for the balance of the year for which a current license is held by the licensee. (Ord. 2397, 2019)

3-209. **SUSPENSION OF LICENSE.** The chief of police, upon five (5) days written notice, shall have the authority to suspend such license for a period not to exceed thirty (30) days, for any violation of the provisions of this chapter or other laws pertaining to cereal malt beverages or enhanced cereal malt beverages, which violation does not in his or her judgment justify a recommendation of revocation. The licensee may appeal such order of suspension to the governing body within seven (7) days from the date of such order. (Code 2003; Ord. 2397, 2019)

3-210. **LICENSE SUSPENSION/REVOCAION BY GOVERNING BODY.** The governing body of the city, upon five (5) days written notice, to a person holding a license to sell enhanced cereal malt beverages shall permanently revoke or cause to be suspended such license for any of the following reasons:

- (a) If a licensee has fraudulently obtained the license by giving false information in the application therefor;
- (b) If the licensee has violated any of the provisions of this article or has become ineligible to obtain a license under this article;
- (c) Drunkenness of a person holding such license, drunkenness of a licensee's manager or employee while on duty and while on the premises for which the license is issued, or for a licensee, his or her manager or employee permitting any intoxicated person to remain in such place selling enhanced cereal malt beverages;
- (d) The sale of enhanced cereal malt beverages to any person under 21 years of age;
- (e) For permitting any gambling in or upon any premises licensed under this article;
- (f) For permitting any person to mix drinks with materials purchased in any premises licensed under this article or brought into the premises for this purpose;
- (g) For the employment of any person under the age established by the State of Kansas for employment involving dispensing enhanced cereal malt beverages;
- (h) For the employment of persons adjudged guilty of a felony or of a violation of any law relating to intoxicating liquor;
- (i) For the sale or possession of, or for permitting the use or consumption of alcoholic liquor within or upon any premise licensed under this article;
- (j) The nonpayment of any license fees;
- (k) If the licensee has become ineligible to obtain a license under this chapter;
- (l) The provisions of subsections (f) and (i) shall not apply if such place of business is also currently licensed as a private club.

(K.S.A. 41-2708; Code 1973, 5.12.140; Code 2003; Ord. 2397, 2019)

3-211. **SAME; APPEAL.** The licensee, within twenty (20) days after the order of the governing body revoking any license, may appeal to the district court of Johnson County and the district court shall proceed to hear such appeal as though such court had original jurisdiction in the matter. Any appeal taken under this section shall not suspend the order of revocation of the license of any licensee, nor shall any new license be issued to such person or any person acting for or on his or her behalf, for a period of six (6) months thereafter.

(K.S.A. 41-2708; Code 1973, 5.12.140; Code 2003; Ord. 2397, 2019)

3-212. **WHOLESALEERS AND/OR DISTRIBUTORS.** It shall be unlawful for any wholesaler and/or distributor, his, her or its agents or employees, to sell and/or deliver enhanced cereal malt beverages within the city, to persons authorized under this article to sell the same within this city unless such wholesaler and/or distributor has first secured a license from the director of revenue, state commission of revenue and taxation of the State of Kansas authorizing such sales.

(K.S.A. 41-307:307a; Code 1973, 5.12.130; Code 2003; Ord. 2397, 2019)

3-213. **BUSINESS REGULATIONS.** It shall be the duty of every licensee to observe the following regulations.

(a) The place of business licensed and operating under this article shall at all times have a front and rear exit unlocked when open for business.

(b) The premises and all equipment used in connection with such business shall be kept clean and in a sanitary condition and shall at all times be open to the inspection of the police and health officers of the city, county and state.

(c) Except as provided by subsection (d), no enhanced cereal malt beverages may be sold or dispensed:

(1) between the hours of 12:00 midnight and 6:00 a.m.;

(2) on Easter Sunday;

(3) in the original package before 12:00 noon or after 8:00 p.m. on Sunday; or

(4) for consumption on the licensed premises on Sunday, except in a place of business which is licensed to sell enhanced cereal malt beverage for consumption on the premises, which derives not less than thirty percent (30%) of its gross receipts from the sale of food for consumption on the licensed premises.

(d) Enhanced cereal malt beverages may be sold at any time alcoholic liquor is allowed by law to be served on premises which are licensed pursuant to K.S.A. 41-2701 et seq., and licensed as a club by the State Director of Alcoholic Beverage Control.

(e) The place of business shall be open to the public and to the police at all times during business hours, except that premises licensed as a club under a license issued by the State Director of Alcoholic Beverage Control shall be open to the police and not to the public.

(f) It shall be unlawful for any licensee or agent or employee of the licensee to become intoxicated in the place of business for which such license has been issued.

(g) No licensee or agent or employee of the licensee shall permit any intoxicated person to remain in the place of business for which such license has been issued.

(h) No licensee or agent or employee of the licensee shall sell or permit the sale of enhanced cereal malt beverage to any person under 21 years of age.

(i) No licensee or agent or employee of the licensee shall permit any gambling in the place of business for which such license has been issued.

(j) No licensee or agent or employee of the licensee shall permit any person to mix alcoholic drinks with materials purchased in said place of business or brought in for such purpose.

(k) No private rooms or closed booths shall be operated in the place of business, but this provision shall not apply if the licensed premises are also annually licensed as a club under a license issued by the State Director of Alcoholic Beverage Control.

(l) The windows and doors of every place within the city selling or dispensing enhanced cereal malt beverages shall be free and clear of any obstruction, either temporary or permanent. No sign or advertising bills or anything shall be placed on such windows or doors to interfere with the view of the inside of such establishment or place of business from the outside.

(m) No licensee shall permit a person under the legal age for consumption of enhanced cereal malt beverage in or about a place of business and no licensee shall permit a person under the legal age for consumption of enhanced cereal malt beverage to possess enhanced cereal malt beverage in or about a place of business, except that

a licensee's employee who is not less than 18 years of age may dispense or sell enhanced cereal malt beverage if:

- (1) The licensee's place of business is licensed only to sell enhanced cereal malt beverage at retail in original and unopened containers and not for consumption on the premises; or
  - (2) The licensee's place of business is a licensed food, and not less than fifty percent (50%) of the gross receipts from the licensee's place of business is derived from the sale of food for consumption on the premises of the licensed place of business.
- (n) No enhanced cereal malt beverage shall be served to any person in any automobile around or about such place of business.  
(Code 1973, 5.12.070, 080, 110:120; Code 2003; Ord. 2113 Sec 1, 2005; Ord. 2397, 2019)

3-214. **PROHIBITED CONDUCT ON PREMISES.** The following conduct by an enhanced cereal malt beverage licensee, manager or employee of any licensed enhanced cereal malt beverage establishment is deemed contrary to public welfare and is prohibited:

- (a) Remaining or permitting any person to remain in or upon the premises who exposes to view any portion of the female breasts below the top of the areola or any portion of male/female pubic hair, anus, buttocks or genitals;
- (b) Permitting any employee on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva or genitals of any other employee or any patron;
- (c) Encouraging or permitting any patron on the licensed premises to touch, caress or fondle the breasts, buttocks, anus, vulva, or genitals of any employee;
- (d) Performing or permitting any person to perform on the licensed premises acts of or acts which simulate:
  - (1) Sexual intercourse, masturbation, sodomy, or any other sexual act which is prohibited by law; or
  - (2) Touching, caressing or fondling such persons' breasts, buttocks, anus or genitals.
- (e) Using or permitting any person to use on the licensed premises, any artificial devices or inanimate objects to depict any of the acts prohibited by paragraph (d) of this section.
- (f) Showing or permitting any person to show on the licensed premises any motion picture, film, photograph, electronic reproduction, or other visual reproduction depicting:
  - (1) Acts or simulated acts of sexual intercourse, masturbation, sodomy, or any sexual act which is prohibited by law;
  - (2) The touching, caressing or fondling of the buttocks, anus, genitals or the female breasts;
  - (3) Scenes in which a person displays the buttocks, anus, genitals or the female breasts.
- (g) As used in this section, the term "premises" means the premises licensed by the city as an enhanced cereal malt beverage establishment and such other areas, under the control of the licensee or his or her employee or employees, that are in such close proximity to the licensed premises that activities and conduct of persons within such other areas may be viewed by persons on or within the licensed premises.

(Code 2003; Ord. 2397, 2019)

- 3-215. **SANITARY CONDITIONS REQUIRED.** All parts of the licensed premises including furnishings and equipment shall be kept clean and in a sanitary condition, free from flies, rodents and vermin at all times. The licensed premises shall have at least one restroom for each sex easily accessible at all times to its patrons and employees. The restroom shall be equipped with at least one lavatory with hot and cold running water, be well lighted, and be furnished at all times with paper towels or other mechanical means of drying hands and face. Each restroom shall be provided with adequate toilet facilities which shall be of sanitary design and readily cleanable. The doors of all toilet rooms shall be self-closing and toilet paper at all times shall be provided. Easily cleanable receptacles shall be provided for waste material and such receptacles in toilet rooms for women shall be covered. The restrooms shall at all times be kept in a sanitary condition and free of offensive odors and shall be at all times subject to inspection by the city health officer or designee.  
(Code 2003; Ord. 2397, 2019)

- 3-216. **MINORS ON PREMISES.**
- (a) It shall be unlawful for any person under 21 years of age to remain on any premises where the sale of enhanced cereal malt beverages is licensed for on-premises consumption.
  - (b) This section shall not apply if the person under 21 years of age is an employee of the licensed establishment, or is accompanied by his or her parent or guardian, or if the licensed establishment derives not more than thirty percent (30%) of its gross receipts in each calendar year from the sale of enhanced cereal malt beverages for on-premises consumption.  
(Code 2003; Ord. 2397, 2019)

**ARTICLE 3. ALCOHOLIC LIQUOR**

- 3-301. **STATE LICENSE REQUIRED.** (a) It shall be unlawful for any person to keep for sale, offer for sale, or expose for sale or sell any alcoholic liquor as defined by the "Kansas liquor control act" without first having obtained a state license to do so.  
(b) The holder of a license for the retail sale in the city of alcoholic liquors by the package issued by the state director of alcoholic beverage control shall present such license to the city clerk when applying to pay the occupation tax levied in section 3-302 and the tax shall be received and a receipt shall be issued for the period covered by the state license. (Code 1973, 5.08.060; Code 2003)
- 3-302. **TAX; DISTRIBUTORS.** An annual occupation license tax is levied on all alcoholic liquor and/or cereal malt beverage distributors, for the first and each additional distributing place of business operated in the city by the same licensee in an amount to be adopted by the governing body and on record in the office of the city clerk. (Code 1973, 5.08.020; Ord. 1758, Sec. 2; Ord. 1815, Sec. 1)
- 3-303. **SAME; RETAILERS.** An annual occupation license tax is levied on all alcoholic liquor retailers, in an amount to be adopted by the governing body and on record in the office of the city clerk. (Code 1973, 5.08.030; Ord. 1768, Sec. 2; Ord. 1815, Sec. 1)
- 3-304. **SAME; MICROBREWERIES.** An annual occupation license tax is levied on all microbreweries, in an amount adopted by the governing body and set out in a schedule on record in the office of the city. (Code 1973, 5.08.050; Ord. 1769, Sec. 2; Ord. 1815, Sec. 1)
- 3-305. **SAME; NONBEVERAGE USERS.** An annual occupation license tax is levied on all persons engaged in a nonbeverage users' business, in the amount adopted by the governing body and set out in a schedule on record in the office of the city clerk. (Code 1973, 5.08.050; Ord. 1770, Sec. 2; Ord. 1815, Sec. 1)
- 3-306. **POSTING OF RECEIPT.** Every licensee under this article shall cause the city alcoholic liquor retailer's occupation tax receipt to be placed in plain view, next to or below the state license in a conspicuous place on the licensed premises. (Code 2003)
- 3-307. **LICENSE; REQUIRED.** No person required to pay an annual occupation license tax under this article shall operate without first having secured a license from the city for each place of business which such person desires to operate within the city limits. (Ord. 1815, Sec. 1)
- 3-308. **OPEN SALOONS UNLAWFUL.**  
(a) It is unlawful for any person to own, maintain, operate or conduct, either directly or indirectly, an open saloon.  
(b) As used in this section open saloon means any place, public or private, where alcoholic liquor is sold or offered or kept for sale by the drink or in any quantity of less than 100 milliliters (3.4 fluid ounces) or sold or offered or kept for sale for consumption on the premises where sold, but does not include any premises where the sale of liquor is authorized by the club and drinking establishment act, as amended, or any

manufacturer, microbrewery, microdistillery, or farm winery, if authorized by Kansas statute, provided such sale is also authorized by this code.  
(Code 1973, 5.08.070; Ord. 1815, Sec. 1; Ord. 2397, 2019)

3-309. **HOURS OF SALE.**

- (a) No person shall sell at retail any alcoholic liquor:
- (1) On Easter Sunday;
  - (2) On all other Sundays, before 12 noon or after 8:00 p.m.;
  - (3) Before 9:00 a.m. or after 11:00 p.m. on any other day than Sunday.
- (b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced cereal malt beverages for consumption off the premises at any time when alcoholic liquor is allowed by law to be served on the premises.  
(K.S.A. 41-712; Code 1973, 5.08.090; Code 2003; Ord. 2112, Sec. 1, 2005; Ord. 2397, 2019)

3-310. **BUSINESS REGULATIONS.** It shall be unlawful for a retailer of alcoholic liquor to:

- (a) Permit any person to mix drinks in or on the licensed premises unless the person is preparing or mixing samples for the purposes of conducting wine, beer, or distilled spirit tastings, or any combination thereof, as authorized by K.S.A. 41-308d, and amendments thereto;
- (b) Employ any person under the age of 21 years in connection with the operation of the retail establishment;
- (c) Employ any person in connection with the operation of the retail establishment who has been adjudged guilty of a felony;
- (d) Furnish any entertainment in his or her premises or permit any pinball machine or game of skill or chance to be located in or on the premises; or
- (e) Have in his or her possession for sale at retail any bottles, cask, or other containers containing alcoholic liquor, except in the original package.
- (f) Sell, give away, dispose of, exchange or deliver, or permit the sale, gift or procuring of any alcoholic liquor to or for any person under 21 years of age.  
(Code 2003; Ord. 2397, 2019)

3-311. **RESTRICTION UPON LOCATION.**

- (a) No license shall be granted to sell at retail alcoholic liquor on premises which are located in areas not zoned for such purpose, or if the premises does not comply with other city laws, including building and health codes.
- (b) No license shall be granted to sell at retail alcoholic liquor at any place of business or location within 200 feet of any public or parochial school or church; provided, that if any such facility shall be established within 200 feet after such premises have been licensed, then such premises shall be an eligible location for licensing. For schools, the distance shall be measured from the nearest property line of the school to the nearest portion of the building occupied by the business selling or serving the beverages. For churches, the distance shall be measured from the church building to the portion of the building occupied by the business selling or serving the beverage.
- (c) The prohibition set out in subsection (b) of this section shall further not apply to any business that obtains an enhanced cereal malt beverage, club, drinking establishment, caterer, temporary permit, farm winery, or microbrewery license issued by the city when the licensee has petitioned for and received a waiver of the distance

limitation from the governing body. The governing body shall grant such waiver only following notice to property owners within such 200-foot distance (in such manner as the city may require) and a public hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.  
(Ord. 2013, Sec. 1; Ord. 2397, 2019)

3-312.           **SALE AT RETAIL; FORBIDDEN ON CERTAIN PREMISES.** No alcoholic liquor shall be sold at retail upon any premises which have an inside entrance or opening which connects with any other place of business.  
(Code 1973, 5.08.110)

3-313.           **PENALTY FOR VIOLATION.** Any person violating the provisions of this article shall upon conviction thereof be punished by a fine of not more than \$500 or by imprisonment for not more than 90 days, or by both such fine and imprisonment.  
(Code 1973, 5.08.120)



**ARTICLE 4. DRINKING ESTABLISHMENTS AND CLUBS**

3-401. **LICENSE.** The Governing Body shall issue a biannual license to each applicant for licensure which qualifies under this article. Such license shall be issued in the name of the corporation, limited liability company, partnership, trustees, association officers or individual applying. (Code 1973, 5.10.020; Ord. 2397, 2019)

3-402. **FEES AND APPLICATIONS.** At the time the application is made to the governing body for a license pursuant to this article, the applicant shall pay the annual license fee adopted by the governing body of the city and on file with the city clerk. (Code 1973, 5.10.030)

3-403. **LICENSED PREMISES.** Any club or drinking establishment license issued pursuant to this article shall be for one particular premises which shall be stated in the application and in the license. No license shall be issued for a club or drinking establishment unless the city zoning code allows such club or drinking establishment at that location. (Code 1973, 5.10.040)

3-404. **REVOCAION OR SUSPENSION OF LICENSE.** The governing body may revoke or suspend any license pursuant to this article for any one or more of the following reasons:

(a) The licensee has fraudulently obtained the license by giving false information in the application therefor or any hearing thereon.

(b) The licensee has violated any of the provisions of this act or any rules or regulations adopted hereunder.

(c) The licensee has become ineligible to obtain a license under this article.

(d) The licensee's manager or employee has been intoxicated while on duty.

(e) The licensee, or its manager or employee, has permitted any disorderly person to remain on premises where alcoholic liquor is sold by such licensee.

(f) There has been a violation of provisions of laws of this city, this state, or of the United States, pertaining to the sale of intoxicating or alcoholic liquors or cereal malt beverages, or any crime involving a morals charge, on premises where alcoholic liquor is sold by such licensee.

(g) The licensee, or its managing officers or any employee has purchased and displayed, on premises where alcoholic liquor is sold by such license, a federal wagering occupational stamp issued by the United States Treasury Department

(h) The licensee holds a license as a Class B club, drinking establishment or caterer and has been found guilty of a violation of Article 10 of Chapter 44 of the Kansas Statutes Annotated under a decision or order of the Kansas Human Rights Commission which has become final, or such licensee has been deemed in violation of Section 5-801 et seq. of the Prairie Village City Code, under a decision or order that has become final.

Within twenty (20) days after the order of the governing body revoking any license, the licensee may appeal to the district court of Johnson County in the manner as now provided by law; provided, that any appeal taken from an order revoking any such license shall not suspend the order of revocation during the pendency of any such appeal. (Code 1973, 5.10.060; Ord. 2397, 2019)

3-405. **DISPLAY OF LICENSE.** Every holder of a license for a club or drinking establishment shall cause such license to be framed and hung. No person shall maintain or operate any club or drinking establishment in this city without having in such person's possession for the location of the establishment, a valid, unexpired and unrevoked license issued by the director for such club or establishment and such a license issued by the governing body of the city.  
(Code 1973, 5.10.070; Ord. 2397, 2019)

3-406. **BUSINESS REGULATIONS**

(a) No club or drinking establishment licensee under this article shall allow the serving, mixing or consumption of alcoholic liquor or cereal malt beverages on its premises between the hours of 2:00 a.m. and 6:00 a.m. on any day.

(b) Enhanced cereal malt beverages may be sold on premises licensed for the retail sale of enhanced cereal malt beverages for on-premises consumption at any time when alcoholic liquor is allowed by law to be served on the premises.

(c) No club membership shall be sold to any person under 21 years of age, nor shall alcoholic beverages or enhanced cereal malt beverages be given, sold or traded to any person under 21 years of age.

(Code 1973, 5.10.090; Ord. 2013, Sec. 1; Ord. 2397, 2019)

3-407. **RESTRICTION UPON LOCATION.**

(a) No club or drinking establishment shall be in areas not zoned for such purpose, or if the premises does not comply with other city laws, including building and health codes.

(b) No club or drinking establishment shall be located within 200 feet of any public or parochial school or church; provided, that if any such facility shall be established within 200 feet after such premises have been licensed, then such premises shall be an eligible location for licensing. For schools, the distance shall be measured from the nearest property line of the school to the nearest portion of the building occupied by the business selling or serving the beverages. For churches, the distance shall be measured from the church building to the portion of the building occupied by the business selling or serving the beverage.

(c) The prohibition set out in subsection (b) of this section shall further not apply to any business that obtains an enhanced cereal malt beverage, club, drinking establishment, caterer, temporary permit, farm winery, or microbrewery license issued by the city when the licensee has petitioned for and received a waiver of the distance limitation from the governing body. The governing body shall grant such waiver only following notice to property owners within such 200-foot distance (in such manner as the city may require) and a public hearing and a finding by the governing body that the proximity of the establishment is not adverse to the public welfare or safety.

(Code 1973, 5.10.100; Ord. 2397, 2019)

3-408. **PENALTY FOR VIOLATION.** Violation of any provision of this article and amendments thereto, is punishable by a fine not to exceed \$500 or imprisonment not to exceed six (6) months, or both. (Ord. 2397, 2019)

**ARTICLE 5. CATERERS**

- 3-501. **LICENSE REQUIRED.** No person shall act as a caterer in this city without having paid the fees prescribed by the governing body and on file with the city clerk and having in such person's possession a valid, unexpired and unrevoked caterer's license issued by the director of the state and such a license issued by the governing body of the city. (Code 1973, 5.10.080)
- 3-502. **LICENSE FEE.**
- (a) There is hereby levied an annual license fee on each caterer doing business in the city who has a caterer's license issued by the state director of alcoholic beverage control, which fee shall be paid before business is begun under an original state license and within five (5) days after any renewal of a state license. The fee is prescribed by the governing body and on file with the city clerk.
  - (b) All applications for new or renewal city licenses shall be submitted to the city clerk. Upon presentation of a state license, payment of the city license fee and the license application, the city clerk shall issue a city license for the period covered by the state license, if there are no conflicts with any zoning or alcoholic beverage ordinances of the city.
  - (c) The license period shall extend for the period covered by the state license. No license fee shall be refunded for any reason.
  - (d) Every licensee shall cause the caterer license to be placed in plain view on any premises within the city where the caterer is serving or mixing alcoholic liquor for consumption on the premises. (Code 2003; Ord. 2397, 2019)
- 3-503. **BUSINESS REGULATIONS.**
- (a) No caterer licensed hereunder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. on any day.
  - (b) No alcoholic beverages or cereal malt beverages shall be given, sold or traded to any person under 21 years of age. (K.S.A. Supp. 41-2614; Code 2003)
- 3-504. **NOTICE TO CHIEF OF POLICE.** Prior to any event at which a caterer will sell or serve alcoholic liquor by the individual drink, the caterer shall provide written notice to the chief of police at least ten (10) days prior to the event if the event will take place within the city. The notice shall contain the location, name of the group sponsoring the event, and the exact date and times the caterer will be serving. (Code 2003; Ord. 2397, 2019)

**ARTICLE 6. TEMPORARY PERMITS**

3-601. **PERMIT REQUIRED.** It shall be unlawful for any person granted a temporary permit by the State of Kansas to sell or serve any alcoholic liquor within the city without first obtaining a local temporary permit from the city clerk. (Code 2003)

3-602. **PERMIT FEE.**  
(a) There is hereby levied a daily temporary permit fee, in such amount as may be adopted by the governing body and on record in the office of the city clerk from time to time, on each group or individual holding a temporary permit issued by the state director of alcoholic beverage control authorizing sales within the city, which fee shall be paid before the event is begun under the state permit.  
(b) Every temporary permit holder shall cause the temporary permit receipt to be placed in plain view on any premises within the city where the holder of the temporary permit is serving or mixing alcoholic liquor for consumption on the premises.  
(Code 2003; Ord. 2397, 2019)

3-603. **CITY TEMPORARY PERMIT.**  
(a) It shall be unlawful for any person to conduct an event under a state issued temporary permit without first applying for a local temporary permit at least 10 days before the event. Written application for the local temporary permit shall be made to the city clerk and shall clearly state:  
(1) the name of the applicant;  
(2) the group for which the event is planned;  
(3) the location of the event;  
(4) the date and time of the event;  
(5) any anticipated need for police, fire or other municipal services.  
(b) Upon presentation of a state temporary permit, payment of the city's temporary permit fee and a written application as provided for in subsection (a), the city clerk shall issue a local temporary permit to the applicant if there are no conflicts with any zoning or other ordinances of the city.  
(c) The city clerk shall notify the chief of police whenever a temporary permit has been issued and forward a copy of the permit and application to the chief of police.  
(Code 2003)

3-604. **PERMIT REGULATIONS.**  
(a) No temporary permit holder shall allow the serving, mixing or consumption of alcoholic liquor between the hours of 2:00 a.m. and 6:00 a.m. at any event for which a temporary permit has been issued.  
(b) No alcoholic beverages shall be given, sold or traded to any person under 21 years of age. (Code 2003)

## CHAPTER IV. BUILDINGS AND CONSTRUCTION

- Article 1. International Building Code (IBC)
- Article 2. International Residential Code (IRC)
- Article 3. International Plumbing Code (IPC)
- Article 4. International Mechanical Code (IMC)
- Article 5. International Fuel Gas Code (IFGC)
- Article 6. International Energy Conservation Code (IECC)
- Article 7. NFPA70: National Electrical Code (NEC)
- Article 8. Association Notification of Construction Activity

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### ARTICLE 1. INTERNATIONAL BUILDING CODE (IBC)

4-101. INTERNATIONAL BUILDING CODE INCORPORATED. In addition to the other provisions set forth in this chapter there is hereby adopted and incorporated by reference that certain building code known as the "International Building Code," 2012 edition, copyrighted in 2011 by the International Code Council, (hereinafter referred to as the "IBC" or "Building Code") except for the amendments provided in this Article. Not less than one copy of the building code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 2278." A copy of this ordinance shall be attached to each International Building Code copy and shall be filed with City Hall to be open for inspection and available to the public at all reasonable business hours. The Municipal Court, and all administrative departments of the City charged with the enforcement of this code shall be supplied, at the cost of the city, with such numbers of official copies similarly marked as deemed expedient.

The following Sections of this article are in addition to or amendments of the provisions of the standard code incorporated by reference in Section 4-101. (Code 2003; Ord. 2278, Sec. 1, 2013)

4-102. AMENDMENTS TO SECTION 101.1 – TITLE. Section 101.0 of the 2012 IBC is hereby amended to read as follows:

These regulations shall be known as the Building Code of the City of Prairie Village, Kansas, hereinafter referred to as the "IBC" or "this code". (Ord. 2051, Sec. 1, 2003; Ord. 2139, Sec. 1, 2007; Ord. 2278, Sec. 1, 2013)

4-103. AMENDMENTS TO SECTION 101.4 – REFERENCED CODES. Section 101.4 – of the 2012 IBC is hereby amended to read as follows:

The other codes listed in Sections 101.4.1 through 101.4.7 and referenced elsewhere in this code shall be considered part of the requirements of this code to the prescribed extent of each such reference.

101.4.1 Gas. The provisions of the International Fuel Gas Code (PVMC Chapter 4, Article 5) shall apply to the installation of gas piping from the point of delivery, gas appliances and related accessories as covered in this code. These requirements shall apply to the gas piping systems extending from the point of delivery to the inlet

connections of appliances and the installation and operation of residential and commercial gas appliances and related accessories.

101.4.2 Mechanical. The provisions of the International Mechanical Code (PVMC Chapter 4, Article 5) shall apply to the installation, alterations, repairs and replacement of mechanical systems, including equipment, appliances, fixtures, fittings and/or appurtenances, including ventilation, heating, cooling, air conditioning and refrigeration systems, incinerators and other energy related systems.

101.4.3 Plumbing. The provisions of the International Plumbing Code (PVMC Chapter 4, Article 3) shall apply to the installation, alteration, repair and replacement of plumbing systems, including equipment, appliances, and where connected to a water or sewage system and all aspects of a medical gas system.

101.4.4 Property maintenance. The provisions of the International Property Maintenance Code, (PVMC Chapter 8, Article 2), shall apply to existing structures and premises; equipment and facilities; light, ventilation, space heating, sanitation, life and fire safety hazards; responsibilities of owners, operators and occupants; and occupancy of existing premises and structures.

101.4.5 Fire prevention. The provisions of the International Fire Code, (PVMC Chapter 7 Article 2), shall apply to matters affecting or relating to structures, processes and premises from the hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices; from conditions hazardous to life, property or public welfare in the occupancy of structures or premises; and from the construction, extension, repair, alteration or removal of fire suppression, automatic sprinkler systems and alarm systems or fire hazards in the structure or on the premises from occupancy or operation.

101.4.6 Energy. The provisions of the International Energy Conservation Code (PVMC Chapter 4, Article 6) shall apply to all matters governing the design and construction of buildings for energy efficiency.

101.4.7 Electrical. The provisions of the NFPA 70 National Electrical Code (PVMC Chapter 4, Article 7) shall apply to the installation of electrical systems, including alterations, repairs, replacement, equipment, appliances, fixtures, fittings and appurtenances thereto.  
(Code 2003; Ord. 2278, Sec. 1, 2013)

4-104. SECTION 103.2 DELETED. Section 103.2 of the 2012 IBC is hereby deleted.  
(Ord. 2051, Sec. 2, 2003; Ord. 2139, Sec. 1, 2007; Ord. 2278, Sec. 1, 2013)

4-105. AMENDMENTS TO SECTION 104.1 – DUTIES AND POWERS OF THE BUILDING OFFICIAL. Section 104.1 of the 2012 IBC is hereby amended to read as follows:

The Building Official is hereby authorized and directed to enforce the provisions of this code. The Building Official shall have the authority to render interpretations of this code and to adopt policies and procedures in order to clarify the application of its provisions. Such interpretations, policies, and procedures shall be in compliance

with the intent and purpose of this code. Such policies and procedures shall not have the effect of waiving requirements specifically provided for in this code. (Ord. 2051, Sec. 3, 2003; Ord. 2139, Sec. 1, 2007; Ord. 2184, Sec. 2, 2008; Ord. 2278, Sec. 1, 2013)

- 4-106. AMENDMENTS SECTION 105.1- PERMIT REQUIRED. Section 105.1 of the 2012 IBC is hereby amended to read as follows:  
Any owner or authorized agent who intends to construct, enlarge, alter, repair, move, demolish or change the occupancy of a building or structure, or to erect, install, enlarge, alter, repair, remove, convert or replace any electrical, gas, mechanical, plumbing, fire alarm, fire detection, automatic fire extinguishing, or where flammable and combustible liquids are produced, processed, transported, stored, dispensed or used, the installation of which is regulated by this Code, or to cause any such work to be done, shall first make application to the Building Official and obtain the required permit.  
(Ord. 2087, Sec. 1, 2004; Ord. 2139, Sec. 1, 2007; Ord. 2278, Sec. 1, 2013)
- 4-107. SECTION 105.1.1 – DELETED. Section 105.1.1 of the 2012 IBC is hereby deleted.  
(Ord. 2051, Sec. 4, 2003; Ord. 2139, Sec 1, 2007; Ord. 2278, Sec. 1, 2013)
- 4-108. SECTION 105.1.2 – DELETED. Section 105.1.2 of the 2012 IBC is hereby deleted.  
(Ord. 2051, Sec. 5, 2003; Ord. 2139, Sec. 1, 2007; Ord. 2278, Sec. 1, 2013)
- 4-109. AMENDMENTS TO SECTION 105.1.3 – COUNTY AND CITY LICENSE REQUIRED. Section 105.1.3 of the 2012 IBC is hereby added as follows:  
All persons undertaking work which requires a permit as provided in Section 105, or seeking to obtain that permit from the City are required to have a currently valid contractor's license from Johnson County Contractor's Licensing Program and a currently valid contractor's license from the City.  
Exception: The owner of a single family dwelling shall be allowed to secure a permit to construct, alter, or repair said home provided the following conditions are met:  
1. The homeowner currently occupies the dwelling or will occupy the residence once the construction has been completed.  
2. The homeowner undertakes the work themselves, without compensation and no person shall be employed to assist the homeowner in any way on such work except a builder or building contractor licensed by the City.  
The Building Official may waive the provisions of this Section where it can be established that no license exists for the installation, alteration, or repair of a certain type of work requiring a permit, or due to other unique circumstances.  
(Ord. 2051, Sec. 6, 2003; Ord. 2139, Sec. 1, 2007; Ord. 2278, Sec. 1, 2013)
- 4-110. AMENDMENTS TO SECTION 105.2 – WORK EXEMPT FROM PERMIT. Section 105.2 of the 2012 IBC is hereby amended to read as follows:  
Exemptions from permit requirements of this code shall not be deemed to grant authorization for any work to be done in any manner in violation of the provisions of this code or any other laws or ordinances of this jurisdiction. Permits shall not be required for the following:

Building:

1. Sidewalks and driveways not more than 30 inches above adjacent grade and not over any basement or story below and are not part of an accessible route. Note: Right-of-way permits are required for sidewalk or driveway installation or replacement in the public right-of-way. All right-of-way permits are to be obtained from the Department of Public Works.
2. Re-siding the dwelling or structure with materials other than stucco or EIFS.
3. Minor maintenance or repair work consisting of painting, papering, tiling, carpeting, cabinets, counter tops and similar work.
4. Temporary motion picture, television and theater stage sets and scenery.
5. Prefabricated swimming pools accessory to Group R-3 occupancy, as applicable in Subsection 101.2, which are less than 24 inches deep, do not exceed 5,000 gallons and are installed entirely above ground. Note: Said swimming pools must be located in the rear yard.
6. Swings and other playground equipment accessory to one- and two-family dwellings.
7. Window awnings in Group R-3 and U occupancies, supported by an exterior wall that do not project more than 54 inches from the exterior wall and do not require additional support.
8. Non fixed and movable fixtures, cases, racks, counters and partitions not over 5 feet 9 inches in height.

Electrical:

1. Listed cord and plug connected temporary decorative lighting.
2. Minor repair work or replacement of lamps, or branch circuit over current devices of the required capacity in the same location.
3. Repair or replacement of electrical wiring, devices, appliances apparatus or equipment operating at less than 25 volts and not capable of supplying more than 50 watts of energy, and not part of a fire alarm system.
4. Reinstallation of attachment plug receptacles, but not the outlet therefore.
5. Portable motors or other portable appliances energized by means of a cord having an attachment plug end to be connected to an approved receptacle, when that cord is permitted by this code.
6. Repair or replacement of fixed motors, transformers or fixed approved appliances of the same type and rating in the same location.
7. A permit shall not be required for the installation of any temporary system required for the testing or servicing of electrical equipment or apparatus.

Gas:

1. Portable heating appliances.
2. Replacement of any minor part that does not alter approval of equipment or make such equipment unsafe.

Mechanical:

1. Portable heating appliance.
2. Portable ventilation equipment.
3. Portable cooling unit.
4. Steam, hot or chilled water piping within any heating or cooling equipment regulated by this code.
5. Replacement of any part which does not alter its approval or make it unsafe.
6. Portable evaporative cooler.



7. Self-contained refrigeration system containing 10 pounds or less of refrigerant and actuated by motors of 1 horsepower or less.

Plumbing:

1. The stopping of leaks in drains, water, soil, waste or vent pipe; provided, however, that if any concealed trap, drain pipe, water, soil, waste or vent pipe becomes defective and it becomes necessary to remove and replace the same with new material, such work shall be considered as new work and a permit shall be obtained and inspection made as provided in this code.
2. The clearing of stoppages or the repairing of leaks in pipes, valves or fixtures and the removal and reinstallation of water closets, sinks, and lavatories in the same location.

105.2.1 EMERGENCY REPAIRS. Where equipment replacement and repairs must be performed in an emergency situation, the permit application shall be submitted within the next working business day to the Building Official.

105.2.2 REPAIRS. Application or notice to the Building Official is not required for ordinary repairs to structures, replacement of lamps or the connection of approved portable electrical equipment to approved permanently installed receptacles. Such repairs shall not include the cutting away of any wall, partition or portion thereof, the removal or cutting of any structural beam or load-bearing support, or the removal or change of any required means of egress, or rearrangement of parts of a structure affecting the egress requirements; nor shall ordinary repairs include addition to, alteration of, replacement or relocation of any standpipe, water supply, sewer, drainage, drain leader, gas, soil waste, vent or similar piping, electric wiring or mechanical or other work affecting public health or general safety.

Section 105.2.3 of the 2012 IBC is hereby added to read as follows:

105.2.3 PUBLIC SERVICE AGENCIES. A permit shall not be required for the installation, alteration or repair of generation, transmission, distribution or metering or other related equipment that is under the ownership and control of public service agencies by established right.

(Ord. 2051, Sec. 7, 2003; Ord. 2139, Sec. 1, 2007; Ord. 2278, Sec. 1, 2013)

- 4-111. AMENDMENTS TO SECTION 105.3 – APPLICATION FOR PERMIT. Section 105.3 of the 2012 IBC is hereby amended to read as follows:

To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished by the Department of Building Safety for that purpose. Such application shall:

1. Identify and describe the work to be covered by the permit for which application is made.
2. Describe the land on which the proposed work is to be done by legal description, street address or similar description that will readily identify and definitely locate the proposed building or work.
3. Indicate the use and occupancy for which the proposed work is intended.
4. Be accompanied by construction documents and other information as required in Section 107.
5. State the valuation of the proposed work.
6. Be signed by the applicant, or the applicant's authorized agent.
7. Give such other data and information as required by the Building Official.

It shall be unlawful for any person to erect or cause to be erected within the City any building or structure of any kind or enlarge or add to the outside dimension thereof, or relocate any building or structure within the City without a building permit being first obtained upon approval by the Building Official or his or her duly authorized assistant. The application for such permit shall be made and the permit obtained before work is commenced upon any building or structure or the foundation thereof, or before the removal of any building begins.

**PERFORMANCE BOND.** The Building Official may require from the contractor a good and sufficient surety performance bond in the amount of \$5,000 at the time of issuance of the building permit for significant construction projects. The performance bond shall be issued by a surety company licensed and qualified to operate in the State of Kansas and approved by the City with a duly appointed agent.

Significant construction projects are defined as construction projects which will exceed \$100,000. Also the Building Official and the Public Works Director will determine whether a bond will be required and the amount not to exceed \$5,000 for those situations involving individual homeowners filing permit applications for minor buildings, structures, or additions. The performance bond will be approved by the Building Official predicated and guaranteed upon the fact that the permit applicant shall be and is, in fact, a guarantor that the streets and sidewalks in the area that they are working in shall remain free and clear of dirt, mud, gravel and other debris. When the area does not remain free and clear of dirt, mud, gravel and other debris, the Building Official shall provide notice of same to the permittee. Upon receipt of such notification, the permittee shall be allowed a period of two hours in which to remedy any and all defects caused by the acts of the contractor. If action has not been taken within the two hour period, or if such action fails to adequately remedy all defects within the affected area, then the Building Official or his/her authorized representative may direct the City to perform such duties and assess all cleanup charges against the performance bond. The cleanup charge will be based upon the cost to the City for actual cleanup, as determined by the Building Official and the Director of Public Works.

**105.3.1 ACTION ON APPLICATION.** The Building Official shall examine or cause to be examined applications for permits and amendments thereto within a reasonable time after filing. If the application or construction documents do not conform to the requirements of pertinent laws, the Building Official shall reject such application in writing, stating the reasons therefore. If the Building Official is satisfied that the proposed work conforms to the requirements of this code and laws and ordinances applicable thereto, the Building Official shall issue a permit therefore as soon as practicable.

**105.3.2 TIME LIMITATION OF APPLICATION.** An application for a permit for any proposed work shall be deemed to have been abandoned 180 days after the date of filing, unless such application has been pursued in good faith or a permit has been issued; except that the Building Official is authorized to grant one or more extensions of time for additional periods not exceeding 90 days each. The extensions shall be requested in writing and justifiable cause demonstrated.

**105.3.3 APPLICATION FOR PERMIT TO MOVE A BUILDING OR OTHER STRUCTURE.** Application for a permit to move a building or other structure shall

include the information as required in Sections 105.3.3.1 or 105.3.3.2. The application shall be made not less than 14 calendar days prior to the commencement of the move and be accompanied by a fee of \$500. Buildings or structures shall not be lifted off their foundation until a permit to move the building or structure has been obtained. No person, firm or corporation shall move, haul, or transport any building or structure of the height when loaded for movement of 16 feet or more from the surface of the highway, road, street or alley, or a width of eight feet or more in this city without first obtaining a permit therefore.

**105.3.3.1 MOVING BUILDINGS OR STRUCTURES WITHIN OR INTO THE CITY LIMITS.** A permit for a foundation, or new single family dwelling or a remodel permit shall be secured prior to the issuance of a permit to move a building or structure. The foundations shall be constructed prior to the building or structure being moved. All applications for permits to move buildings or structures within the City limits of Prairie Village or into the City shall include the following information:

1. The dimensions of the building or structure as to length, width, and height at its highest point when loaded for moving.
2. A letter verifying that all utilities have been disconnected, i.e. gas, electric, water, and sewer. A verbal or electronic communication from the utility company is acceptable in lieu of a letter.
3. A letter or electronic communication from any utility company having overhead lines along the proposed route indicating that they have approved the route.
4. Letters from the Police Department and the Public Works Department approving the date, time and route of the move.
5. A letter indicating the day and hour when the move is to start; the length of time required for the move; and the number of escort vehicles. In no event will a move be allowed on a Saturday or Sunday or a holiday unless specifically allowed by the Public Works Director and the Police Chief.
6. A map showing the route of the move.
7. A copy of the state highway move permit, if applicable.
8. Copies of written notices to the owners of adjacent lots along the route who may be affected by utility disconnects. The letter will provide the date and time of the move.
9. Written permission from the private property owner(s) to trim any trees on private property necessary to provide clearance for the move along the approved route.
10. Written permission from the City of Prairie Village Public Works Department to trim trees in the public right-of-way necessary to provide clearance for the move along the approved route.
11. Sewer permit from Johnson County Wastewater.
12. Water meter permit from WaterOne.
13. Verification from the Codes Administration Department that the building or structure to be moved is compatible with adjacent buildings or structures in the area where the building or structure is to be moved.
14. Verification from the Codes Administration Department that the building or structure meets current adopted codes and standards.
15. A plot plan, sealed by a Kansas design professional, showing the property or lot where the building or structure is to be moved. A legal description of the property shall be included.

105.3.3.2 BUILDINGS OR STRUCTURES BEING MOVED OUT OF THE CITY OR PASSING THROUGH THE CITY. All permit applications for moving buildings or structures out of or through the City shall include the following:

1. The dimensions of the building or structure as to length, width, and height at its highest point when loaded for moving.
2. A letter verifying that all utilities have been disconnected, i.e. gas, electric, water and sewer. A verbal or electronic communication from the utility company is acceptable in lieu of a letter.
3. A letter or electronic communication from any utility company having overhead lines along the proposed route indicating that they have approved the route.
4. A letter indicating the day and hour when the move is to start; the length of time required for the move; and the number of escort vehicles. In no event will a move be allowed on a Saturday or Sunday or a holiday unless specifically allowed by the Public Works Director and the Police Chief.
5. A map showing the route of the move.
6. A copy of the state highway move permit, if applicable.
7. Letters from the Police Department and the Public Works Department approving the route of the move and the date and time of the move.
8. Copies of written notices to the owners of adjacent lots along the route who may be affected by utility disconnects. The letter will provide the date and time of the move.
9. Written permission from the private property owner(s) to trim any trees on private property necessary to provide clearance for the move along the approved route.
10. Written permission from the City of Prairie Village Public Works Department to trim trees in the public right-of-way to provide clearance for the move along the approved route.
11. A plot plan, sealed by a Kansas design professional, showing the property or lot where the building is to be removed. A legal description of the property is to be included.

105.3.3.3 BOND AND INSURANCE REQUIRED. It shall be the duty of any person at the time of making application for permit as provided in Section 105.3 to execute in favor of this City a good and sufficient bond to the City in the sum of \$10,000 with good and sufficient security, conditioned, among other things, that the principal shall pay any and all damages which may be caused to any property, public or private, within the City when such injury or damages shall be inflicted by the principal or his or her agent, servant, employee, workman, contractor, subcontractor, and such bonds shall be conditioned so that the principal will serve, indemnify, protect and save harmless the City from any and all liability, and that he or she will, in all respects, comply with all ordinances of the City and comply with the terms of his or her permit and be conditional upon his or her faithful performance of the move. The form of such bond must be approved by the City Attorney.

The applicant shall file with the City a certificate of insurance, demonstrating evidence of satisfactory Commercial General Liability and Automobile Liability insurance. No permit shall be issued until such evidence is filed.

Policies of insurance must contain the following limits of protection and conditions:

1. Commercial General Liability insurance on an occurrence basis in amounts no less than \$500,000 bodily injury and property damage per occurrence.
2. Automobile Liability insurance in an amount no less than \$250,000 bodily injury each person/\$500,000 bodily injury each occurrence/\$250,000 property damage each occurrence; or \$500,000 bodily injury and property damage combined single limit.

The City will only accept coverage from an insurance carrier meeting these criteria:

1. Is licensed to do business in the State of Kansas; and
2. Carries a Best's policyholder and financial rating of A;
3. Carries at least a Class X financial rating;
4. Or is a company mutually agreed upon by the City and the applicant.
5. The City shall be notified in writing not less than 30 days prior to cancellation or material modification of any policy provisions.

105.3.3.4 CONDITIONS OF THE PERMIT. In addition to other provisions of this code, the permit holder shall be responsible for compliance of the following:

1. Move a building or structure only over streets approved by the Department of Public Works and the Chief of Police and designated for such use in the written application.
2. Notify the Building Official within 48 hours of move in writing of a desired change in moving date and route of move as proposed in the application. Change of route must be approved by the Building Official, the Director of Public Works and the Chief of Police prior to initiating the move.
3. Notify the Building Official in writing of any and all damages to public and private property within 24 hours after damage has occurred.
4. It shall be the duty of any persons moving any building or structure to display red lanterns or other warning devices used in compliance with City traffic ordinances or state statutes thereon in such a manner as to show the extreme height and width thereof from 30 minutes after sunset to 30 minutes before sunrise, and shall have sufficient escort as provided by City ordinance, state statutes, or as determined as necessary for public safety by the Chief of Police.
5. No building or structure or any part of a building or structure being moved shall be left in the street or in the dedicated right-of-way line between the curb and the front property line of any lot.
6. Any open foundation or excavation shall be protected by a four foot high fence minimum. Erosion and sediment control measures shall be put in place as needed and shall remain in place until vegetation has been established.
7. Within 30 days of the move, all debris and miscellaneous building materials shall be removed from the site. The existing foundations shall be demolished and removed, and all excavations shall be filled to grade.

(Code 2003; Ord. 2139, Sec. 1, 2007; Ord. 2278, Sec. 1, 2013)

4-112. AMENDMENTS TO SECTION 105.4 – VALIDITY PERMIT. Section 105.4 of the 2012 IBC is hereby amended to read as follows:

The issuance or granting of a permit shall not be construed to be permit for, or an approval of, any violation of any of the provisions of this code or any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not

prevent the Building Official from requiring the correction of errors in the construction documents and other data. The Building Official is also authorized to prevent occupancy or use of a structure wherein violation of this code or any other ordinances of this jurisdiction.

(Code 2003; Ord. 2139, Sec. 1, 2007; Ord. 2278, Sec. 1, 2013)

- 4-113. AMENDMENTS TO SECTION 105.4 – EXPIRATION. Section 105.5 of the 2012 IBC is hereby amended to read as follows:

Every permit issued shall become invalid unless the work on the site authorized by such permit is commenced within 180 days after its issuance, or if the work authorized by such permit is suspended or abandoned for a period of 90 days after the work has commenced. All work shall be documented by an inspection as described in section 110 of this code. Failure to request an inspection of newly completed work for any period of 90 days or more shall constitute suspension or abandonment of work, at which time said permits shall become invalid. It shall be unlawful for any person, firm, or corporation to allow a permit to become invalid. The Building Official is authorized to grant, in writing, one or more extensions of time, for periods of not more than 180 days each.

The extension shall be requested in writing and justifiable cause demonstrated. The Building Official may place reasonable conditions as necessary on the issuance of extensions.

(Code 2003; Ord. 2278, Sec. 1, 2013)

- 4-114. AMENDMENTS TO SECTION 107 – SUBMITTAL DOCUMENTS. Section 107 of the 2012 IBC is hereby amended to read as follows:

107.1 GENERAL. Submittal documents consisting of construction documents, statement of special inspections, geotechnical report and other data shall be submitted in two or more sets with each permit application. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a registered design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data not required to be prepared by a registered design professional if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

107.1.1 ONE AND TWO FAMILY DWELLINGS. Construction documents for residential structures designed in accordance with the International Residential Code shall be prepared by a registered design professional, duly registered in the State of Kansas. The drawings shall bear the professional seal of the design professional.

Exception: The Building Official is authorized to waive the submission of construction documents and other data if it is found that the nature of the work applied for is such that review of construction documents is not necessary to obtain compliance with this code.

(Code 2003; Ord. 2278, Sec. 1, 2013)

4-115. AMENDMENTS TO SECTION 109 – FEES. Section 109 of the 2012 IBC is hereby amended as follows:

109.1 PAYMENT OF FEES. A permit shall not be valid until the fees prescribed by law have been paid, nor shall an amendment or revision to a permit be released until the additional fee, if any, has been paid.

109.2 SCHEDULE OF PERMIT FEES. A fee for each permit shall be paid as required, in accordance with the schedule as established by resolution of the Governing Body.

109.3 BUILDING PERMIT VALUATIONS. The applicant for a permit shall provide an estimated permit value at time of application. Permit valuations shall include total value of work, including materials and labor, for which the permit is being issued. If, in the opinion of the Building Official, the valuation is underestimated on the application, the permit shall be denied, unless the applicant can show detailed estimates to meet the approval of the Building Official.

109.4 WORK COMMENCING BEFORE PERMIT ISSUANCE. Any person who commences any work before obtaining the necessary permits shall be subject to a fee established by the Building Official that shall be in addition to the required permit fees. Said fee is hereby established at “double” the required permit fee.

109.5 RELATED FEES. The payment of the fee for construction, alteration, removal or demolition for work done in connection to or concurrently with the work authorized by a building permit shall not relieve the applicant or holder of the permit from payment of other fees that are prescribed by law. These related fees may include, but are not limited to the following: Board of Zoning Appeals, Planning Commission, Right-of-Way permits, Drainage permits.

109.6 REFUNDS. The Building Official may authorize the refund of any fee which was erroneously paid or collected subject to the following conditions:

1. The Building Official may authorize a refund of not more than 80% of the permit fee paid when no work has commenced for a permit issued in accordance with this code.
2. No permit fee may be refunded if work has commenced on a project.  
(Code 2003; Ord. 2278, Sec. 1, 2013)

4-116. AMENDMENTS TO SECTION 114.4 – VIOLATION PENALTIES. Section 114.4 of the 2012 IBC is hereby amended as follows:

Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, or repairs a building or structure in violation of the approved construction documents or directive of the Building Official or of a permit or certificate issued under the provisions of this code, shall be subject to penalties as prescribed by law, or other references incorporated, is guilty of a public offense and may be subject to punishment as provided in PVMC Chapter 8, Article 2, Sec. 8-201.

(Code 2003; Ord. 2139, Sec. 1, 2007; Ord. 2278, Sec. 1, 2013)

4-117. AMENDMENTS TO SECTION 116 – NUISANCES AND UNSAFE STRUCTURES. Section 116 of the 2012 IBC is hereby amended to read as follows:

116.1 LEGISLATIVE FINDINGS.

- (a) The purpose of this section is to provide reasonable controls restricting and prohibiting the allowance of nuisances and unsafe structures to exist on property within the City; to declare that certain conditions constitute public nuisances or structures, which are unsightly, are a menace and dangerous to the health of the inhabitants of the City; or if any residential or commercial area and the residents thereof, are offensive to the general public health, safety and welfare of the community; to provide a method of enforcement of this section; to provide procedures to notify property owners or those in control of real property, notification and an opportunity to be heard concerning violations of this section; to provide administrative procedures to allow the City to direct the abatement of violations; to provide a method of assessment or collection of costs for abatement by the City; to declare that the existence of such violations are unlawful; and to provide penalties for enforcement through the municipal court system.
- (b) The Governing Body of the City hereby finds that the allowances of nuisances and unsafe or dangerous structures, as defined herein, on private property or adjacent rights-of-way or easements are public nuisances which are unsightly, a menace dangerous to the health of the inhabitants of the City, of the residential or commercial area and the residents thereof, and are offensive to the general public health, safety, and welfare of the community. Such nuisances or unsafe structures promote conditions which may cause disease; pollution; proliferation of rats, vermin, mosquitoes and snakes; the spread of fire; a harmful environment for transients and the community as a result of transient use; harmful attractions for children; creates long and short term impacts on the area including the diminution of property values and the integrity of the neighborhood; and interferes with the orderly development of property in the City.

116.2 DEFINITIONS.

- (a) City- The City of Prairie Village.
- (b) Graffiti - Any drawing, painting, writing, inscription, figure or mark, regardless of its content, of the type which is commonly known and referred to as graffiti, which is written, drawn, painted, sprayed, scratched or otherwise placed or affixed, regardless of the nature of the material used, on any wall, window, rock, building portion thereof, fence, gate, sign, other structure, tree or other real or personal property, either publicly or privately owned, and that is visible from any adjacent public or private property or public or private right-of-way.
- (c) Nuisance – Any condition which causes or creates an unreasonable interference with the rights of the general public and shall include but not be limited to; graffiti, rank vegetation, rank or infested compost heaps, dense smoke, excessive dust, ash or fine particles in the air, rank ponds or standing water including swimming pools, water receptacles and undrained areas, cesspools creating on or rising to the surface, rank odors, unkempt trash, refuse, brush and limbs, debris or building materials, rank



sewage or septic system, excessive accumulation of animal waste, exposed animal carcasses after death; sheds, garages or other outbuildings allowing infestation of rodents or insects or left unsecured to allow the entry of animals, humans or the natural elements such as rain, hail and snow, or otherwise left unkempt or unsightly, except for outdoor dog or pet houses maintained in a clean and reasonable manner; trees, shrubs, or plants which are dead, diseased or infested which present a harmful or dangerous condition to the public; exposed refrigerators or freezers or other appliances left unsecured; and any other condition which is determined to present a dangerous or harmful condition to the public.

- (d) Perennial violator – Any person who shows an annual pattern of failing to comply with this section which may be shown by repeated notices of abatement, notices of costs, or previous violations.
- (e) Person – Any individual; individual's partnership; corporation; unincorporated association; other business organization; committee; board; trustee; receiver; agent; or any representative who has charge, care or responsibility of maintenance of any property, lot or parcel of land regardless of status of owner, tenant or lessee and regardless of whether such person has possession.
- (f) Property owner – The named property owner as indicated by the register of deeds or Appraiser's office in Johnson County, Kansas.
- (g) Qualified expert – A person who is regularly employed to conduct structural inspections to comply with life, safety, mechanical, plumbing, health and building codes or a licensed professional in the field of engineering or architecture.
- (h) Representative – Any person or entity listed in the Johnson County, Kansas Appraiser's Office or Treasurer's Office for the purposes of paying taxes; a registered agent with the Kansas Secretary of State's Office for corporate or partnership ownership; an agent or manager directed by the property owner, estate, or court order to represent the interests of the property or to otherwise control activities on the real property; or a corporate officer.
- (i) Tenant – Any person who has a severable or non-severable interest in the real property either oral or written lease or covenant or by other methods of conveying a limited interest in such lands; or by any person who occupies or has possession of such real property.
- (j) Unsafe Structure – Any structure or part of a structure which remains or is damaged to present a dangerous or unsafe condition to the public including, but not limited to, structures damaged by fires, damaged by natural events or elements such as wind, tornadoes, earthquakes, flooding, or settling of the ground; damaged by insect infestation; damaged due to the failure to provide reasonable maintenance; structures occupied or unoccupied which have broken windows, missing boards or siding, unsecured doors, or unsecured openings which allow the harboring of animals, insects, transients, or create an attraction to children; structures which due to the opinion of qualified experts or inspectors, including but not limited to, fire, engineering, or architectural experts; present an unsafe or dangerous condition to those on or near the property; unfinished structures where no occupancy permit has been issued, and any building permit has lapsed for more than 90 days; structures which remain

unfinished, or without an occupancy permit, after 18 months from the date of the first building permit and where no inspection for newly completed work has been requested within the last 90 days.

#### 116.3 NUISANCES OR UNSAFE STRUCTURES UNLAWFUL; RESPONSIBILITY TO ABATE.

It shall be unlawful for any property owner, owner's agent or tenant of real property to allow or maintain a nuisance or unsafe structure on any lot or parcel of ground within the City, including any areas between the property lines of said property and the center line of any adjacent street or alley including sidewalks, streets, alleys, easements and rights-of-way. The property owner, owner's agent or tenant shall be responsible for the removal or abatement of any nuisance or unsafe structure.

#### 116.4 ENFORCEMENT AGAINST NUISANCES; DESIGNATION OF OFFICER; NOTICE TO APPEAR; NOTICE OF ABATEMENT; HEARING

- (a) The Building Official shall assist the Governing Body with the administration and enforcement of this section with regards to nuisances. The Building Official shall authorize the investigation of nuisances by his or her designated agents. If it is determined that a nuisance exists, then the Building Official, or his or her designated agents shall file a written report with the Governing Body describing the situation, its location, and the circumstances supporting the determination that the matter is a nuisance. If the Governing Body concurs with the report, it shall issue an Order of Abatement directing the property owner, owner's agent or tenant to remove and abate the nuisance within 10 days.
- (b) The Order of Abatement shall state:
  - (1) A common or legal description of the property, or both;
  - (2) That the property is in violation of this section;
  - (3) The nature of the nuisance, including relevant ordinances or statutes, with sufficient information to reasonably enable the recipient to determine the nature of the violation to allow for self-abatement;
  - (4) That the recipient should remove and abate the nuisance within 10 days of receipt of the order;
  - (5) That the recipient, upon written request, may obtain a hearing before the Governing Body or its designated representative, provided that such request is received by the City Clerk within the 10 day period.
  - (6) That failure to comply with the order shall result in the City's right to remove and abate the nuisance with assessment of the City's costs being made against the property and the recipient;
  - (7) That failure to pay such assessment within 30 days of the City's notice of costs of such removal and abatement shall result in the filing of a tax lien against the property, or the filing for a personal judgment against the recipient, or both;
  - (8) That such violations are subject to prosecution, and that such prosecution shall be independent of the order of any enforcement of the order.

- (c) The Order of Abatement shall be served on the property owner, owner's agent or tenant by certified mail, return receipt requested, or by personal service; provided any order served on a tenant shall also be served on the owner or owner's agent. If the property is unoccupied and the owner is a nonresident, then the order will be mailed by certified mail, return receipt requested, to the owner's last known address. If during the preceding 24 month period the owner, owner's agent or tenant has failed to accept delivery or to otherwise effectuate receipt of a notice or order sent pursuant to this section, in addition to the methods of service described above, the Governing Body may serve on such person any further order by other methods, including but not limited to, door hangers, conspicuously posting notice of such order on the property, personal notification, telephone communication or first class mail; provided, if the property is unoccupied and the owner is a nonresident, any alternative notice provided for in this paragraph shall be given by telephone communication or first class mail.
- (d) If a recipient of an Order of Abatement makes a written request for a hearing within the 10 day period, a hearing shall be immediately scheduled before the Governing Body or its designated representative. At such hearing, all relevant parties, interest holders and City officials shall be allowed to present evidence concerning the status of the property and the conditions creating the nuisance. Thereafter, the Governing Body or its designated representative may rescind, modify, or uphold the Order of Abatement. In making such a determination the Governing Body or its designated representative shall describe the relevant facts and specific statute or code provisions being relied upon and state any such other stipulations, methods of removal and abatement of orders as deemed necessary. If the Order of Abatement is either modified or upheld, the property owner, owner's agent or tenant shall be given a reasonable time to remove and abate the nuisance, not to exceed 10 days.
- (e) If an authorized public officer determines that a violation of this section exists, he or she may issue a notice to appear in municipal court for such violation. No other procedures are required as a prerequisite to the issuance of a notice to appear. The imposition of any removal and abatement action described herein shall not preclude any appropriate prosecution or penalties. Likewise, the imposition of any prosecution or penalties shall not preclude any appropriate action described herein to remove or abate a nuisance or to collect removal and abatement costs.

#### 116.5 ABATEMENT OF NUISANCE BY CITY; NOTICE OF COSTS; ASSESSMENT AND COLLECTION.

- (a) If the recipient of the notice of abatement fails to comply with the Order of Abatement or, if appropriate, with any order after a hearing on the matter, the City shall have the right to go onto the property to remove and abate the nuisance in a reasonable manner. It shall be unlawful for any person to interfere with or attempt to prevent the City or its agents from such action. The City and its agents shall not be responsible for damage to any real or personal property due to reasonable methods of gaining entrance onto the property or for damages to any real or personal property in the reasonable exercise of the removal and abatement of the nuisance. The

City may use its own employees or contract for services to remove and abate the nuisance.

- (b) If the City removes and abates the nuisance, the City shall give a Notice of Costs to the property owner, owner's agent or tenant by certified mail, return receipt requested, stating the costs of such removal and abatement incurred by the City; provided, any notice served on a tenant shall also be served on the owner or owner's agent.

The costs shall include the City's cost of providing the notice, including any postage. The recipient shall have 30 days from the date of receipt of such notice to make full payment. The Notice of Costs shall state:

- (1) The common or legal description of the property, or both;
  - (2) The nature of the nuisance, including relevant ordinances;
  - (3) The nature of the work performed to remove and abate the nuisance;
  - (4) The costs incurred for the abatement of the nuisance in either a lump sum or in an itemized form (including the cost of the notice);
  - (5) That payment is due and payable within 30 days of receipt of the notice;
  - (6) That payment should be made payable to the City of Prairie Village, Kansas, by check or money order with no post-dating of the check, and submitted to the City Clerk with a written indication of the purpose of the payment and the address of the property where the nuisance occurred;
  - (7) That failure to pay the entire amount within the 30 day period shall allow the City to file a lien against the property or to pursue litigation for recovery of the costs, or both; and
  - (8) That such additional remedies to recover costs shall include additional amounts, including interest, court costs, attorney fees and administrative costs.
- (c) If the costs are not paid within the 30 day period, the costs shall be collected in a manner provided by K.S.A. 12-1, 115 as amended, or shall be assessed as a special assessment against the property. The City Clerk at the time of certifying other City taxes, shall certify the unpaid portion of the costs, and the County Clerk shall extend the same on the tax roll of the county against the property, and it shall be collected by the County Treasurer and paid to the City as other City taxes are collected and paid. The City may pursue collection both by levying a special assessment, and in the manner provided by K.S.A. 12-1, 115 as amended, but only until the full costs, including applicable interest, court costs, attorney's fees, and administrative costs have been paid in full.

#### 116.6 ENFORCEMENT AGAINST UNSAFE STRUCTURES; DESIGNATION OF OFFICER; NOTICE TO APPEAR; HEARING; RESOLUTION.

- (a) The Building Official shall be charged with the administration and enforcement of this section as it concerns unsafe structures. The Building Official shall authorize the investigation of violations of this section by his or her designated agents. If it is determined that a violation of this section exists, then the Building Official or his or her designated agent shall file a written report with the Governing Body of the City describing the situation, its location, and the circumstances which

support the determination that the structure is unsafe. The Governing Body shall then fix a time and place at which the owner, representative, tenant, or lienholders of record may appear and show cause why such structure should not be condemned and ordered repaired or demolished. Such resolution shall be published once each week for two consecutive weeks on the same day of each week. At least 30 days shall elapse between the last publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail, return receipt requested, within 3 days after its first publication to each such owner, representative, tenant or lienholder of record, as can reasonably be determined, at the last known place of residence, and shall be marked, deliver to addressee only.

- (b) On the hearing date fixed by the Governing Body's resolution all relevant parties, interest holders and relevant city officials shall be allowed to present evidence concerning the status of the property. The Governing Body shall subsequently make findings by resolution. If the Governing Body finds that such structure is unsafe or dangerous, such resolution shall direct the structure to be repaired or removed and the premises made safe and secure. Such resolutions shall be published once in the official city newspaper and a copy mailed to the owners, representatives, tenants or lienholders of record by certified mail, return receipt requested. The resolution shall affix a reasonable time within which the repair or removal of the structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated, or fails to diligently commence such action until the work is completed, the Governing Body will cause the structure to be razed and removed.
- (c) If an authorized agent determines that a violation of this section exists, he or she may issue a notice to appear in municipal court for such violations. No other procedures are required as a prerequisite to the issuance of a notice to appear.

116.7 EXCAVATION FILL. It shall be the duty of the property owner, representative, or the tenant, upon removal of a structure, to fill any basement, after removing all concrete footings and foundation walls, or other excavation located upon the premises and take any other action necessary to leave such premises in a safe condition including grading and seeding or sodding of the area, removal of dirt or mud from roads, streets, alleys, or sidewalks, to allow for proper drainage of the site, and to remove any and all refuse, trash, debris, brush and limbs, or materials from the site.

116.8 REMOVAL OF UNSAFE STRUCTURES; SALVAGE; SALE; ASSESSMENT AND COLLECTION OF COSTS; PROCEDURE.

- (a) If the owner of any structure has failed to commence the repair or removal of such structure within the time stated in the resolution, or has failed to diligently prosecute the same thereafter, the City may proceed to raze and remove such structure, make the premises safe and secure, or let same to contract. The City shall keep an account of the costs for such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the cost of removing such structure and

- making the premises safe and secure. All moneys in excess of that necessary to pay such costs after the payment of all costs, shall be paid to the owner of the premises upon which the structure was located.
- (b) The City shall give notice to the owner of such structure by certified mail, return receipt requested, of the total cost incurred by the City in removing such structure and making the premises safe and secure. Such notice also shall state that payment of such costs is due and payable within 30 days following receipt of such notice. If the cost is not paid within the 30 day period and if there is no salvageable material or if moneys received from the sale of salvage or from the proceeds of any insurance policy in which the City has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to pay the cost of such work, the balance shall be collected in the manner provided by K.S.A. 12-1, 115, as amended, but only until the full cost and applicable interest has been paid in full. Whenever any structure is removed from any premises under the provisions of this section, the City Clerk shall certify to the County Appraiser that such structure, describing the same, has been removed.
- (c) If there is no salvageable material, or if the moneys received from the sale of salvage or from the proceeds of any insurance policy in which the City has created a lien pursuant to K.S.A. 40-3901 et seq., and amendments thereto, are insufficient to pay the costs of the work, such costs or any portion thereof in excess of that received from the sale of salvage or any insurance proceeds may be financed, until the costs are paid out of the general fund or by the issuance of no-fund warrants. Whenever no-fund warrants are issued under the authority of this act, the Governing Body of such City shall make a tax levy at the first tax levying period for the purpose of paying such warrants and the interest thereon. All such tax levies shall be in addition to all other levies authorized or limited by law and shall not be subject to the aggregate tax levy prescribed in Article 19 of Chapter 79 of the Kansas Statutes Annotated, and amendments thereto. Such warrants shall be issued, registered, redeemed and bear interest in the manner and in the form prescribed by K.S.A. 79-2940, and amendments thereto, except they shall not bear the notation required by that section and may be issued without the approval of the State Board of Tax Appeals. All moneys received from special assessments levied under the provisions of this section or from an action under K.S.A. 12-1, 115, as amended, when and if paid, shall be placed in the general fund of the City.

#### 116.9 PROOF OF REPAIRING OR REBUILDING.

In lieu of the payment of proceeds, the insured may present satisfactory proof to the Building Official that the insured has or will remove debris and repair, rebuild or otherwise make the premises safe and secure. Upon presentation of such sufficient evidence, the Building Official along with the City Clerk shall certify that adequate proof of repairing or rebuilding has been given and that the payment of insurance proceeds to the City shall not be paid, subject to any lien created by the City should the insured fail to rebuild, repair, or secure the property as presented. The insured shall be responsible for presenting such certificate to the insurer. The insured, in seeking such certificate, shall present a timetable showing when repairs or rebuilding will be completed; render architectural or engineering plans, subject to approval by the Building Official, showing the method, manner and materials to be used in

repairing or rebuilding; and any other evidence deemed necessary by the Building Official to demonstrate that the repairs or rebuilding will be completed in a timely and lawful manner. Failure of the insured to comply with the certificate shall result in the institution of proceedings for abatement.

#### 116.10 CITY NOT PARTY TO INSURANCE CONTRACT.

This section does not make the City a party to any insurance contract, nor is the insurer liable to any party for any amount in excess of the proceeds otherwise payable under its insurance policy.

#### 116.11 FAILURE TO PAY INSURANCE PROCEEDS OR TO OBTAIN A CERTIFICATE IN LIEU OF PAYMENT OF PROCEEDS.

It is unlawful for any person to fail to provide the payment of insurance proceeds as required by this section unless a certificate in lieu of payment of proceeds has been obtained through the City.

#### 116.12 IMMEDIATE HAZARDS.

In the event the public officer under this section determines that a nuisance or unsafe structure exists which creates an immediate hazard, then the City shall proceed, without delay, to take steps to abate the situation and without prior notice to or hearing of the owner, representative, or tenant. The cost of such actions shall be assessed as set forth in K.S.A 12-1, 115, as amended.

#### 116.13 RIGHT OF ENTRY; UNLAWFUL INTERFERENCE; PENALTY.

- (a) Any authorized officer or agent of the City pursuant to this Article, shall be allowed to enter on to any land within the city limits to investigate violations of this Article or for the abatement of violations pursuant to this Article.
- (b) It shall be unlawful for any person to interfere with a public officer or agent of the City in performing his or her duties pursuant to this article whether investigation or abating violations.
- (c) Any person who interferes with an officer or agent of the City pursuant to this Article shall be punished as provided in Section 116.14.

#### 116.14 PENALTY.

- (a) Any property owner, representative, tenant or person found in violation of this article shall be subject to prosecution in municipal court. Any such person found guilty of violating the provisions of this article shall be subject to a fine of not less than \$50 nor more than \$500 and not more than 10 days in jail, or both. Any person found guilty of violating the provisions of this article two or more times within any one year period, or determined by the municipal court to be a perennial violator, shall be fined not less than \$250 nor more than \$500 and shall be subject to a sentence not to exceed 30 days in jail, or both.
- (b) Prosecution of any offender under this article does not limit the City's right to pursue assessment or collection of costs as stated in this article, or by other laws.
- (c) Each day that any violation shall continue shall constitute a separate offense.

(Ord. 1849, Sec. 2, 1994; Ord. 2278, Sec. 1, 2013)

## ARTICLE 2. INTERNATIONAL RESIDENTIAL CODE (IRC)

4-201. INTERNATIONAL RESIDENTIAL CODE INCORPORATED. In addition to the other provisions set forth in this chapter, there is hereby adopted and incorporated by reference that certain building code known as the “International Residential Code”, 2012 edition, copyrighted in 2011 by the International Code Council, (hereinafter referred to as the “IRC or residential code”) except for the amendments provided in this chapter. Not less than one copy of the residential code shall be marked or stamped “Official copy as adopted by Ordinance No. 2279”. A copy of this ordinance shall be attached to each of the three copies of the International Residential Code and shall be filed with the City Hall to be open for inspection and available to the public at all reasonable business hours. The Municipal Court and all administrative departments of the City charged with the enforcement of this code shall be supplied, at cost to the city, with such numbers of official copies similarly marked as deemed expedient.

The following sections of this Article are in addition to or amendments of the provisions of the standard code incorporated by reference in Section 4-201. (Code 2003; Ord. 2140, Sec. 1, 2007; Ord. 2279, Sec. 1, 2013)

4-202. AMENDMENTS TO SECTION R101.1 – TITLE. Section R 101.1 of the 2012 IRC is hereby amended to read as follows:  
These provisions shall be known as the Residential Code for One and Two Family Dwellings of the City of Prairie Village, Kansas and shall be cited as such and will be referred to herein as this “code” or “IRC”.  
(Ord. 2057, Sec. 1, 2003; Ord. 2140, Sec. 1, 2007; Ord. 2279, Sec. 1, 2013)

4-203. AMENDMENTS TO SECTION R101.4 – ADMINISTRATION. Section R101.4 of the 2012 IRC is hereby added to read as follows:  
The administrative and enforcement provisions for this code shall be those provisions found in Sections 103 through 116 of the International Building Code.  
(Ord. 2057, Sec. 3, 2003; Ord. 2140, Sec. 1, 2007; Ord. 2279, Sec. 1, 2013)

4-204. SECTION R102.5 ADDED – APPENDICES ADOPTED. Section R102.5 of the 2012 IRC is hereby added to read as follows:  
The following appendices are adopted as part of the code:  
1. Appendix G- Swimming Pools, Spas and Hot Tubs  
2. Appendix H- Patio Covers  
3. Appendix K- Sound Transmission  
(Ord. 2057, Sec. 4, 2003; Ord. 2279, Sec. 1, 2013)

4-205. AMENDMENTS TO TABLE R301.2 (1) OF SECTION R301 – CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA. Table R301.2 (1) of Section R301 of the 2012 IRC is hereby amended to read as follows:

### TABLE R301.2(1) CLIMATIC AND GEOGRAPHIC DESIGN CRITERIA



GROUND SNOW LOAD	WIND DESIGN 1.Speed-mph 2.Topographic Effects	SEISMIC DESIGN CATEGORY	SUBJECT TO DAMAGE FROM 1.Weathering 2.Frost Line Depth 3.Termite	WINTER DESIGN TEMP	ICE BARRIER UNDERLAYMENT REQUIRED	FLOOD HAZARDS	AIR FREEZING INDEX	MEAN ANNUAL TEMP
20	1. 90 2. No	A	1.Severe 2. 36" 3.Moderate to Heavy	6°	YES	CURRENT FIRM	1000	54°

(Ord. 2057, Sec. 5, 2003; Ord. 2279, Sec. 1, 2013)

4-206. AMENDMENTS TO TABLE R301.5 – MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS. Table R301.5 of the 2012 IRC is hereby amended to read as follows:

**TABLE R301.5  
MINIMUM UNIFORMLY DISTRIBUTED LIVE LOADS  
(in pounds per square foot)**

USE	LIVE LOAD
Attics with limited storage (b,g,h)	20
Attics without storage (b)	10
Habitable attics and attics served with fixed stairs	30
Balconies (exterior) and decks (e)	40
Fire escapes	40
Guardrails and handrails (d)	200 (i)
Guardrail in-fill components (i)	50 (i)
Passenger vehicle garages (a)	50 (a)
Rooms other than sleeping rooms	40
Sleeping rooms	30
Stairs	40 (c)

- a. Elevated garage floors shall be capable of supporting a 2,000-pound load applied over a 20-square-inch area.
- b. Uninhabitable attics without storage are those attic areas that are not accessed by a pull-down stair, or a scuttle with a dimension less than or equal to 30 inches high by 24 inches wide.
- c. Individual stair treads shall be designed for the uniformly distributed live load or a 300-pound concentrated load acting over an area of 4 square inches, whichever produces the greater stresses.
- d. A single concentrated load applied in any direction at any point along the top.
- e. See Section R502.2.2 for decks attached to exterior walls.
- f. Guard in-fill components (all those except the handrail), balusters and panel fillers shall be designed to withstand a horizontally applied normal load of 50 pounds on an area equal to 1 square foot. This load need not be assumed to act concurrently with any other live load requirement.
- g. For attics with limited storage and constructed with trusses, this live load need be applied only to those portions of the bottom chord where there are two or more adjacent trusses with the same web configuration capable of containing a rectangle 42 inches high by 2 feet wide or greater, located within the plane of the

truss. The rectangle shall fit between the top of the bottom chord and the bottom of any other truss member.

- h. Attic spaces served by a fixed stair shall be designed to support the minimum live load specified for sleeping rooms.
- i. Glazing used in handrail assemblies and guards shall be designed with a safety factor of 4. The safety factor shall be applied to each of the concentrated loads applied to the top of the rail, and to the load on the in-fill components. These loads shall be determined independent of one another, and loads are assumed not to occur with any other live load.

(Ord. 2057, Sec. 6, 2003; Ord. 2140, Sec. 1, 2007; Ord. 2279, Sec. 1, 2013)

4-207. AMENDMENTS TO SECTION R302.2 – TOWNHOUSES. Section R302.2 of the 2012 IRC is hereby amended as follows:

Each townhouse shall be considered a separate building and shall be separated by fire-resistant-rated wall assemblies meeting the requirements of Section R302.1 for exterior walls.

Exception: A common 2-hour-fire-resistant-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides and shall extend to and be tight against exterior walls and the underside of the roof sheathing.

Electrical installations shall be installed in accordance with Chapter 34 through 43. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4.

R302.2.1 CONTINUITY. The fire-resistant-rated wall or assembly separating townhouses shall be continuous from the foundation to the underside of the roof sheathing, deck, or slab. The fire-resistance rating shall extend the full length of the wall or assembly, including wall extensions through and separating attached enclosed accessory structures.

R302.2.2 PARAPETS. Parapets constructed in accordance with Section R 302.2.3 shall be constructed for townhouses as an extension of exterior walls or common walls in accordance with the following:

1. Where roof surfaces adjacent to the wall or walls are at the same elevation, the parapet shall extend no less than 30 inches above the roof surfaces.
2. Where roof surfaces adjacent to the wall or walls are at different elevations and the higher roof is not more than 30 inches above the lower roof, the parapet shall extend not less than 30 inches above the lower roof surface.

Exception: A parapet is not required in the two cases above when the roof is covered with a minimum class C roof covering, and the roof decking or sheathing is of non-combustible materials, or approved fire-retardant-treated wood for a distance of 4 feet on each side of the wall or walls, or one layer of 5/8 inch Type X gypsum board is installed directly beneath the roof decking or sheathing, supported by a minimum of nominal 2 inch ledgers attached to the sides of the roof framing members, for a minimum distance of 4 feet on each side of the wall or walls and there are no openings or penetrations in the roof within 4 feet of the common walls.

3. A parapet is not required where roof surfaces adjacent to the wall or walls are at different elevations and the higher roof is more than 30 inches above the lower roof. The common wall construction from the lower roof to the underside

of the higher roof deck shall have not less than a 1 hour fire-resistance rating. The wall shall be rated for fire exposure from both sides.

R302.2.3 PARAPET CONSTRUCTION. Parapets shall have the same fire-resistance-rating as that required for the supporting wall or walls. On any side adjacent to a roof surface, the parapet shall have noncombustible faces for the uppermost 18 inches, to include counter flashing and coping materials. Where the roof slopes toward a parapet at slopes greater than 2 units vertical in 12 units horizontal, the parapet shall extend to the same height as any portion of the roof within a distance of 3 feet, but in no case shall the height be less than 30 inches.

R302.2.4 STRUCTURAL INDEPENDENCE. Each individual townhouse shall be structurally independent.

Exceptions:

1. Foundations supporting exterior walls or common walls.
2. Structural roof and wall sheathing from each unit may fasten to the common wall framing.
3. Nonstructural wall and roof coverings.
4. Flashing at termination of roof covering over common wall.
5. Townhouses separated by a 2-hour fire resistance-rated wall as provided in Section R302.2.

(Ord. 2057, Sec. 7, 2003; Ord. 2279, Sec. 1, 2013)

4-208. AMENDMENTS TO SECTION R303.4 – MECHANICAL VENTILATION.

Section R303.4 of the 2012 IRC is hereby amended to read as follows:

Where the air infiltration rate of a dwelling unit is less than 3 air changes per hour when tested with a blower door at a pressure of 0.2 inch w.c. (50 Pa) in accordance with Section N1102.4.1.2, the dwelling units shall be provided with whole-house ventilation in accordance with Section M1507.3.

(Code 2003; Ord. 2279, Sec. 1, 2013)

4-209. AMENDMENTS TO SECTION R309.7 – RESIDENTIAL DRIVEWAYS. Section R309.7 of the 2012 IRC is hereby added to read as follows:

Residential concrete and asphalt driveway slabs shall be a minimum of 4 inches thick. The driveway shall have a constant slope so as to avoid ponding of water. The slope shall be away from the house or building or drain by means approved by the Department of Public Works.

(Code 2003; Ord. 2279, Sec. 1, 2013)

4-210. AMENDMENTS TO SECTION R310.1 – EMERGENCY ESCAPE AND RESCUE REQUIRED. Section R310.1 of the 2012 IRC is hereby amended to read as follows:

All *basements*, habitable attics and every sleeping rooms shall have at least one operable emergency escape and rescue opening. Where *basements* contain one or more sleeping rooms, emergency escape and rescue openings shall be required in each sleeping room. Where emergency escape and rescue openings are provided, they shall have a sill height of not more than 44 inches measured from the finished floor to the bottom of the clear opening. Where a door having a threshold below the adjacent ground elevation serves as an emergency escape and rescue opening and is provided with a bulkhead enclosure, the bulkhead enclosure shall comply with

Section R310.3 The net clear opening dimensions required by this section shall be obtained by the normal operation of the emergency escape and rescue opening from the inside. Emergency escape and rescue openings with a finished sill height below the adjacent ground elevation shall be provided with a window well in accordance with Section 310.2. Emergency escape and rescue openings shall open directly into a public way, or to a yard or court that opens to a public way.

Exception: *Basements* used only to house mechanical *equipment* and not exceeding total floor area of 200 square feet.

R310.1.1 MINIMUM OPENING AREA. All emergency escape and rescue openings shall have a minimum net clear opening of 5.7 square feet.

Exception: *Grade* floor openings shall have a minimum net clear opening of 5 square feet.

R310.1.2 MINIMUM OPENING HEIGHT. The minimum net clear opening height shall be 24 inches.

R310.1.3 MINIMUM OPENING WIDTH. The minimum net clear opening width shall be 20 inches.

R310.1.4 OPERATIONAL CONSTRAINTS. Emergency escape and rescue openings shall be operational from the inside of the room without the use of keys, tools or special knowledge.

R310.2 WINDOW WELLS. The minimum horizontal area of the window well shall be 9 square feet, with a minimum horizontal projection and width of 36 inches. The area of the window well shall allow the emergency escape and rescue opening to be fully opened.

Exception: The ladder or steps required by Section R310.2.1 shall be permitted to encroach a maximum of 6 inches into the required dimension of the window well.

R310.2.1 LADDER AND STEPS. Window wells with a vertical depth greater than 44 inches shall be equipped with a permanently affixed ladder or steps usable with the window in the fully open position. Ladders or steps required by this section shall not be required to comply with Sections R311.7 and R311.8. Ladders or rungs shall have an inside width of at least 12 inches, shall project at least 3 inches from the wall and shall be spaced not more than 18 inches on center vertically for the full height of the window well.

R310.2.2 DRAINAGE. Window wells shall be designed for proper drainage by connecting to the building's foundation drainage system required by Section R405.1 or by an approved alternative method.

Exception: A drainage system for window wells is not required when the foundation is on well-drained soil or sand-gravel mixture soils according to the United Soil Classification System, Group I Soils, as detailed in Table R405.1. This exception must be verified and documented by a soils engineer and/or certified testing agency.

R310.3 BULKHEAD ENCLOSURES. Bulkhead enclosures shall provide direct access to the *basement*. The bulkhead enclosure with the door panels in the fully

- open position shall provide the minimum net clear opening required by section R310.1.1. Bulkhead enclosures shall also comply with Section R311.7.8.2.
- R310.4 BARS, GRILLS, COVERS AND SCREENS. Bars, grills, covers, screens or similar devices are permitted to be placed over emergency escape and rescue openings, bulkhead enclosures, or window wells that serve such openings, provided the minimum net clear opening size complies with Sections R 310.1.1 to R310.1.3, and such devices shall be releasable or removable from the inside without the use of a key, tool, special knowledge or force greater than that which is required for normal operation of the emergency escape and rescue opening.
- R310.5 EMERGENCY ESCAPE WINDOWS UNDER DECKS AND PORCHES. Emergency escape windows are allowed to be installed under decks and porches provided the location of the deck allows the emergency escape window to be fully opened and provides a path not less than 36 inches in height, and a travel distance of not greater than 12 feet to a *yard* or court.  
(Code 2003; Ord. 2140, Sec. 1, 2007; Ord. 2279, Sec. 1, 2013)
- 4-211. SECTION R313 DELETED. Section R313 of the 2012 IRC is hereby deleted.  
(Code 2003; Ord. 2140, Sec. 1, 2007; Ord. 2279, Sec. 1, 2013)
- 4-212. AMENDMENTS TO SECTION R315.1 – CARBON MONOXIDE ALARMS. Section R315.1 of the 2012 IRC is hereby amended to read as follows:  
For new construction, an approved carbon monoxide alarm shall be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages.  
Exceptions:
1. Work involving the exterior surfaces of dwellings, such as the replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck, are exempt from the requirements of this section.
  2. Installation, alteration or repairs of plumbing or mechanical systems are exempt from the requirements of this section.
- (Code 2003; Ord. 2279, Sec. 1, 2013)
- 4-213. AMENDMENTS TO SECTION R319.1 – ADDRESS NUMBERS. Section R319.1 of the 2012 IRC is hereby amended to read as follows:  
Buildings shall have approved address numbers, building numbers or approved building identification placed in a position that is plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numbers or alphabetical letters. Numbers shall be a minimum of 4 inches high with a minimum stroke width of ½ inch. Where access is by means of a private road and the building address cannot be viewed from the public way, a monument, pole or other sign or means shall be used to identify the structure(s).  
(Code 2003; Ord. 2279, Sec. 1, 2013)
- 4-214. SECTION R324 ADDED – EXTERIOR LIGHTING. Section R324 of the 2012 IRC is hereby added to read as follows:

Exterior Lighting shall comply with the City of Prairie Village Zoning Regulations-Chapter 19.34 Accessory Uses; 19.34.050 Outdoor Lighting.  
(Code 2003; Ord. 2279, Sec. 1, 2013)

4-215. AMENDMENTS TO SECTION R401.2 – REQUIREMENTS. Section R401.2 of the 2012 IRC is hereby amended to read as follows:

Foundation construction shall be capable of accommodating all loads according to Section R301 and of transmitting the resulting loads to the supporting soil. Fill soils that support footings and foundations shall be designed, installed and tested in accordance with accepted engineering practice.

R401.2.1 DESIGN REQUIRED. A design in accordance with accepted engineering practice shall be provided for concrete or masonry foundation walls when any of the following conditions exist:

1. Walls subject to hydrostatic pressure from groundwater.
2. Walls supporting more than 48 inches of unbalanced fill that do not have permanent lateral support at the top and bottom.
3. Sites containing CH, MH, OL, or OH soils as identified in Table R405.1.
4. Foundation walls exceeding 10 feet in height, measured from the top of the wall to the bottom of the slab.
5. Lots identified on the grading plan as having more than 6 feet of fill or having a finished slope steeper than 4 units horizontal to 1 unit vertical before grading.
6. Footings and foundations with existing fill soils below the footing level.
7. Sloping lots greater than 4 to 1 before grading.
8. Lots where some of the footings bear on soil and other footings bear on rock.
9. Areas where problems have historically occurred.
10. Stepped footing and foundation walls.

R401.2.2 CONTINUOUS FOOTING REINFORCEMENT. Continuous footings for basement foundation walls shall have a minimum horizontal reinforcement consisting of not less than two (2) No. 4 bars, uniformly spaced, located a minimum 3 inches clear from the bottom of the footing.

R401.2.3 FOUNDATION ANCHORAGE. The spacing of anchor bolts or foundation anchor straps required by Section R403.1.6 shall be reduced to a maximum of 3 feet on center for basement foundation walls.

(Code 2003; Ord. 2279, Sec. 1, 2013)

4-216. AMENDMENTS TO SECTION R405.1 – CONCRETE OR MASONRY FOUNDATIONS. Section 405.1 of the 2012 IRC is hereby amended to read as follows:

Drains shall be provided around all concrete or masonry foundations that retain earth and enclose habitable or usable spaces located below grade. Drainage tiles, gravel or crushed stone drains, perforated pipe or other approved systems or material shall be installed at or below the area to be protected and shall discharge by gravity or mechanical means into an approved drainage system. Gravel or crushed stone drains shall extend at least 1 foot beyond the outside edge of the footing and 6 inches above the top of the footing and be covered with an approved filter membrane material. The top of open joints of drain tiles shall be protected with strips of building paper. Perforated drains shall be surrounded with an approved filter membrane or

the filter membrane shall cover the washed gravel or crushed rock covering the drain. Drainage tiles or perforated pipe shall be placed on a minimum of 2 inches of washed gravel or crushed rock at least one sieve size larger than the tile joint opening or perforation and covered with not less than 6 inches of the same material.

Exceptions:

1. A drainage system is not required when the foundation is installed on well-drained ground or sand-gravel mixture soils according to the Unified Soil Classification System, Group I Soils, as detailed in Table R405.1 This exception must be verified and documented by a soils engineer and/or a certified testing agency.
2. A filter membrane is not required where perforated drains are covered with at least 18 inches of washed gravel or crushed rock.
3. For gravel or crushed stone drains, a filter membrane is not required when the gravel or crushed stone extends at least 18 inches above the top of the footing.

**R405.1.1 PRECAST CONCRETE FOUNDATION.** Precast concrete foundation walls that retain earth and enclose habitable or useable space located below-grade that rest on crushed stone footings shall have a perforated drainage pipe installed below the base of the wall on either the interior or exterior side of the wall, at least 1 foot beyond the edge of the wall. If the exterior drainage pipe is used, an approved filter membrane material shall cover the pipe. The drainage system shall discharge into an approved sewer system or to daylight.

(Ord. 1896, Sec. 7, 1996; Ord. 2279, Sec. 1, 2013)

4-217. **AMENDMENTS TO SECTION R501.3 – OPEN WEB FLOOR TRUSSES.**

Section 501.3 of the 2012 IRC is hereby amended to read as follows:

Floor assemblies utilizing open web trusses shall be protected on the underneath side of the floor truss with a ½ inch gypsum wallboard membrane, 5/8 inch wood structural panel membrane, or equivalent on the underside of the floor framing member.

Exceptions:

1. Floor assemblies located directly over a space protected by an automatic sprinkler system in accordance with Section P2904, NFPA13D, or other approved equivalent sprinkler system.
2. Floor assemblies located directly over a crawl space not intended for storage or fuel-fired appliances.
3. Portions of floor assemblies can be unprotected when complying with the following:
  - 3.1 The aggregate area of the unprotected portions shall not exceed 80 square feet per story.
  - 3.2 Fire blocking in accordance with Section R302.11.1 shall be installed along the perimeter of the unprotected portion from the remainder of the floor assembly.

(Ord. 2279, Sec. 1, 2013)

4-218. **AMENDMENTS TO SECTION R506.3 – DESIGN REQUIRED.** Section 506.3 of the 2012 IRC is hereby added to read as follows:

A design in accordance with accepted engineering practices shall be provided for concrete floors when the limitations for fill material set forth in Section R506.2.1 are exceeded.

(Ord. 2279, Sec. 1, 2013)

4-219. AMENDMENTS TO SECTION R506.4 – BASEMENT FLOOR SLAB ISOLATION. Section R506.4 of the 2012 IRC is hereby added to read as follows: Basement floor slabs shall be isolated from column pads, interior columns and interior bearing walls to facilitate differential movement. Nonbearing walls supported on basement floor slabs shall be provided with a minimum 1 inch expansion joint to facilitate differential movement between the floor slab and the floor framing above. Isolation and/or expansion joint is not required within 6 inches of the exterior walls. (Ord. 2279, Sec. 1, 2013)

4-220. AMENDMENTS TO SECTION R602.6 – DRILLING AND NOTCHING OF STUDS. Section 602.6 of the 2012 IRC is hereby amended to read as follows: Drilling and notching of studs shall be in accordance with the following:

1. Notching. Any stud in an exterior wall or bearing partition may be cut or notched to a depth not exceeding 25% its width. Studs in nonbearing partitions may be notched to a depth not to exceed 40% of a single stud width.
2. Drilling. Any stud may be bored or drilled, provided that the diameter of the resulting hole is no more than 60% of the stud width, the edge of the hole is no more than 5/8 inch to the edge of the stud, and the hole is not located in the same section as a cut or notch. Studs located in exterior walls or bearing partitions drilled over 40% and up to 60% shall also be doubled with no more than two successive doubled studs bored. See Figures R602.6(1) and R602.6(2).

Exception: Use of approved stud shoes is permitted when they are installed in accordance with the manufacturer’s recommendations.

R602.6.1 DRILLING AND NOTCHING OF TOP PLATE. When piping or ductwork is placed in or partly in an exterior wall or interior load bearing wall, necessitating cutting, drilling or notching of the top plate by more than 50% of its width, a galvanized metal tie not less than 0.054 inch thick (16 ga) and 1 ½ inches wide shall be fastened across and to the plate at each side of the opening with not less than eight 10d(0.148) inch diameter nails having a minimum length of 1 ½ inches at each side or equivalent. The metal tie must extend at least 6 inches past the opening. See Figure R602.6.1.

Exception: When the entire side of the wall with the notch or cut is covered by wood structural panel sheathing. (Ord. 2279, Sec. 1, 2013)

4-221. AMENDMENTS TO TABLE N1102.1.1 – INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT (a). Table N1102.1.1 of the 2012 IRC is hereby amended to read as follows:

TABLE N1102.1.1  
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT (a)

Climate zone	Fenestration U-factor (b)	Skylight (b) U-factor	Glazed Fenestration SHGC (b)	Ceiling (g) R-value	Wood Frame wall R-value	Mass wall R-value (f)	Floor R-value	Base-ment wall R - value (c)	Slab (d) R - value & Depth	Crawl space(c) Wall R-value
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4	0.35	0.55	0.40	49	13	8/13	19	10/13	NR	
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- a. R-values are minimums. U-factors and SHGC are maximums. When insulation is installed in a cavity which is less than the label or design thickness of the insulation, the installed R-value shall not be less than the R-value specified in the table.
- b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- c. "10/13" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement walls.
- d. R-5 shall be added to the required slab edge R-values for heated slabs.
- e. Or insulation sufficient to fill the framing cavity, R-19 minimum.
- f. The second R-value applies when more than half the insulation is on the interior of the wall mass.
- g. Loose fill insulation shall be installed at the rate recommended by the manufacturer's statement "so many bags per 1000 square foot". Where the pitch of the roof restricts the "minimum thickness" at the exterior wall line, the insulation shall be blown into the cavity so as to achieve a greater compacted density to a point where the "minimum thickness" can be achieved. An alternative is to install high-density batts around the perimeter edge per N1102.2.  
(Ord. 2279, Sec. 1, 2013)

4-222. AMENDMENTS TO SECTION N1102.4 – AIR LEAKAGE (MANDATORY).  
Section N1102.4 of the 2012 IRC is hereby amended to read as follows:  
The building thermal envelope shall be constructed to limit air leakage in accordance with the requirements of Section N1102.4.1 through N1102.4.4.

N1102.4.1 BUILDING THERMAL ENVELOPE. The components of the building thermal envelope as listed in Table N1102.4.1.1 shall be installed in accordance with the manufacturer's instructions and the criteria listed in Table N1102.4.1.1, as applicable to the method of construction. Where required by the code official an approved third party shall inspect all components and verify compliance.

N1102.4.1.2 TESTING. Where required by the code official, the building or dwelling unit shall be tested and verified as having an air leakage rate not exceeding five (5) air changes per hour. Testing shall be conducted with a blower door at a pressure of 0.2 inches w.g. (50 Pascals). Where required by the code official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after completion of all penetrations of the building thermal envelope.

During testing:

- 1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed, beyond the intended weather-stripping or other infiltration control measures.
- 2. Dampers, including exhaust, intake, makeup air, backdraft and flue dampers shall be closed, but not sealed beyond intended infiltration control measures.
- 3. Interior doors, if installed at the time of the test, shall be open.
- 4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed.

5. Heating and cooling systems, if installed at the time of the test, shall be turned off.
6. Supply and return registers, if installed at the time of the test, shall be fully open.

N1102.4.2 FIREPLACES. New wood burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air.

N1102.4.3 FENESTRATION AIR LEAKAGE. Windows, skylights and sliding glass doors shall have an air infiltration rate of no more than 0.3 cfm per square foot, and swinging doors no more than 0.5 cfm per square foot, when tested according to NFRC 400 or AAMA/WDMA/CSA 01/ I.S.2/A 440 by an accredited, independent laboratory and listed and labeled by the manufacturer.

Exception: Site-built windows, skylights and doors.

N1102.4.4 RECESSED LIGHTING. Recessed luminaires installed in the building thermal envelope shall be sealed to limit air leakage between conditioned and unconditioned spaces. All recessed luminaires shall be I-C-rated and labeled as having an air leakage rate not more than 2.0 cfm when tested in accordance with ASTM E 283 at a 1.57 psf(75 pa) pressure differential. All recessed luminaires shall be sealed with a gasket or caulk between the housing and the interior wall or ceiling covering.

(Ord. 2279, Sec. 1, 2013)

- 4-223. AMENDMENTS TO TABLE N1102.4.1.1 – AIR BARRIER AND INSULATION INSTALLATION. Table N1102.4.1.1 of the 2012 IRC is hereby amended to read as follows:

TABLE N1102.4.1.1  
AIR BARRIER AND INSULATION INSTALLATION

COMPONENT	CRITERIA (a)
Air barrier and thermal barrier	A continuous air barrier shall be installed in the building envelope. Exterior thermal envelope contains a continuous air barrier. Breaks or joints in the air barrier shall be sealed. Air-permeable insulation shall not be used as sealing material.
Ceiling/attic	The air barrier in any dropped ceiling/soffit shall be aligned with the insulation and any gaps in the air barrier sealed. Access opening, dropdown stair or knee wall doors to unconditioned attic spaces shall be sealed.
Walls	Corners and the junction of the foundation and sill plate shall be sealed. Exterior thermal envelope insulation for framed walls shall be installed in substantial contact and continuous alignment with the air barrier. Knee walls shall be sealed.
Windows, skylights and doors	The space between window/door jams and framing and skylights and framing shall be sealed.
Rim joists	Rim shall be sealed to prevent air leakage.

Floors ( including above-garage and cantilevered floors)	Insulation shall be installed to maintain permanent contact with under side of subfloor decking. The air barrier shall be installed at any exposed edge of insulation.
Crawl space walls	Where provided in lieu of floor insulation, insulation shall be permanently attached to crawl space walls. Exposed earth in unvented crawl spaces shall be covered with a Class I vapor retarder with overlapping joints taped.
Shafts, penetrations	Duct shafts, utility penetrations and flue shafts opening to exterior or unconditioned space shall be sealed.
Narrow cavities	Batts in narrow cavities shall be cut to fit, or narrow cavities shall be filled with insulation that on installation readily conforms to the available cavity space.
Garage separation	Air sealing shall be provided between the garage and conditioned spaces.
Recessed lighting	Recessed light fixtures installed in the building thermal envelope shall be air tight, IC rated, and sealed to the drywall.
Plumbing and wiring	Batt insulation shall be cut neatly to fit around wiring and plumbing in exterior walls, or insulation that on installation readily conforms to the available space shall extend behind piping and wiring.
Shower/tub on exterior wall	Exterior walls adjacent to showers and tubs shall be insulated and the air barrier installed separating them from the showers and tubs.
Electrical/phone box on exterior walls	The air barrier shall be installed behind electrical or communication boxes or air-sealed boxes shall be installed.
HVAC register boots	HVAC register boots that penetrate building thermal envelope shall be sealed to the sub floor or drywall.
Fireplace	An air barrier shall be installed on fireplace walls.

(Ord. 2279, Sec. 1, 2013)

4-224. AMENDMENTS TO SECTION N1103.2 – DUCTS. Section N 1103.2 of the 2012 IRC is hereby amended to read as follows:  
Ducts and air handlers shall be in accordance with Sections N1103.2.1 through N1103.2.3.

N1103.2.2 SEALING (MANDATORY). Ducts, air handlers, and filter boxes shall be sealed, Joints and seams shall comply with Section M1601.4.1 of this code.

Exceptions:

1. Air-impermeable spray foam products shall be permitted to be applied without additional joint seals.
2. Where a duct connection is made that is partially inaccessible, three (3) screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.
3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches ( 2”) of water column (500 pa) pressure classification shall not require additional closure systems.

Where required by the code official, duct tightness shall be verified by either of the following:

1. Post-construction test: Total leakage shall be less than or equal to 4 cfm (113.3L/min) per 100 square feet (9.29m<sup>2</sup>) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.
2. Rough-in test: Total leakage shall be less than or equal to 4 cfm (113.3 L/min) per 100 square feet (9.29m<sup>2</sup>) of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 pa) across the system, including the manufacturer's air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 cfm (85L/min) per 100 square feet (9.29m<sup>2</sup>) of conditioned floor area.

Exceptions:

1. The total leakage test is not required for ducts and air handlers located entirely within the building thermal envelope.
2. On the post construction test, it is permissible to test for "leakage to the outdoors" versus a "total leakage". Leakage to the outdoors shall be less than or equal to 8 cfm per 100 square feet of conditioned floor area.

(Ord. 2279, Sec. 1, 2013)

- 4-225. AMENDMENTS TO SECTION N1104.1 – LIGHTING EQUIPMENT. Section N1104.1 of the 2012 IRC is hereby amended to read as follows:  
Fuel gas systems shall not have continuous burning pilot lights.  
(Ord. 2279, Sec. 1, 2013)

- 4-226. AMENDMENTS TO SECTION AG105.2 – OUTDOOR SWIMMING POOL. Section AG105.2 of Appendix G of the 2012 IRC is hereby amended to read as follows:

An outdoor swimming pool, including an in-ground or above-ground pool, hot tub, or spa, shall be surrounded by a barrier which shall comply with the following:

1. The top of the barrier shall be at least forty-eight (48") above grade measured on the side of the barrier which faces away from the swimming pool. The maximum vertical clearance between grade and the bottom of the barrier shall be two inches (2") measured on the side of the barrier which faces away from the swimming pool. Where the top of the pool structure is above grade, such as an above-ground pool, the barrier may be at ground level, such as the pool structure, or mounted on top of the pool structure. Where the barrier is mounted on top of the pool structure, the maximum vertical clearance between the top of the pool structure and the bottom of the barrier shall be 4 inches (4").
2. Openings in the barrier shall not allow the passage of a four inch (4") diameter sphere.
3. Solid barriers which do not have openings, such as a masonry or stone wall, shall not contain indentations or protrusions, except for normal construction tolerances and tooled masonry joints.
4. Where the barrier is composed of horizontal and vertical members, the distance between the tops of the horizontal members shall be equal to or greater than thirty two inches (32"). Where vertical members are spaced one and three-fourths inches (1 ¾") or less the horizontal members shall be allowed to be spaced at a

- distance less than thirty two inches ( 32"). The horizontal members shall be located on the swimming pool side of the fence.
5. Maximum mesh size for chain link fences shall be a two and one fourth inch (2 ¼") square, unless the fence has fastened to the top or the bottom which reduce the openings to not more than one and three fourths inch (1 ¾").
  6. Where the barrier is composed of diagonal members, such as a lattice fence, the maximum opening formed by the diagonal members shall not be more than one and three fourths inches (1 ¾").
  7. Access gates shall comply with the requirements of Items 1 through 7, and shall be equipped to accommodate a locking device. Pedestrian access gates shall open outward away from the pool, and shall be self-closing and have a self-latching device. Gates, other than pedestrian access gates, shall have a self-latching device. Where the release mechanism is located less than fifty four inches (54") from the bottom of the gate, the release mechanism and openings shall comply with the following:
    - 7.1 The release mechanism shall be located on the pool side of the gate at least three inches (3") below the top of the gate; and
    - 7.2 The gate and barrier shall have no opening larger than one half inch (1/2") within eighteen inches (18") of the release mechanism.
  8. Where a wall of the dwelling serves as part of the barrier, one of the following conditions shall be met:
    - 8.1 The pool shall be equipped with a powered safety cover in compliance with ASTM F 1346.
    - 8.2 Doors with direct access to the pool through that wall shall be equipped with an alarm which produces an audible warning when the door and/or its screen, if present, are opened. The alarm shall be listed and labeled in accordance with UL 2017. The deactivation switch(es) shall be located at least fifty four inches (54") above the threshold of the door; or
    - 8.3 Other means of protection, such as self-closing doors with self-latching devices, which are approved by the Governing Body, shall be acceptable as long as the degree of protection afforded is not less than the protection afforded by Item 8.1 or 8.2 described herein.
  9. Where an above-ground pool structure is used as a barrier or where the barrier is mounted on top of the pool structure, and the means of access is a ladder or steps:
    - 9.1 The ladder or steps shall be capable of being secured, locked or removed to prevent access; or
    - 9.2 The ladder or steps shall be surrounded by a barrier which meets the requirements of Items 1 through 8. When the ladder or steps are secured, locked or removed, any opening created shall not allow the passage of a four inch (4") sphere.
- (Ord. 2279, Sec. 1, 2013)

### ARTICLE 3. INTERNATIONAL PLUMBING CODE (IPC)

4-301. INTERNATIONAL PLUMBING CODE INCORPORATED. There is hereby adopted and incorporated by reference that certain plumbing code, known as the "International Plumbing Code," 2012 Edition, and copyrighted 2011 by the International Code Council, Inc., including Appendices B, D, E and F (hereinafter referred to as the "IPC" or "plumbing code") except for the amendments provided in this Article. Not less than three copies of said plumbing code shall be marked or stamped "Official Copy as Adopted by Ordinance No. 2280." A copy of this ordinance shall be on file at City Hall, open for inspection and available to the public at all reasonable business hours. The municipal court, and all administrative departments of the city charged with the enforcement of this code shall be supplied, at the cost of the city, with such numbers of official copies similarly marked as deemed expedient.

The following sections of this Article are in addition to, or amendments of, the provisions of the standard code incorporated by reference in Section 4-301. (Code 2003, Ord. 2280, Sec. 1, 2013)

4-302. AMENDMENTS TO SECTION 101.1 – TITLE. Section 101.1 of the 2012 IPC is hereby amended to read as follows:  
These regulations shall be known as the International Plumbing Code of the City of Prairie Village, Kansas, hereinafter referred to as the "IPC" or "plumbing code" (Ord. 2054, Sec. 1, 2003; Ord. 2141, Sec. 1, 2007; Ord. 2280, Sec. 1, 2013)

4-303. SECTION 101.5 ADDED – ADMINISTRATION AND ENFORCEMENT. Section 101.5 of the 2012 IPC is hereby added to read as follows:  
The administrative and enforcement provisions for this code shall be those provisions contained in Sections 103 through 116 of the International Building Code. (Ord. 2057, Sec. 2, 2003; Ord. 2141, Sec. 1, 2007; Ord. 2280, Sec. 1, 2013)

4-304. AMENDMENTS TO SECTION 107.4 – TESTING. Section 107.4 of the 2012 IPC is hereby amended to read as follows:  
Plumbing work and systems shall be tested as required in Section 312 and in accordance with Section 107.4.3. Tests shall be made by the permit holder and observed by the code official as deemed necessary.

107.4.1 NEW, ALTERED, EXTENDED OR REPAIRED SYSTEMS. New plumbing systems and parts of existing systems that have been altered, extended or repaired shall be tested as prescribed herein to disclose leaks and defects, except that testing is not required in the following cases:

1. In any case that does not include addition to, replacement, alteration or relocation of any water supply, drainage or vent piping.
2. In any case where plumbing equipment is set up temporarily for exhibition purposes.

107.4.2 EQUIPMENT, MATERIAL AND LABOR FOR TESTS. All equipment, material and labor required for testing a plumbing system or part thereof shall be furnished by the permit holder.

107.4.3 REINSPECTION AND TESTING. Where any work or installation does not pass any initial test or inspection, the necessary correction shall be made to comply with this code. The work or installation shall then be re-submitted to the code official for inspection and testing.

(Code 2003; Ord. 2141, Sec. 1, 2007; Ord. 2280, Sec. 1, 2013)

4-305. AMENDMENTS TO SECTION 305.4 – FREEZING. Section 305.4 of the 2012 IPC is hereby amended to read as follows:

Water, soil, and waste pipes shall not be installed outside of a building, in attics or crawl spaces, concealed in outside walls, or in any other place subjected to freezing temperatures unless adequate provision is made to protect such pipes from freezing by insulation or heat, or both. Exterior water supply system piping shall be installed not less than six inches (6”) below the frost line. The frost line depth for the City of Prairie Village is thirty six inches (36”).

(Code 2003; Ord. 2141, Sec. 1, 2007; Ord. 2280, Sec. 1, 2013)

4-306. AMENDMENTS TO TABLE 403.1 – MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES (a). Table 403.1 of the 2012 IPC is hereby amended to read as follows:

**TABLE 403.1**  
**MINIMUM NUMBER OF REQUIRED PLUMBING FIXTURES (a)**  
 (See Sections 403.2 and 403.3)

No.	Classification	Occupancy	Description	Water closets (Urinals See Section 419.2)	Lavatories	Bathtubs/Showers	Drinking Fountain(e)(f) See Section 410.1)	Other
1	Assembly	A-1 (d)	Theaters and other buildings for the performing arts and motion pictures	Male- 1 per 125 Female- 1 per 65	1 per 200	-	1 per 500	1 service sink
	Assembly	A-2 (d)	Nightclubs, bars, taverns, dance halls and buildings for similar purposes  Restaurants, banquet halls and food courts	Male- 1 per 40 Female- 1 per 40  Male- 1 per 75 Female- 1 per 75	1 per 75  1 per 200	-	1 per 500	1 service sink
	Assembly	A-3 (d)	Auditoriums without permanent seating, art galleries, exhibition halls, museums, lecture halls, libraries, arcades and gymnasiums	Male- 1 per 125 Female- 1 per 65	1 per 200	-	1 per 500	1 service sink
			Passenger terminals and transportation facilities	Male- 1 per 500 Female- 1 per 500	1 per 750	-	1 per 1000	1 service sink
			Places of worship and other religious services	Male- 1 per 150 Female- 1 per 75	1 per 200	-	1 per 1000	1 service sink

1 (cont.)	Assembly	A-4	Coliseums, arenas, skating rinks, pools and tennis courts for indoor sporting events and activities	<u>Male-</u> 1 per 75 for the first 1500 and 1 per 120 for the remainder exceeding 1500  <u>Female-</u> 1 per 40 for the first 1520 and 1 per 60 for the remainder exceeding 1520	<u>Male-</u> 1 per 200  <u>Female-</u> 1 per 150	-	1 per 1000	1 service sink
	Assembly	A-5	Stadiums, amusement parks, bleachers and grandstands for outdoor sporting events and activities	<u>Male-</u> 1 per 75 for the first 1500 and 1 per 120 for the remainder exceeding 1500  <u>Female-</u> 1 per 40 for the first 1520 and 1 per 60 for the remainder exceeding 1520	<u>Male-</u> 1 per 200  <u>Female-</u> 1 per 150	-	1 per 1000	1 service sink
<b>No.</b>	<b>Classification</b>	<b>Occupancy</b>	<b>Description</b>	<b>Water closets (Urinals See Section 419.2)</b>	<b>Lavatories</b>	<b>Bathtubs/Showers</b>	<b>Drinking Fountain(e)(f) See Section 410.1)</b>	<b>Other</b>
2	Business	B	Buildings for the transaction of business, professional services, other services involving merchandise, office buildings, banks, light industrial and similar uses	1 per 25 for the first 50 and 1 per 50 for the remainder exceeding 50	1 per 40 for the first 80 and 1 per 80 for the remainder exceeding 80	-	1 per 100	1 service sink (g)
3	Educational	E	Educational facilities	1 per 50	1 per 50	-	1 per 100	1 service sink
4	Factory and Industrial	F-1 and F-2	Structures in which occupants are engaged in work fabricating, assembly, or processing of products or materials	1 per 100	1 per 100	See Section 411	1 per 400	1 service sink
5	Institutional	I-1	Residential care	1 per 10	1 per 10	1 per 8	1 per 100	1 service sink
	Industrial	I-2	Hospitals, ambulatory nursing home care recipient	1 per room (c)	1 per room (c)	1 per 15	1 per 100	1 service sink per floor
			Employees, other than residential care (b)	1 per 25	1 per 35	-	1 per 100	-
			Visitors other than residential care	1 per 75	1 per 100	-	1 per 500	-
	Industrial	I-3	Prisons (b)	1 per cell	1 per cell	1 per 15	1 per 100	1 service sink
5 cont.	Industrial	I-4	Adult day care and child day care	1 per 15	1 per 15	1	1 per 100	1 service sink
6	Mercantile	M	Retail stores, service stations, shops, salesrooms, markets and shopping centers	1 per 500	1 per 750	-	1 per 1000	1 service sink (g)
7	Residential	R-1	Hotels, Motels, boarding houses (transient)	1 per sleeping unit	1 per sleeping unit	1 per sleeping unit	-	1 service sink
	Residential	R-2	Dormitories, fraternities, sororities and boarding houses (non transient)	1 per 10	1 per 10	1 per 8	1 per 100	1 service sink



	Residential	R-2	Apartment house	1 per dwelling unit	1 per dwelling unit	1 per dwelling unit	–	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per 20 dwelling units
	Residential	R-3	Congregate living facilities with 16 or fewer persons	1 per 10	1 per 10	1 per 8	1 per 100	1 service sink
	Residential	R-3	One and two family dwellings	1 per dwelling unit	1 per dwelling unit	1 per dwelling unit	–	1 kitchen sink per dwelling unit; 1 automatic clothes washer connection per dwelling unit
	Residential	R-4	Congregate living facilities with 16 or fewer persons	1 per 10	1 per 10	1 per 8	1 per 100	1 service sink
8	Storage	S-1 S-2	Structures for the storage of goods, warehouses, storehouse and freight depots. Low and Moderate Hazard	1 per 100	1 per 100	See Section 411	1 per 1000	1 service sink

- a. The fixtures shown are based on one fixture being the minimum required for the number of persons indicated or any fraction of the number of persons indicated. The number of occupants shall be determined by the International Building Code.
- b. Toilet facilities for employees shall be separate from facilities for inmates or care recipients.
- c. A single-occupant toilet room with one water closet and one lavatory serving not more than two adjacent patient sleeping units shall be permitted where such room is provided with direct access from each patient sleeping unit and with provisions for privacy.
- d. The occupant load for seasonal outdoor seating and entertainment areas shall be included when determining the minimum number of facilities required.
- e. The minimum number of required drinking fountains shall comply with Table 403.1 and Chapter 11 of the International Building Code.
- f. Drinking fountains are not required for an occupant load of 15 or fewer.
- g. For business and mercantile occupancies with an occupant load of 15 or fewer, service sinks shall not be required.

(Code 2003; Ord. 2141, Sec. 1, 2007; Ord. 2280, Sec. 1, 2013)

**ARTICLE 4. INTERNATIONAL MECHANICAL CODE (IMC)**

- 4-401. INTERNATIONAL MECHANICAL CODE INCORPORATED. There is hereby adopted and incorporated by reference that certain International Mechanical Code, 2012 edition and copyrighted in 2011 by the International Code Congress, including Appendix A thereof (hereinafter referred to as the “IMC” or mechanical code). One copy of the Mechanical Code shall be marked or stamped “Official Copy as Adopted by Ordinance No. 2281.” A copy of this ordinance shall be attached to each mechanical code copy and shall be filed with City Hall to be open for inspection and available to the public at all reasonable business hours. The municipal court and all administrative departments of the city charged with the enforcement of this code shall be supplied, at the cost of the city, with such numbers of official copies similarly marked as deemed expedient.  
(Ord. 1700, Sec. 1, 1990; Ord. 2281, Sec. 1, 2013)
- 4-402. AMENDMENTS TO SECTION 101.1 – TITLE. Section 101.1 of the 2012 IMC is hereby amended to read as follows:  
These regulations shall be known as the International Mechanical Code of the City of Prairie Village, Kansas, hereinafter referred to as the “IMC” or “this Code”.  
(Code 2003; Ord. 2281, Sec. 1, 2013)
- 4-403. SECTION 101.5 ADDED – ADMINISTRATION AND ENFORCEMENT. Section 101.5 of the 2012 IMC is hereby added to read as follows:  
The administration and enforcement provisions for this Code shall be those provisions contained in Sections 103 through 116 of the International Building Code.  
(K.S.A. 17-1914; Code 1973, 16.08.020; Code 2003; Ord. 2281, Sec. 1, 2013)
- 4-404. SECTION 102.12 ADDED – STATE BOILER INSPECTOR. Section 102.12 of the 2012 IMC is hereby added to read as follows:  
Where permits are issued and portions of the work require inspection and approval of boilers and pressure vessels by the State of Kansas, those portions of the work will comply with the state requirements in lieu of compliance with the technical provisions of this Code. Contact the State Boiler Inspector at the State Department of Human Resources for complete information regarding the state requirements. State approval is generally required for all boilers that require permits.
- Exceptions:
1. Boilers serving individual dwelling units and their accessory structures.
  2. Boilers serving apartment houses with less than five (5) families.
  3. Pressure vessels that do not exceed fifteen (15) cubic feet and 250 psi.
- (Ord. 1700, Sec. 1; Ord. 2281, Sec. 1, 2013)

**ARTICLE 5. INTERNATIONAL FUEL GAS CODE (IFGC)**

- 4-501. INTERNATIONAL FUEL GAS CODE INCORPORATED. There is hereby adopted and incorporated by reference that certain fuel gas code known as the "International Fuel Gas Code", 2012 edition, copyright 2011 by the International Code Council (hereinafter referred to as the "IFGC" or "this Code"), except for the amendments provided in this Article. Not less than one copy of the Fuel Gas Code shall be marked or stamped "Official Copy as adopted by Ordinance No. 2282." A copy of this ordinance shall be attached to each Fuel Gas Code copy and shall be filed with City Hall to be open for inspection and available to the public at all reasonable business hours. The municipal court and all administrative departments of the city charged with the enforcement of this code shall be supplied, at the cost of the city, with such numbers of official copies similarly marked as deemed expedient. (Ord. 1845, Sec. 1, 1994; Ord. 2282, Sec. 1, 2013)
- 4-502. AMENDMENTS TO SECTION 101.1 – TITLE. Section 101.1 of the IFGC is hereby amended to read as follows:  
These regulations shall be known as the Fuel Gas Code of the City of Prairie Village, Kansas, hereinafter referred to as the "IFGC" or "this code".  
(Ord. 1845, Sec. 1, 1994; Ord. 2282, Sec. 1, 2013)
- 4-503. SECTION 101.5 ADDED – ADMINISTRATION AND ENFORCEMENT. Section 101.5 of the 2012 IFGC is hereby added to read as follows:  
The administrative and enforcement provisions for this Code shall be those provisions contained in Sections 103 through 116 of the international Building Code.  
(Ord. 1845, Sec. 1, 1994; Ord. 2076, Sec. 1, 2004; Ord. 2282, Sec. 1, 2013)
- 4-504. SECTION 301.16 ADDED – PROTECTION FROM PHYSICAL DAMAGE. Section 301.6 of the 2012 IFGC is hereby added to read as follows:  
Where meters supplying fuel gas are located adjacent to parking spaces or vehicular driveways, they shall be protected from physical damage per Section 312 of the International Fire Code.  
(Ord. 1845, Sec. 1, 1994; Ord. 2076, Sec. 1, 2004; Ord. 2282, Sec. 1, 2013)

**ARTICLE 6. INTERNATIONAL ENERGY CONSERVATION CODE (IECC)**

4-601. INTERNATIONAL ENERGY CONSERVATION CODE INCORPORATED. There is hereby adopted and incorporated by reference that certain energy conservation code known as the “International Energy Conservation Code”, 2012 edition, copyright 2011 by the International Code Council (hereinafter referred to as the “IECC” or “this Code”), except for the amendments provided in this Article. Not less than one copy of the Energy Conservation Code shall be marked or stamped “Official Copy as adopted by Ordinance No. 2283.” A copy of this ordinance shall be attached to each Energy Conservation Code copy and shall be filed with City Hall to be open for inspection and available to the public at all reasonable business hours. The municipal court and all administrative departments of the city charged with the enforcement of this code shall be supplied, at the cost of the city, with such numbers of official copies similarly marked as deemed expedient.  
(Ord. 2055, Sec. 1, 2003; Ord. 2142, Sec 1, 2007; Ord. 2283, Sec. 1, 2013)

4-602. AMENDMENTS TO SECTION 101.1 – TITLE. Section 101.1 of the 2012 IECC is hereby amended to read as follows:  
These regulations shall be known as the International Energy Conservation Code of the City of Prairie Village, Kansas, hereinafter referred to as the “IECC” or “this code”.  
(Ord. 1976, Sec. 3, 1999; Ord. 2142, Sec. 1, 2007; Ord. 2283, Sec. 1, 2013)

4-603. AMENDMENTS TO TABLE C 402.2 – OPAQUE THERMAL ENVELOPE REQUIREMENTS (a) FOR CLIMATE ZONE 4. Table C 402.2 of the 2012 IECC is hereby amended to read as follows:

**TABLE C402.2  
OPAQUE THERMAL ENVELOPE REQUIREMENTS (a) FOR CLIMATE ZONE 4**

<b>Roofs</b>		
	<u>All other</u>	<u>Group R</u>
Insulation(f) entirely above deck	R-20ci	R-20ci
Metal buildings (with R-5 thermal blocks) (a) (b)	R-19 + R-11 LS	R-19 + R-11 LS
Attic and other	R-38	R-38
<b>Walls, Above grade</b>	<u>All other</u>	<u>Group R</u>
Mass	R-9.5ci	R-11.4ci
Metal building	R-13 + R-13ci	R-13 + R-13ci
Metal framed	R-13 + R-7.5ci	R-13 + R-7.5ci
Wood framed(f)	R-13	R-13
<b>Walls, below grade</b>	<u>All other</u>	<u>Group R</u>
	R-7.5ci	R-7.5ci
<b>Floors</b>	<u>All Other</u>	<u>Group R</u>
Mass	R-10ci	R-10.4ci
Joist/framing(e)	R-30	R-30

<b>Slab on grade Floors</b>	<u>All other</u>	<u>Group R</u>
Unheated slabs	R-10 for 24" below	R-10 for 24" below
Heated slabs	R-15 for 24" below	R-15 for 24" below
<b>Opaque Doors</b>	<u>All other</u>	<u>Group R</u>
Swinging	U-0.61	U- 0.61
Roll- up or sliding	R-4.75	R-4.75

For SI: 1 inch = 25.4mm. ci= continuous insulation NR=no requirement LS= liner system (a continuous membrane installed below the purlins and uninterrupted by framing members. Uncompressed, unfaced insulation rests on top of the membrane between the purlins).

- a. Assembly descriptions can be found in ANSI/ASHRAE/IESNA Appendix A.
- b. Where using R-value compliance method, a thermal spacer block shall be provided, otherwise use the U-factor compliance method in Table C402.1.2.
- c. R-5.7ci is allowed to be substituted with concrete block walls complying with ASTM C90, ungrouted or partially grouted at 32" or less on center vertically and 48" or less on center horizontally with ungrouted cores filled with materials having a maximum thermal conductivity of 0.44 Bru-in/h-<sup>f2</sup> 0°F.
- d. Where heated slabs are below grade, below-grade walls shall comply with the exterior insulation requirements for heated slabs.
- e. Steel floor joist systems shall be insulated to R-38.
- f. The U-factors shown in Table C402.1.2 shall be adjusted to correspond with the R-values shown in this table.

(Ord. 2283, Sec. 1, 2013)

- 4-604. **AMENDMENTS TO SECTION C402.3 - FENESTRATION(PRESCRIPTIVE).** Section C402.3 of the 2012 IECC is hereby amended to read as follows: Fenestration shall comply with Table C402.3. Automatic day-lighting controls specified by this section shall comply with Section C405.2.2.3.2.

C402.3.1 MAXIMUM AREA. The vertical fenestration area (not including opaque doors and opaque spandrel panels) shall not exceed forty percent (40%) of the gross above-grade wall area. The skylight area shall not exceed three percent (3%) of the gross roof area.

(Ord. 2283, Sec. 1, 2013)

- 4-605. **SECTION C406 DELETED.** Section C406 of the 2012 IECC is hereby deleted. (Ord. 2283, Sec. 1, 2013)

- 4-606. **SECTION C408 DELETED.** Section C408 of the 2012 IECC is hereby deleted. (Ord. 2283, Sec. 1, 2013)

- 4-607. **AMENDMENTS TO TABLE R402.1.1 – INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT** (a). Table R402.1.1 of the 2012 IECC is hereby amended to read as follows:

**Table R402.1.1  
INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT (a)**

Climate Zone	Fenestration U-factor (b)	Skylight(b) U-factor	Glazed Fenestration SHGC (b)	Ceiling(g) R-value	Wood Frame Wall R-value	Mass Wall R-value(f)	Floor R-value	Basement Wall R-value(c)	Slab(d) R-value & Depth	Crawl Space(c) Wall R-value
4	0.35	0.55	0.40	49	13	8/13	19	10/13	NR	10/13

- a. R- values are minimums. U-factors and SHGC are maximums. When insulation is installed in a cavity which is less than the label or design thickness of the insulation, the installed R-value of the insulation shall not be less than the R-value specified in the table.
- b. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.
- c. "10/13" means R-10 continuous insulation on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement walls.
- d. R-5 shall be added to the required slab edge R-values for heated slabs.
- e. Or insulation sufficient to fill the framing cavity, R-19 minimum.
- f. The second R-value applies when more than half the insulation is on the interior of the mass wall.
- g. Loose-fill insulation shall be installed at the rate recommended by the manufacturer's statement "so many bags per 1000 sq ft", Where the pitch of the roof restricts the "minimum thickness" at the exterior wall line, the insulation shall be blown into the cavity so as to achieve a greater compacted density to a point where the "minimum thickness" can be achieved. An alternative is to install high-density batts around the perimeter edge per R402.2.  
(Ord. 2283, Sec. 1, 2013)

4-608. **AMENDMENTS TO SECTION R402.4 – AIR LEAKAGE (MANDATORY).**

Section R402.4 of the 2012 IECC is hereby amended to read as follows:  
The building thermal envelope shall be constructed to limit air leakage in accordance with the requirements of Sections R402.4.1.1 and R402.4.1.2.

**R402.4.1 BUILDING THERMAL ENVELOPE.** The building thermal envelope shall comply with Section R402.4.1.1 and R 402.4.1.2. The sealing methods between dissimilar materials shall allow for differential expansion and contractions.

**R402.4.1.1 INSTALLATION.** The components of the building thermal envelope as listed in Table R402.4.1.1 shall be installed in accordance with the manufacturer's instructions and the criteria listed in Table R402.4.1.1, as applicable to the method of construction. Where required by the code official, an approved third party shall inspect all components and verify compliance.

**R402.4.1.2 TESTING.** Where required by the code official, the building or dwelling unit shall be tested and verified as having an air leakage rate not exceeding 5 air changes per hour. Testing shall be conducted with a blower door at a pressure of 0.2 inches w .g. (50 Pascals). Where required by the code official, testing shall be conducted by an approved third party. A written report of the results of the test shall be signed by the party conducting the test and provided to the code official. Testing shall be performed at any time after creation of all penetrations of the building thermal envelope.

During testing:

1. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed, beyond the intended weather-stripping or other infiltration control measures;
2. Dampers including exhaust, intake, makeup air, backdraft and flue dampers shall be closed, but not sealed beyond intended infiltration control measures;
3. Interior doors, if installed at the time of the test, shall be open;
4. Exterior doors for continuous ventilation systems and heat recovery ventilators shall be closed and sealed;
5. Heating and cooling systems, if installed at the time of the test, shall be turned off; and
6. Supply and return registers, if installed at the time of the test, shall be fully open.

R402.4.2 FI REPLACES. New wood burning fireplaces shall have tight-fitting flue dampers and outdoor combustion air.

R402.4.3 FENESTRATION AIR LEAKAGE. Windows, skylights, and sliding glass doors shall have an air infiltration rate of no more than 0.3 cfm per square foot, and swinging doors no more than 0.5 cfm per square foot, when tested according to NFRC 400 or AAMA/WDMA/CSA 101/I.S.2/A440 by an accredited, independent laboratory and listed and labeled by the manufacturer.

Exception: Site built windows, skylights and doors.

R402.4.4 RECESSED LIGHTING. Recessed luminaires installed in the building thermal envelope shall be sealed to limit air leakage between conditioned and unconditioned spaces. All recessed luminaires shall be IC-rated and labeled as having an air leakage rate not more than 2.0 cfm when tested in accordance with ASTM E 283 at a 1.57 psf (75 Pa) pressure differential. All recessed luminaires shall be sealed with a gasket or caulk between the housing and the interior wall or ceiling covering.

(Ord. 2283, Sec. 1, 2013)

4-609. AMENDMENTS TO SECTION R403.2 – DUCTS. Section R403.2 of the 2012 IECC is hereby amended to read as follows:

Ducts and air handlers shall be in accordance with Sections R403.2.1 through R403.2.3.

R403.2.2 SEALING (MANDATORY). Ducts, air handlers, and filter boxes shall be sealed. Joints and seams shall comply with the International Mechanical Code.

Exceptions:

1. Air-impermeable spray foam products shall be permitted to be applied without additional joint seals.
2. Where a duct connection is made that is partially inaccessible, three screws or rivets shall be equally spaced on the exposed portion of the joint so as to prevent a hinge effect.
3. Continuously welded and locking-type longitudinal joints and seams in ducts operating at static pressures less than 2 inches (2") of water column (500 Pa) pressure classification shall not require additional closure systems.

Where required by the code official, duct tightness shall be verified by either of the following:

1. Post-construction test: Total leakage shall be less than or equal to 4 cfm per 100 square feet of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 pa) across the entire system, including the manufacturer's air handler enclosure. All register boots shall be taped or otherwise sealed during the test.
2. Rough-in test: Total leakage shall be less than or equal to 4 cfm per 100 square feet of conditioned floor area when tested at a pressure differential of 0.1 inches w.g. (25 Pa) across the entire system, including the manufacturer's air handler enclosure. All registers shall be taped or otherwise sealed during the test. If the air handler is not installed at the time of the test, total leakage shall be less than or equal to 3 cfm per 100 square feet of conditioned floor area.

Exceptions:

1. The total leakage test is not required for ducts and air handlers located entirely within the building thermal envelope.
2. On the post-construction test, it is permissible to test for "leakage to the outdoors" versus a "total leakage". Leakage to the outdoors shall be less than or equal to 8 cfm per 100 square feet of conditioned floor area.

R403.2.2.1 SEALED AIR HANDLER. Air handlers shall have a manufacturer's designation for an air leakage of no more than two percent (2%) of the design air flow rate when tested in accordance with ASHRAE 193.

R403.2.3 BUILDING CAVITIES (MANDATORY). Building framing cavities shall not be used for ducts or plenums.  
(Ord. 2283, Sec. 1, 2013)

- 4-610. AMENDMENTS TO SECTION R403.4 – SERVICE HOT WATER SYSTEM.  
Section R 403.4 of the 2012 IECC is hereby amended to read as follows:  
Energy conservation measures for service hot water systems shall be in accordance with Section R403.4.1.

R403.4.1 CIRCULATING HOT WATER SYSTEMS (MANDATORY). Circulating hot water systems shall be provided with an automatic or readily accessible manual switch that can turn off the hot water circulating pump when the system is not in use.  
(Ord. 2283, Sec. 1, 2013)

- 4-611. AMENDMENTS TO SECTION R404.1 – LIGHTING EQUIPMENT (MANDATORY). Section 404.1 of the 2012 IECC is hereby amended to read as follows Fuel gas lighting systems shall not have continuously burning pilot lights.  
(Ord. 2283, Sec. 1, 2013)



**ARTICLE 7. NFPA70: NATIONAL ELECTRICAL CODE (NEC)**

- 4-701. NFPA 70: NATIONAL ELECTRICAL CODE INCORPORATED. There is hereby adopted and incorporated by reference that certain electrical code known as “NFPA 70: National Electrical Code”, 2011 edition, copyrighted in 2010 by the National Fire Protection Association, Inc. (hereinafter referred to as the “NEC” or “this Code”), except for the amendments provided in this Article. Not less than three copies of the NEC shall be marked or stamped “Official Copy as adopted by Ordinance No. 2284.” A copy of this ordinance shall be attached to each NEC copy and shall be filed with City Hall to be open to the public at all reasonable business hours. The municipal court and all administrative departments of the City charged with the enforcement of this code shall be supplied, at the cost of the City, with such numbers similarly marked as deemed expedient.  
(Ord. 2052, Sec. 1, 2003; Ord. 2143, Sec. 1, 2007; Ord. 2284, Sec. 1, 2013)
- 4-702. SECTION 90.10 ADDED – ADMINISTRATION AND ENFORCEMENT. Article 90, Section 90.10 of the NEC is hereby added to read as follows:  
The administrative provisions for this code shall be those provisions contained in Sections 103 through 116 of the International Building Code.  
(Ord. 2052, Sec. 2, 2003; Ord. 2284, Sec. 1, 2013)
- 4-703. AMENDMENTS TO SECTION 210.12 – ARC-FAULT CIRCUIT-INTERRUPTER PROTECTION. Article 210, Section 210.12 of the NEC is hereby amended to read as follows:
- A. Dwelling Units. All branch circuits that supply 120-volt, single phase 15 and 20 ampere receptacles installed in bedrooms shall be protected by a combination type arc-fault circuit-interrupter installed to provide protection of the branch circuit.  
Exceptions:
1. If RMC, IMC, EMT, type MC, or steel armored type AC cables meeting the requirements of Section 250.118 and metal outlet and junction boxes are installed for the portion of the branch circuit between the branch-circuit overcurrent device and the first outlet, it shall be permitted to install an outlet branch-circuit type AFCI at the first outlet to provide protection for the remaining portion of the branch circuit.
  2. Where a listed metal or nonmetallic conduit or tubing is encased in not less than two inches (2”) of concrete for the portion of the branch circuit between the branch-circuit overcurrent device and the first outlet, it shall be permitted to install an outlet branch-circuit type AFCI at the first outlet to provide protection for the remaining portion of the branch circuit.
  3. Where an individual branch circuit to a fire alarm system installed in accordance with Section 760.121 (B) is installed in RMC, IMC, EMT, or steel-sheathed cable type AC or type MC, meeting the requirements of Section 250.118, with metal outlet and junction boxes, AFCI protection shall be permitted to be omitted.
- B. Branch circuit extensions or modifications-dwelling units. If any of the areas specified in Section 210.12(A), where branch-circuit wiring is modified, replaced, or extended, the branch circuit shall be protected by one of the following:

1. A listed combination-type AFCI located at the origin of the branch circuit.
2. A listed outlet branch-circuit type AFCI located at the first receptacle outlet of the existing branch circuit.

(Ord. 2052, Sec. 3, 2003; Ord. 2284, Sec. 1, 2013)

4-704. AMENDMENTS TO SECTION 334.10 – USES PERMITTED. Article 334, Section 334.10 of the NEC is hereby amended to read as follows:  
Type NM, Type NMC, and Type NMS cables shall be permitted to be used in the following:

1. One and two family dwellings and their attached or detached garages and their storage buildings.
2. Multi-family dwellings except as prohibited in Section 334.12.
3. Other structures except as prohibited in Section 334.12. Cables shall be concealed within walls, floors, or ceilings that provide a thermal barrier of material that has at least a 15 minutes finish rating as identified in listings of fire-rated assemblies.
4. Cable trays, where the cables are identified for the use:
  - A. Type NM. Type NM cable shall be permitted as follows:
    1. For both exposed and concealed work in normally dry locations except as prohibited in Section 334.10(3).
    2. To be installed or fished in air voids in masonry block or tile walls.
  - B. Type NMC. Type NMC cable shall be permitted as follows:
    1. For both exposed and concealed work in dry, moist, damp, or corrosive locations, except as prohibited in Section 334.10(3).
    2. In outside and inside walls of masonry block or tile walls.
    3. In a shallow chase in masonry, concrete, or adobe protected against nails or screws by a steel plate at least 1/16 inch thick and covered with plaster, adobe, or similar finish.
  - C. Type NMS. Type NMS cable shall be permitted as follows:
    1. For both exposed and concealed work in normally dry locations except as prohibited in Section 334.10(3).
    2. To be installed or fished in air voids in masonry block or tile walls.
    3. To be used as permitted in Article 780.

(Ord. 2088, Sec. 1, 2004; Ord. 2284, Sec. 1, 2013)

4-705. ARTICLE 406 SECTION 406.12 – DELETED. Article 406 Section 406.12 (Tamper-Resistant Receptacles in Dwelling Units) of the NEC is hereby deleted.  
(Ord. 2052, Sec. 4, 2003; Ord. 2284, Sec. 1, 2013)

**ARTICLE 8. ASSOCIATION NOTIFICATION OF CONSTRUCTION ACTIVITY**

- 4-801. INTENT. The purpose of this Article is to establish procedures for notifying homes associations of planned construction activity occurring within association boundaries. (Ord. 2150, Sec. 1; Ord. 2285, Sec. 1, 2013)
- 4-802. DEFINITIONS. As used in this Article, unless the context otherwise requires:
- (a) "Construction activity" means any improvement, construction, renovation or demolition of a single-family residential property requiring a permit issued by the City and which meets any of the following:
    - (1) Involves the partial or total demolition of a residential structure;
    - (2) Increases the interior square footage of a residential structure; or
    - (3) Alters the building footprint of a residential structure.
  - (b) "Homes Association" means any legally constituted homes association, including any homeowners' association or residential condominium or townhome owners' association representing property within the City, whose formation is recorded through its Articles of Incorporation filed with the State of Kansas and/or recognized through filings with the Johnson County, Kansas, County Clerk's Office. (Ord. 2150, Sec. 1; Ord. 2285, Sec. 1, 2013)
- 4-803. HOMES ASSOCIATION REGISTRATION.
- (a) In order to receive notice of construction activity as described in this Article, the homes' association must register with the Codes Administration Department by completing a form provided by the City and supplying information including but not limited to:
    - (1) The name of the homes' association;
    - (2) The boundaries of the association, including addresses of all properties within the association's boundaries;
    - (3) A copy of the association's Articles of Incorporation or similar document; and
    - (4) The name and address of the individual designated to receive notices from the City as required by this Article.
  - (b) It shall be the responsibility of the homes' association to notify the City of changes to its name, boundaries or contact information.
  - (c) There shall be no registration fee charged for homes associations. (Ord. 2150, Sec. 1; Ord. 2285, Sec. 1, 2013)
- 4-804. NOTIFICATION PROCEDURE.
- (a) Upon receipt of a construction permit application, the City shall determine whether the location of the proposed construction activity is to occur at a single-family residence within the boundaries of a registered homes' association.
  - (b) If the proposed construction activity is to occur at an address within the boundaries of a registered homes' association, the City shall, within five (5) business days of receipt of the permit application, send notice to the individual identified according to 4-903(a)(4). The notice shall be delivered by United States mail and/or, if provided by the homes association, electronic mail. The notice shall include information including but not limited to:
    - (1) The location and general description of the proposed construction activity; and

- (2) The name and telephone number of the individual filing the permit application.
- (c) Upon review, acceptance, and issuance of a construction permit, the City shall notify the homes association that the permit has been approved and issued.  
(Ord. 2150, Sec. 1; Ord. 2285, Sec. 1, 2013)

## CHAPTER V. BUSINESS REGULATIONS

- Article 1. General Regulations and Licenses
- Article 2. Solicitors
- Article 3. Amusement Devices, Carnivals and Circuses
- Article 4. Security Licenses and License Agents
- Article 5. Massage Therapy
- Article 6. Adult Entertainment Establishments
- Article 7. Residential Rental Properties
- Article 8. Prohibited Discrimination in Employment, Housing or Public Accommodations

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### ARTICLE 1. GENERAL PROVISIONS

5-101. DEFINITIONS. As used in this article:

(a) Business means and includes business, trades, occupations, professions, the renting or leasing of property for residential or business use and also the rendering or furnishing of a service; provided, that the name of a business, trade, occupation or profession may be used, and when so used, shall refer to the particular business, trade, occupation or profession.

(b) Fee -- An occupation or license fee upon and for the privilege of engaging in business as defined in this section.

(c) License -- A document issued by the city acknowledging payment of the required fee and stating the name of the licensee, business and where located, a description of the business activity, the period which the fee covers, other matters as may be required, and signed by the City Clerk. (A copy of same is on file in the office of the City Clerk and is incorporated in this article by reference.)

(d) Person -- Any individual, partnership, corporation, firm, organization, association, joint stock company, or syndicate who or which is engaged in any business, trade, occupation, or profession, or rendering or furnishing any service for profit or livelihood and subject to the provisions of this article; provided, any individual in the direct employ of any person licensed under the provisions of this article is exempt unless such individual operates as a subcontractor; but if such individual operates or practices his or her skill for compensation for any person other than his or her licensed employer, he or she must pay the fee and obtain a license as such is required by the terms of this article.

(Code 1973, 5.04.020; Ord. 2203, Sec. II, 2009; Ord. 2297, Sec. 1, 2013))

5-102. LICENSE REQUIRED. No person either as principal officer, agent, servant or employee, shall conduct, pursue, carry on, or operate in the city, any business, trade, occupation, or profession, or render or furnish its service hereinafter specified in this article without first making application to the City Clerk for a license therefore, paying to the Office of the City Clerk the license fee hereinafter prescribed and obtaining an occupation license from the City. Professions shall include, but shall not be limited to

accountants, architects, attorneys, auctioneers, dentists, osteopaths and photographers. (Code 1973, 5.04.010; Ord. 2203, Sec. II, 2009)

5-103. BUSINESS CATEGORIES. A business shall be classified for purposes of payment of fees within the following categories:

- (a) Retail establishments and Administrative offices;
- (b) Home occupations;
- (c) Nondomiciled business;
- (d) Solid Waste Disposal;
- (e) Commercial Pesticide Business;
- (f) Tree Trimmer;
- (g) Family Home Day Care.

(Code 1973, 5.04.030; Ord. 2203, Sec. II, 2009)

5-104. EXEMPTIONS. Nothing in this article shall be construed as applying to or levying a fee against:

- (a) Instrumentality of the government of the United States, unless authorized by the laws of the United States;
- (b) Organizations which are created and operated for charitable, religious, benevolent, fraternal, civic, educational, or similar purposes, and from which profit is not derived, either directly or indirectly, by any individual or any other business, person or organization and which is exempt from taxation by state or federal law. The City Clerk may require any business, instrumentality, or organization claiming to be exempt under this section, to file with the City Clerk a verified statement stating the facts upon which the exemption is claimed.

(Code 1973, 5.04.040; Ord. 2203, Sec. II, 2009)

5-105. APPEAL. If the City Clerk disapproves any application, he or she shall give the reasons therefore in writing, file same for public view and mail 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 clerk 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 30 days after the applicant files such notice of appeal. The Governing Body, after a hearing, may reverse or affirm the decision of the City Clerk by a majority vote. Nothing in this section shall prejudice the right of the applicant to reapply at a later date for a license or permit(s).

(Code 1973, 5.04.040; Ord. 2203, Sec. II, 2009)

5-106. OCCUPATIONAL FEE LEVIED. An occupation fee is levied on business categories as follows:

- (a) Retail Establishments and Administrative Offices. Any person engaged in any type of business or profession that leases or is zoned either C-O, C-1, C-2, C3, MXD or planned business district shall pay an occupational fee computed on the basis of interior space footage of the leased or owned space as adopted by the Governing Body and on record in the Office of the City Clerk. The fee shall be used on total square feet of space regardless of use; provided, however, that basement or second-story space

that is used exclusively as storage or utility space shall be excluded in determining the total square feet of space.

(b) Home Occupations. All businesses conducted from a residential structure which is zoned residential or MXD shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk; provided, however, that nothing in this section shall be construed to convey the right to use any residential structure for a business use prohibited by the City Zoning and Subdivision Regulations.

(c) Nondomiciled Business. Any person who is required by any ordinance of this City to obtain a permit to do business in the City shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk, even if the person does not lease or own property within the City limits.

(d) Solid Waste Disposal. Any person engaging in the business of collecting, transporting, and processing of solid waste within the corporate limits of the City shall first obtain a license to do business in the City as required by this code.

(e) Commercial Pesticide Business. The license required by this section for commercial pesticide business should coincide with that term set forth by the state licensing of a pesticide business as stated in the Kansas Pesticide Law, K.S.A. 2-2438(a) *et seq.* Any person engaging in the business of applying commercial pesticides shall first obtain a license to do business in the City and shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk.

(f) Tree Trimmer. Any person engaging in the business or occupation of pruning, treating or removing any trees within the City shall first obtain a license to do business in the City and shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk.

(g) Family Home Day Care. Any person providing child care services in a residential home shall first obtain a license from the State of Kansas to operate a day care and then from the City and shall pay an occupation fee adopted by the Governing Body and on record in the Office of the City Clerk.

(Code 1973, 5.04.050; Ord. 2203, Sec. II, 2009)

5-107. INSPECTION OF THE PREMISES.

(a) Home Occupations

- i. The applicant for a home occupation license shall submit to the Office of the City Clerk, a floor plan for the home occupation along with the completed license application and applicable fees. The applicant and owner will be required to complete an affidavit certifying that he or she understands the City performance standards with respect to the operation of home occupations. The applicant will also be required to agree to comply with such standards as found in Prairie Village Zoning Ordinance Section 19.34.010.
- ii. The City Clerk shall review the application for a home occupation license and shall, within ten (10) days from the date of such application determine whether the proposed home occupation complies with the requirements and performance standards of this section. Any finding of noncompliance shall be

- set forth in writing and sent to the applicant. Applicant can reapply when any deficiency is corrected.
- iii. Any application for a home occupation license containing false information shall void the license from the date of the application.
  - iv. Home occupation license, once having been granted under the terms of this section, shall be renewed annually. With respect to such applications for renewal, the City Clerk may require the submission of floor plans, or, in lieu thereof, may require the applicant for renewal to state that no change in the floor plan is anticipated from the plans submitted with the original application. On any application for renewal, the City Clerk shall make the same determination, in the applications, and shall either approve or disapprove such application for renewal.
  - v. The City Clerk or his or her designee may obtain a warrant to inspect the premises if the City Clerk has probable cause to believe that this ordinance is being violated.
- (b) Family Home Day Care
- i. The applicant for a family home day care license shall submit to the City Clerk a floor plan for the facility along with the completed license application and applicable fees. The applicant and owner will be required to complete an affidavit certifying that he or she understands the City performance standards with respect to the operation of a family home day care as found in Prairie Village Zoning Ordinance Section 19.34.015. The applicant shall be approved for fire safety by the fire inspector and will not be granted a license until violations cited by the fire inspector are corrected.
  - ii. The City Clerk shall review the application for a family home day care license and shall, within ten (10) days from the date of such application is filed, determine whether the proposed family home day care complies with the requirements and performance standards of this section. Any finding of noncompliance shall be set forth in writing and sent to the applicant. Applicant can reapply when any deficiency is corrected.
  - iii. Any application for a family home day care license containing false information shall void the license from the date of application.
  - iv. Family Home Day Care license, once having been granted under the terms of this section, shall be renewed annually. With respect to such applications for renewal, the City Clerk may require the submission of floor plans, or, in lieu thereof, may require the applicant for renewal to state that no change in the floor plan is anticipated from the plans submitted with the original application. On any application for renewal, the City Clerk shall make the same determination, in the time period and manner required for original Family Home Day Care license applications, and shall either approve or disapprove such application for renewal.
  - v. The City Clerk or his or her designee may obtain a warrant to inspect the premises if the City Clerk has probable cause to believe that this ordinance is being violated.

(Ord. 1855, Sec. 1; Ord. 2203, Sec. II, 2009)



- 5-108. SAME; APPEAL OF DENIAL OR SUSPENSION OF LICENSE TO THE BOARD OF ZONING APPEALS. Appeals from denials or suspensions of license for home occupations or family home day cares shall be governed by Section 19.54.025 of Prairie Village Zoning Ordinance. (Ord. 2203, Sec. II, 2009)
- 5-109. APPLICABLE CLASSIFICATIONS. Whenever more than one classification is applicable to a business, the business shall pay the highest classification herein. Each and every business operating at one location shall obtain an occupation license and pay the fee required for same. (Ord. 1800, Sec. 3; Ord. 2203, Sec. II, 2009)
- 5-110. LICENSE TERM.
- (a) The twelve (12) month period provided for in this article shall be the calendar year for the following license: Non-Domiciled and Solid Waste Disposal. If such person, firm or corporation makes application during the last six months of such twelve (12) month period, she, he, it or they shall pay one-half of the occupation fee provided for the current twelve (12) month period in which such application is made; provided however, no license shall be issued for any business conducted in violation of any state or federal law or in violation of any ordinance of the City. For purposes of this section, the person, firm, or corporation making application shall not be entitled to pay for only the last six months of such twelve (12) month period if she, he, it, or they should have applied for an occupation license, as provided by this article during the first six months of the term as provided by this section.
- (b) All other licenses shall be for a twelve (12) month period commencing at the time of licensing and renewing twelve (12) months later. (Ord. 1924, Sec. 1; Ord. 2203, Sec. II, 2009)
- 5-111. REFUNDS. No refunds will be made for fees collected under the provisions of this article. (Ord. 1800, Sec. 6; Ord. 2203, Sec. II, 2009)
- 5-112. DUTIES OF CITY CLERK. The City Clerk, upon payment of the amount specified in this article for a trade, profession, or occupation, shall give a receipt therefore stating the amount paid, for what period and to whom issued, and if, possible, the exact location where the business or occupation is carried on. The receipt shall be delivered to the party paying the occupation fee. In addition, the City Clerk shall issue to the person named in such receipt a certificate stating the kind and nature of business to be carried on or transacted, to whom issued, the time when such certificate will expire, the amount paid therefore and, if possible, the office, place or headquarters where same is to be located. The City Clerk shall keep a record of all certificates issued showing their nature, date of expiration, to whom issued, and the location of the business as aforesaid. (Ord. 1800, Sec. 7; Ord. 2203, Sec. II, 2009)
- 5-113. DISPLAY OF LICENSE. All persons or firms doing business in a permanent location are required to have their license conspicuously displayed in their place of business, and all persons or firms to whom licenses are issued not having a permanent place of business are required, within 48 hours, to provide proof that they have been

issued an occupation license when requested to do so by any properly designated City Official. (Ord. 1800, Sec. 8; Ord. 2203, Sec. II, 2009)

5-114. NONTRANSFERABLE. No certificate for an occupation fee issued under this article shall be transferable or assignable. (Ord. 1800, Sec. 9; Ord. 2203, Sec. II, 2009)

5-115. APPLICATION FORM. A form for application to the City for an occupation license is on file in the Office of the City Clerk. (Ord. 1695, Sec. 4; Ord. 2203, Sec. II, 2009)

5-116. PENALTIES FOR VIOLATION.

(a) Any person which conducts, pursues, carries on, or operates, within the city limits, any trade, profession or occupation for which a certificate for the payment of the occupation fee is required by this article, or assists directly or indirectly in so doing, in any manner or to any extent, either as owner or proprietor, or as officer of any corporation, or as manager, superintendent, agent, servant, or employee of any person after an occupation, is deemed to do so unlawfully, and for such violation of this article is guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than \$100. Each and every day that such violation continues constitutes a separate offense.

(b) The payment of the fine for failure to pay the fee and to secure a license shall not constitute payment of the fee nor excuse the person from making payment, and the City may proceed by civil action to collect the tax.

(c) Any person liable to pay such occupation fee shall be liable for and pay in addition to same, after the expiration of 30 days from the date the fee became payable, a penalty of 10 percent of the amount due. After 60 days' delinquency a complaint shall be filed in the municipal court of the City charging the alleged violator with a violation of this article.

(d) If any person fails or refuses to pay any fee or penalties as provided by this section, the City may collect the amount due in the same manner as a personal debt of the property owner to the City by bringing an action in the District Court of Johnson County, Kansas. Such actions may be maintained, prosecuted, and all proceedings taken, including any award of post-judgment interest the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be and are hereby made available to the City in the enforcement of the payment of such obligations. In such actions, the City also shall be entitled to recover interest at the rate provided in K.S.A. 79-2968, and amendments thereto from and after the date a delinquency occurs in the payment of special assessments. If the amount owing is to be assessed against the property, the City Clerk, at the time of certifying other taxes to the county clerk, shall certify the aforesaid fees and penalties owing by the property owner; and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner of a civil action as described herein, but only until the full cost and any applicable interest has been paid in full. (Ord. 1637, Sec. 3; Ord. 2203, Sec. II, 2009)

## ARTICLE 2. SOLICITORS

5-201. LEGISLATIVE FINDINGS. It is hereby found and determined by the governing body that crimes have been committed by persons posing as solicitors and that a variety of frauds and misleading devices are sometimes employed in such solicitations. It is further found that some solicitors present a continuing danger of fraud, robbery, and other crimes to the residents of the city. The city further has an interest in reducing litter and trash associated with commercial handbills, which often end up as litter and contribute to storm water management problems. In addition, it is found that residents of the city are subject to being annoyed by solicitors. In response to these findings, it is hereby determined by the governing body that it is necessary, in the interest of the public safety and welfare, for the governing body to regulate the time, place, and manner of solicitation in the city, and registration of certain commercial solicitors. This article advances the city's interests while protecting the free speech rights of the public guaranteed by the First Amendment to the United States Constitution. (Ord. 1922, Sec. 1; Ord. 2420, Sec. 1, 2020)

5-202. DEFINITIONS. For the purpose of this chapter the words and phrases defined in the sections hereunder shall have the meanings therein respectively ascribed to them, unless a different meaning is clearly indicated by the context.

- (a) City as used in this chapter means the City of Prairie Village, Kansas.
- (b) Person as used in this chapter means any individual, firm, partnership, corporation, or company, and includes any trustee, receiver, assignee, agent or other similar representative thereof.
- (c) Commercial handbill means any printed or written matter, any sample or device, circular, leaflet, pamphlet, paper booklet, door hanger or any other printed or otherwise reproduced original or copies which:
  - (1) Advertises for sale merchandise, products, or commodities;
  - (2) Directs attention to any business or mercantile or commercial establishment, or other activity, for the purpose of either directly or indirectly promoting the economic interest thereof by sales; or
  - (3) Directs attention to or advertises any meeting, theatrical performance, exhibition, or event of any kind, for which an admission fee is charged or for which a solicitation shall be made for the purpose of private gain or profit.
  - (4) Exemption for mail and newspapers. The term "commercial handbill" does not include mail delivered by the United States Postal Service or newspapers duly entered with the Post Office Department of the United States and newspapers filed and recorded with any recording officer, as provided by general law, or any periodical or current magazine regularly published at least annually and sold to the public.
- (d) Solicit and Solicitation as used in this chapter mean and include any one or more of the following:

- (1) Selling or offering for sale for a profit, advertising, marketing, or taking or attempting to take orders for the sale for a profit, of goods or services of any kind, character or description, while traveling from house-to-house, door-to-door, street-to-street, or from place-to-place in the city, whether as agent, contractor, employee, representative, or principal.
- (2) Ringing a doorbell, knocking on a door, or otherwise attempting to contact a resident, tenant, or occupant of any residence, dwelling, business, or other location for the purpose of selling, offering, or advertising any goods or services for profit, or to propose a commercial transaction related solely to the economic interests of the solicitor and the person solicited.
- (3) Hanging, leaving, or depositing any commercial handbill, regardless of whether a doorbell is rung, a door is knocked, or any other physical or verbal contact is made.

A solicitation as defined herein shall be deemed completed when made, whether or not the person making the same makes any sale.

- (e) Solicitor as used in this chapter means a person who solicits for himself, herself, or any other person. (Ord. 1922, Sec. 1; Ord. 2420, Sec. 1, 2020)

5-203.

PROHIBITED ACTS. It shall be unlawful for any person to:

- (a) Solicit at a residence, apartment, or other dwelling, or at a business at which a sign bearing the words "No Solicitors," "No Trespassers," or words of similar import indicating that such persons are not wanted on the premises, is painted, affixed or otherwise exposed to public view; provided that this paragraph shall not apply to any solicitor who gains admittance to such residence at the invitation or with the consent of the occupant thereof. For purposes of this section, the "No Solicitors" decal issued by the City Clerk prominently displayed on the door shall constitute sufficient notice to all solicitors. However, other similar signs, as defined above, are also sufficient.
- (b) Solicit prior to 10:00 a.m. or after 8:00 p.m. local time, of any day. In addition, it shall be unlawful for any person to solicit between 5:30 p.m. and 7:00 p.m. local time, of any day.
- (c) Engage in soliciting upon any premises or in any residence, apartment, or other dwelling, or at a business (including any privately-owned parking lots) after having been asked by the owner or occupant to leave the premises, business, or residence.
- (d) Make more than one solicitation call at the same residence, apartment, or other dwelling, or at a business, for identical goods or services within any consecutive 14-day period, without receiving a prior invitation therefor from the occupants of the premises. This provision shall be construed to include solicitation upon the same premises by employees, agents, or other persons acting on behalf of

the same person more than once during the aforesaid period without a prior invitation as herein provided.

- (e) Fail to provide, at the request of the purchaser, a written receipt for purchases exceeding \$5.00 in cash or tangible property which receipt shall be signed by the person making the sale and shall set forth a brief description of the goods or services sold, the total purchase price thereof, amount of cash payment, if any, and the balance due and terms of payment.
- (f) Fail at the outset of a solicitation to disclose to the prospective buyer or solicitee the solicitor's name and the name of the company, product or organization he or she represents.
- (g) Make any assertion, representation or statement which misrepresents the purpose of the solicitor's call, or use any plan, scheme, or ruse which misrepresents such purpose.
- (h) Interact in a forceful or otherwise verbally or physically aggressive manner with residents or businesses to whom a solicitation is made in the course of such solicitation.
- (i) Solicit in such a way as would restrict or interfere with the ingress or egress of the abutting property owner or tenant, increase traffic congestion or delay, or constitute a hazard to traffic, life or property, or an obstruction to adequate access to fire, police or sanitation vehicles.
- (j) Solicit if the solicitor:
  - (1) Is required to register pursuant to the Kansas Offender Registration Act, K.S.A. 22-4901 *et seq.*, and amendments thereto, or pursuant to an offender registration act of any other state;
  - (2) has been convicted of a felony, misdemeanor, or ordinance violation involving deceit, fraud, possession of a firearm, theft, or violence within the past ten (10) years; or
  - (3) has been convicted of any law regulating the act of soliciting as defined in this chapter within the past five (5) years.
- (k) Solicit or attempt to solicit at any entrance other than the main entrance of the residence, apartment, or other dwelling, or business.
- (l) Cut across or walk upon any lawn, front yard, or courtyard except upon sidewalks, walkways, or driveways, if such sidewalks, walkways, or driveways are provided.
- (m) Throw or deposit any commercial handbill in or upon any vehicle, unless the vehicle is occupied and the occupant is willing to accept it.
- (n) Fail to carry upon the solicitor's person a government-issued photo identification card (such as a driver's license) if the solicitor is sixteen (16) years of age or older, and/or fail to carry upon the solicitor's person the city license required under section 5-204 below. (Ord. 1922, Sec. 1; Ord. 2420, Sec. 1, 2020)

5-204.

LICENSE REQUIREMENT; APPLICATION PROCEDURE.

- (a) It shall be unlawful for any person to solicit for any business, including such person's own business, unless such business has received a business license as required by Chapter V, Article 1 of this Code, to the extent such Chapter V, Article 1 would otherwise require that such business obtain a license thereunder.
- (b) Except as otherwise provided in this article, it shall be unlawful for any person to solicit within the city without a solicitation license, which solicitation license shall be required in addition to any business license required by subsection (a) above. Each applicant for a solicitation license shall, at a minimum, provide the following information to the city for licensure:
  - (1) Name, date of birth, physical description of applicant.
  - (2) Government-issued photo identification, such as a driver's license.
  - (3) Applicant's Kansas Sales Tax number.
  - (4) Address of applicant and area where applicant intends to solicit.
  - (5) A brief description of the name of the business to be conducted and the goods or services to be solicited or sold, and a copy of any required city business license.
  - (6) If applicant is employed, name and address of the employer, together with credentials establishing applicant's relationship to such employer.
  - (7) Length of time for which the solicitation license is requested, not to exceed fourteen (14) days, after which time a new license must be obtained.
  - (8) If a vehicle is to be used, a description of the same, together with the state vehicle license number carried on such vehicle.
  - (9) Consent to a police record check to determine whether or not the applicant:
    - (A) Is required to register pursuant to the Kansas Offender Registration Act, K.S.A. 22-4901 *et seq.*, and amendments thereto, or pursuant to an offender registration act of any other state;
    - (B) has been convicted of a felony, misdemeanor, or ordinance violation involving deceit, fraud, possession of a firearm, theft, or violence within the past ten (10) years; or
    - (C) has been convicted of any law regulating the act of soliciting as defined in this chapter within the past five (5) years.
  - (10) Submit a copy of a paid personal property tax receipt from the Johnson County Treasurer or another county treasurer in the State of Kansas for all goods or merchandise brought into Johnson County from outside the State of Kansas to be sold or

disposed of in a place of business temporarily occupied for their sale.

- (c) The license fee for soliciting shall be as prescribed by city ordinance or fee schedule adopted by the city. Such fee is required to cover city staff application review and processing time.
- (d) Notwithstanding the foregoing, a city solicitor license shall not be required for persons under the age of eighteen (18) years of age soliciting for themselves, and not part of a business required to be licensed under Chapter V, Article 1 of this Code, for part-time, temporary, or seasonal work related to lawn care services or snow removal. (Ord. 1922, Sec. 1; Ord. 2420, Sec. 1, 2020)

5-205. REVOCATION OF LICENSE. The City Administrator, or his/her designee, may revoke any license issued under the provision of Section 5-204, for any of the following causes:

- (a) Fraud, misrepresentation or false statement contained in the application for license or made in the course of carrying on the business
- (b) Any violation as described in Section 5-203.

Notice of revocation of a license shall be provided in writing to the applicant by the City Clerk. Any person aggrieved by the denial of an application or the revocation of a license shall have the right of appeal to the Governing Body. Such appeal shall be taken by filing with the City Clerk within fourteen (14) days after notice of revocation or denial of the license has been mailed to the applicant's last known address setting forth the grounds for appeal. The Governing Body shall set a time and place for a hearing on such appeal and notice of such hearing shall be given to the applicant in the same manner as provided herein for notice of hearing on revocation. The decision and order of the Governing Body on such appeal shall be final and conclusive. (Ord. 2420, Sec. 1, 2020)

5-206. VIOLATION/PENALTY. In addition to license revocation as provided in section 5-205, any person violating any of the provisions of this article is guilty of a public offense and upon conviction thereof shall be punished as provided in Section 1-116 of this code. (Ord. 2420, Sec. 1, 2020)

### ARTICLE 3. AMUSEMENT DEVICES, CARNIVALS AND CIRCUSES

5-301. DEFINITIONS. As used in this article, the words and phrases defined in this section shall have the following meaning unless the context otherwise requires.

(a) Amusement Device -- A machine, device which is coin-operated, or otherwise available for hire, which machine or device permits a person or operator to use the device as a game or contest of skill, whether or not registering a score. It shall include, but not be limited to, such devices as electronic or mechanical game machines, pool tables, foosball tables, air hockey tables, pong games, electronic video games, shooting gallery type games, pinball machines, skill ball, bowling machines, or any other mechanical or electronic games or operations similar thereto. This definition does not include merchandise vending machines or coin-operated phonographs, televisions or other devices which are not designed for manipulation by the person operating the device. Nor does this definition include any amusement device designed exclusively for use by children under the age of 10 years, such as coin-operated riding machines and other related coin-operated machines.

(b) Arcade -- Any premises operating for a profit which shall display for public patronage or keep for operation three or more amusement devices.

(c) Person -- Any person, firm, corporation, partnership, association, or club.

(d) Proprietor -- Any person on whose premises any amusement device is placed or kept for operation for the use, amusement, patronage, or recreation of the public or of persons in or about the premises.

(e) Distributor -- Any person, firm, corporation, partnership, or association who owns, controls, manages, or has possession of any such amusement devices who installs or maintains the same in any place of business which is not his or her own or under his or her direct control where the same can be played or operated by persons in the same place.

(f) Premises -- A building, or a part of a building where amusement devices are located.

(Code 1973, 5.14.020)

5-302. CARNIVALS AND CIRCUSES; ALL FORMS PROHIBITED. It is unlawful for any person, firm or corporation to engage in the business of operating a carnival and/or circus, or operate the same in connection with any business enterprise within the city. (Code 1973, 5.32.020)

5-303. LICENSES REQUIRED. (a) Amusement Device License. No person shall maintain, display for public patronage, or otherwise keep for operation by the public any amusement device without first obtaining an amusement device license from the city for each machine. A maximum of two machines shall be allowed per premises in the city, unless the person has obtained a special use permit and an arcade license as described in subsection 5-303(b). No license shall be required for a person to own, maintain, or offer for use to the public any machine designed exclusively for use by children under the age of 10 years, such as coin-operated riding machines and other related coin-operated machines. The application for the amusement device license shall be made upon the form prescribed by the city and shall be filed with the City



Clerk. The license shall be issued to a specific person for a specific location. The application for a license shall contain:

- (1) Name and post office address of the proprietor, age, date and place of birth. If a firm, corporation, partnership or association, the principal officers thereof and their addresses;
- (2) Name and post office address of the distributor of each amusement device to be kept on the premises;
- (3) Name, address and zoning district of the premises where the machines will be displayed or operated and the type of business conducted on the premises;
- (4) Number (maximum of two) and type of machines to be located on the premises;
- (5) A list of each amusement device including for each, the mechanical features, serial number and name of the manufacturer;
- (6) A diagram with dimensions of the premises in which the machine will be located, showing the location of the machine and each exit from the premises;
- (7) A statement that all facts contained in the application are true;
- (8) Whether applicant, (or if a corporation, club or association, its officers) have ever been convicted of a felony or any crime involving moral turpitude, or any offense involving the sale and/or distribution of alcoholic liquor, cereal malt beverages or any controlled substance;
- (9) Signature of the applicant;
- (10) A fee adopted by the governing body and on record in the office of the City Clerk.

An amusement device license granted pursuant to this article shall be posted permanently in a conspicuous place at the location of the machine on the premises for which the license was granted. An inventory list containing the type and serial number for each and every amusement device for which the license was issued shall be on the premises. The number of amusement devices requested on the application shall be noted on the amusement device license.

If the licensee moves his or her machine to another location within the city, the license may be transferred to such new location upon application to the City Clerk giving the name, address, and zoning of the premises where the machine will be displayed or operated and the type of business conducted at the new location. A diagram with dimensions of the premises in which the machine will be located, showing the location of the machine and each exit from the premises, shall be submitted. The new location shall be approved by the director of public works.

(b) Arcade License. No person shall maintain, display for public patronage, or otherwise keep for operation by the public three or more amusement devices without first obtaining a special use permit and an arcade license for each premises in the city and without first obtaining an amusement device license for each machine from the city.

The applicant shall specify in such application:

- (1) Name and post office address of the proprietor, age, date and place of birth. If a firm, corporation, partnership or association, the principal officers thereof and their addresses;
- (2) Name and post office address of the distributor of each amusement device to be kept on the premises;

- (3) Name, address and zoning district of the premises where the machines will be displayed or operated and the type of business conducted on the premises;
  - (4) Number and type of machines to be located on the premises;
  - (5) A list of each amusement device including for each, the mechanical features, serial number and name of the manufacturer;
  - (6) A diagram with dimensions, of the premises in which the machine will be located, showing the location of the machine and each exit from the premises;
  - (7) A statement that all facts contained in the application are true;
  - (8) Whether applicant, (or if a corporation, club or association, its officers) have ever been convicted of a felony or any crime involving moral turpitude, or any offense involving the sale and/or distribution of alcoholic liquor, cereal malt beverages, or any controlled substance;
  - (9) Signature of the applicant(s);
  - (10) A fee adopted by the governing body and on record in the office of the City Clerk;
- An arcade license granted pursuant to this article shall be posted permanently in a conspicuous place on the premises. An inventory list containing the type and serial number of each and every amusement device shall be on the premises.

Each operator or licensee shall, at all times, during business hours, open each and every portion of the licensed premises for inspection to the city departments for the purpose of enforcing any provisions of this article.

At all times during the hours of operation of the licensed premises, the licensee, or a manager or agent over 21 years of age, shall be present on the premises. If the manager is not the licensee, then the manager shall file the same application information with the City Clerk as is required by subsection 5-303(b).

Upon a change of manager in charge of the premises, the licensee shall, within 10 regular business days, give the City Clerk written notice of such change by actual delivery or by registered or certified mail. The licensee shall thereafter, as promptly as practicable, but in any event within five regular business days, provide the information concerning the new manager which is required in subsection 5-303(b).

(c) Distributor License. No person shall be a distributor of an amusement device without first having obtained a distributor license from the City Clerk.

Every person desiring to obtain a distributor's license as required by subsection 5-303(c) shall file a written application to the City Clerk on forms approved by the City Clerk. The application shall provide the following information:

- (1) The name and address of the applicant. If a firm, corporation, partnership or association, then the principal officers thereof and their addresses;
- (2) Name under which the applicant does business;
- (3) Name and address of each operator in the city to whom amusement devices are distributed by the applicant;
- (4) A fee adopted by the governing body and on record in the office of the City Clerk.

(d) The planning commission may, upon application by the proponent, issue a short-term use permit for a period longer than 30 days for the use of a specified parcel of land for such temporary short-term uses as a special event such as a trade show, street, fair, exposition, promotional venture and entertainment, without publication or posted notice, provided the following conditions are met:

(1) The applicant shall submit in written form a complete description of the proposed use, including drawings of proposed physical improvements, estimated accumulation of automobiles and persons, hours of operation, length of time requested, and other characteristics and effects on the neighborhood;

(2) If approved, a specific time period shall be determined and the short-term permit shall not be operated longer than the period stipulated in the permit;

(3) Upon the cessation of the short-term permit, all materials and equipment shall be promptly removed and the property restored to its normal condition. If, after giving full consideration to the effect of the requested short-term permit on the neighborhood and the community, the planning commission deems the request is reasonable, the permit for the short-term use may be approved. Conditions of operations, provision for surety bond, and other reasonable safeguards may be written into the permit. Such permit may be approved in any zoning district;

(4) A fee adopted by the governing body and on record in the office of the City Clerk shall be charged the applicant for each such short-term permit.

(Ord. 1771, Sec. 2; Ord. 1951, Sec. 1)

5-304. FEES, RENEWAL AND TRANSFERABILITY. All applications for amusement device licenses, arcade licenses, and distributor licenses shall be for a calendar year or so much thereof as remains. Persons applying on or before July 1st of each year will pay full fee, and persons applying after July 1st of each year will pay one-half of the annual tax. There shall be no refund in any case where the licensee quits business prior to the end of a calendar year or when the license is revoked for any reason.

No license issued under this article shall be transferable to another person, or location except as provided for in subsection 5-303(a) for amusement device licenses.

(a) Fees. The annual fee for an amusement device license will be based upon the number of devices and shall be adopted by the governing body and on record in the office of the City Clerk. The annual fee for an arcade license shall be based upon each location plus the fees for an amusement device license for each and every amusement device. The arcade license fee shall also be adopted by the governing body and on record in the office of the City Clerk. The annual fee for a distributor license shall be adopted by the governing body and on record in the office of the City Clerk.

(b) Renewal. All applications for a renewal license shall be made on or before December 1st of the calendar year already licensed. Any license issued in accordance with this article may be renewed upon a majority vote of the governing body of the city for an additional year.

(Ord. 1760, Sec. 2)

5-305. LICENSE APPROVAL. No license required of this article shall be issued to any applicant unless the application is approved by the governing body. (Code 1973, 5.14.050)

5-306. INSPECTION OF PREMISES. Before any amusement device or arcade license shall be issued, investigation of the applicant and inspection of the premises shall be made by the city building inspector, fire department, police department, and such other city departments or agencies as may be deemed necessary to determine whether the

applicant and the premises shall comply with applicable zoning, building, fire, health, safety, and sanitation codes. Before the fire department approves the premises, it must be determined that the premises, and the location of the amusement devices therein, permit safe ingress and egress. (Code 1973, 5.14.060)

5-307. DENIAL OF LICENSE. No license shall be issued:

- (a) Where the licensee, proprietor, managing agent of a corporation or active partner of a partnership has been convicted of any felony or any crime involving moral turpitude or any offenses involving the sale and/or distribution of alcoholic liquor, cereal malt beverages, or any controlled substance, except convictions which have been expunged pursuant to K.S.A. 12-4516 or 21-4619 and amendments thereto or pursuant to comparable proceedings in other jurisdictions;
  - (b) Unless the premises comply with applicable city ordinances including but not limited to zoning codes, building code, fire code, health, safety, sanitation codes;
  - (c) Unless the premises provide for safe ingress and egress;
  - (d) For any premises that have living quarters with direct entry to the premises.
- (Code 1973, 5.14.070)

5-308. RESPONSIBILITY OF LICENSEE. A licensee shall not permit any of the following activities within the permitted premises:

- (a) The sale, purchase, possession or consumption of any alcoholic liquor or cereal malt beverages on the premises, unless the premises are licensed under the provisions of the code and the ordinances of the city for the sale, purchase, possession, or consumption of alcoholic beverages;
  - (b) The use, sale of or possession of any unlawful drug or narcotic, or controlled substance, including marijuana, on the premises;
  - (c) The operation of any amusement device by a person younger than 12 years of age except between the hours of 9:00 a.m. and 10:00 p.m.;
  - (d) The operation of any amusement device by a person over 12 years of age, but under 17 years of age except between the hours of 9:00 a.m. and 12:00 midnight;
  - (e) Any illegal conduct;
  - (f) Littering on or about the premises or any other condition inconsistent with the health, safety, building or fire codes of the city.
- (Code 1973, 5.14.080)

5-309. REVOCATION OF LICENSE. The governing body of the city may revoke or suspend such license after having given the license notice and an opportunity or be heard on why the license should not be suspended or revoked. The notice shall be given at least 10 days in advance of the hearing by certified mail to the licensee at his or her address listed on the license application. The notice shall advise the licensee of the time, and place of the public hearing and of the reasons why suspension or revocation is being considered. (Code 1973, 5.14.090)

5-310. REASONS FOR REVOCATION OR SUSPENSION. The governing body may after notice and hearing as above provided revoke or suspend such license for any of the following reasons:

- (a) Gambling on the premises;
- (b) False or incorrect material or statement on the application or information furnished by the applicant;
- (c) Failure to maintain orderly and safe conduct on the premises;
- (d) If the presence of the machines results in gambling, obscene and loud language disturbing to the public or to other patrons on the premises, creating a nuisance, excessive noise, litter, traffic or rowdyism by the patrons;
- (e) Any violation of section 5-308;
- (f) If the licensee, directly or indirectly permits the operation of any amusement device, contrary to the provisions of any ordinance of this city, or statute of the State of Kansas, or any federal law;
- (g) If the licensee has failed to pay any fees due to the city. (Code 1973, 5.14.100)

5-311. VIOLATIONS AND PENALTIES. Any person who violates any provision of this article shall, upon conviction, be punished by a fine not exceeding \$500 or by imprisonment for a term not exceeding 90 days or by imprisonment for a term not exceeding 90 days, or both. Each day that a violation occurs or is committed shall constitute a separate offense. (Code 1973, 5.14.120)

#### ARTICLE 4. SECURITY LICENSES AND LICENSE AGENTS

5-401. DEFINITIONS. When the terms set forth below are used in this article, the following definitions shall apply, unless the context otherwise requires:

- (a) License -- A certificate granting permission for a person to operate a security service.
- (b) License Agent -- means that a licensed holder for the operation of a security service has hired an agent to conduct security services on behalf of their company.
- (c) Person -- Any individual, partnership, proprietorship, association, firm, corporation or other business entity.
- (d) Security Agent -- Any individual who is employed by a security service to guard, watch, patrol or otherwise attempt to provide security for any individual(s) or the real or personal property of any person.
- (e) Service -- Any person engaged for hire in the business of guarding, watching, patrolling or otherwise attempting to provide security for any individual(s) or the real or personal property of another person.

(Code 1973, 5.20.010; Ord. 1644, 1988; Ord. 2072, Sec. 2, 2004)

5-402. REQUIREMENTS FOR LICENSE.

- (a) License. No person shall provide or engage in a business which provides security service within the city unless such person then possesses a valid license from the City to engage in such business.
- (b) Agent. No individual shall perform any service within the city as a security agent unless said individual has been identified to the City as an agent of a license holder.

(Code 1973, 5.20.020; Ord. 1644, 1988; Ord. 2072, Sec. 2, 2004)

5-403. LICENSE APPLICATION CONTENTS. Any person desiring to obtain a security service license shall submit to the City in writing an application containing the information and items set forth below:

- (a) Name and address of person that will be engaged in providing such security service;
- (b) Names and addresses of all officers, directors and others active in the management of the business entity which will provide such security service;
- (c) A description of all vehicles to be used in providing such service including the vehicle registration numbers thereof;
- (d) The name and address of every state, county, municipality and other such entity which has, with respect to the applicant, and with respect to any business entity in which any owner, director, officer or other management person of the applicant has participated, granted, refused or revoked the same or a similar type of license or permit;
- (e) With respect to each person active in the day-to-day management of the security service, one recent photograph, two applicant fingerprint cards, their residence address for the five years immediately preceding the date of the application, and

a history of their employment for the five years immediately preceding the date of the application;

- (f) A certificate of insurance issued by an insurance company duly authorized to write liability insurance in the state indicating that the applicant and all security agents under the employ of the applicant are covered by liability insurance insuring their acts of negligence to the extent of at least \$500,000 per occurrence, which policy shall name the City of Prairie Village as an additional insured. Applicant shall furnish the city with a copy of the certificate of insurance to be forwarded to the City

Clerk and a copy for the city's insurance agent for verification of the financial solvency of the insurance carrier. Such policy shall remain in full force and effect during the term of the license and shall contain a clause requiring the insurer to give the City Clerk at least 10 days' written notice prior to the cancellation, expiration, lapsing or termination of the policy;

- (g) The Chief of Police may, with respect to the applicant, require such additional information.

(Code 1973, 5.20.030; Ord. 1644, 1988; Ord. 2072, Sec. 2, 2004)

#### 5-404. LICENSE FEES, TERMS, EXPIRATIONS.

- (a) The annual fee for a security service license shall be adopted by the Governing Body and shall be on record in the office of the City Clerk. The term of the license will be January 1st through December 31st.
- (b) Every person making application for or receiving a license for a security service within the first six months of the calendar year shall pay the full amount of the fee provided herein. If such person makes application during the last six months of the calendar year, he or she shall pay one-half the license fee for the current calendar year in which such application is made.
- (c) Application for renewal may be made 30 days prior to expiration date.
- (d) Licenses issued under this article are not assignable or transferable.
- (e) License fees are not refundable upon cancellation during a calendar year.
- (f) Licenses shall automatically terminate and expire upon the cancellation, expiration, lapsing or termination of any liability insurance policy required by Section 5-503.

(Code 1973, 5.20.040; Ord. 2072, Sec. 2, 2004; Ord. 2372, Sec. 1, 2017)

5-405. LICENSE REQUIREMENTS FOR AGENTS. A license holder for conducting security services within the City shall be responsible for identifying all security agents of the company providing security services on behalf of the company. The license holder shall submit to the City Clerk, in writing, notification of agents and containing the information set forth below:

- (a) Agent's name, current address, one recent photograph of the agent, two applicant fingerprint cards, the date of birth and social security number of the agent, employment verification letter stating the location of the security assignment, copy of agent's driver's license;

- (b) All residential addresses of the agent for the five years immediately preceding the date of notification;
- (c) If the agent will carry a firearm and it is to be concealed in the course of their assigned duty, it must be in accordance with K.S.A. 75-7b17;
- (d) If the agent shall use their own vehicle in the course of serving as an agent providing security services, a description of such vehicle, including the vehicle registration number thereof and proof of liability insurance meeting the requirements of the State of Kansas attached;
- (e) The Chief of Police may, with respect to any agent, require such additional information as he or she may reasonably deem necessary;
- (f) The license holder shall be responsible for issuing an agent identification card to be carried by the agent at all times they are providing security duties within the city. The identification card shall contain a minimum of the following information:
  - (1) The name of the license holder company identification;
  - (2) The full name of the agent;
  - (3) The date of birth of the agent;
  - (4) The social security number of the agent;
  - (5) A picture of the agent;
  - (6) The right thumb print of the agent;
  - (7) Identification to be signed by the registered license holder;
  - (8) The term "firearms authorized" shall be clearly stated on the face of the identification card if the license holder requires and authorizes the carrying of a non-concealed weapon in the course of employment.
- (g) Uniforms clearly identifying the agent as an employee of a license holder are required. Uniforms may not be designed such that they appear to be that of a police officer for the City of Prairie Village, or any other federal, state, county, or city police department. (Code 1973, 5.20.050; Ord. 1644, 1988; Ord. 2072, Sec. 2, 2004; Ord. 2372, Sec. 1, 2017)

5-406. AGENT FEES, TERMS, EXPIRATIONS.

- (a) The license holder shall be responsible for paying to the City a fee adopted by the Governing Body and on record in the office of the City Clerk for each individual agent assigned to work within the city. Agent licenses shall be issued for period of one year, provided that such licenses shall automatically expire upon the expiration or termination of the license for such agent's security service company.
- (b) When the license holder submits the notification for agent as required by section 5-405, the agent fee will be attached. Agent notification and fee payment must be made to the office of City Clerk prior to the agent performing security duties within the city.
- (c) Agent renewals shall be done annually based on initial licensing month.
- (d) Agent notification may be made 30 days prior to expiration date.
- (e) Agent notification and fees under this article are not assignable or transferable.
- (f) Agent fees are not refundable if the agent leaves license holder's employment during the calendar year.

(Code 1973, 5.20.060; Ord. 2072, Sec. 2, 2004; Ord. 2372, Sec. 1, 2017)



5-407. CERTIFICATION OF AGENT QUALIFICATIONS.

- (a) The license holder shall certify to the City that all agents working for them have been the object of a “complete and diligent background investigation” to determine if they meet the minimum requirements of the City.
- (b) The license holder must certify that the agent:
  - (1) Is not less than 18 years of age;
  - (2) Is of good moral character;
  - (3) Has not been convicted of any criminal felony or misdemeanor violations;
  - (4) Has not been convicted of any crime involving illegally using, carrying or possessing a dangerous weapon;
  - (5) Is employed by the security company presently holding a license to operate within the City.

(Code 1973, 5.20.070; Ord. 1644, 1988; Ord. 2072, Sec. 2, 2004)

5-408. REVOCATION OF LICENSE.

- (a) Any license granted under this article may be revoked by the Chief of Police at any time if the holder of the license commits any act, or any event occurs, or the Chief of Police obtains information, which would justify the disapproval of an application for a license.
- (b) The Chief of Police may review agent certification notifications to the City for compliance to this article. If an agent does not meet the requirements of subsection 5-407(b), the license holder shall be notified and immediately remove the agent from service within the city. Failure to immediately remove the agent may result in the Chief of Police revoking the license of the company.
- (c) The violation of any provision of this article by the licensee or agent shall be sufficient grounds for the revocation of license.
- (d) If the Chief of Police revokes any license granted under this article, he or she shall file a written statement of revocation and the reasons therefore with the City Clerk and mail a copy to the licensee. Any such revocation shall be effective upon delivery of notice thereof to the licensee or ten (10) days after mailing of such notice, whichever first occurs. The licensee may appeal the revocation by filing a written notice thereof with the City within 30 days after the Chief of Police files such statement of revocation. A hearing on such appeal shall be held by the City Council within 45 days after the filing of such notice of appeal. The City Council may reverse or affirm the decision of the Chief of Police after making findings of whether or not the Chief of Police had good cause to revoke the license.

(Code 1973, 5.20.080; Ord. 1644, 1988; Ord. 2072, Sec. 2, 2004)

5-409. LICENSE NOT A RECOMMENDATION. The issuance of a security service license by the City does not constitute a recommendation or warranty of the holder of the license and it is unlawful for any person to do or act or make any statement which may reasonably be interpreted as a representation that such a license does constitute a recommendation or warranty. (Code 1973, 5.20.090; Ord. 1644, 1988; Ord. 2072, Sec. 2, 2004)

- 5-410.       **RESPONSIBILITY FOR ACTS OF EMPLOYEES AND AGENTS.** A security service shall at all times be responsible for the good conduct in the business of each of their employees or agents, and the security service is legally responsible for any acts committed by employees or agents of such security service which are in violation of this article and each such act by each such employee or agent shall constitute a separate violation of this article by such security service. (Code 1973, 5.20.100; Ord. 1644, 1988; Ord. 2072, Sec. 2, 2004)
- 5-411.       **PENALTIES.** Any person violating any of the provisions of this chapter is guilty of a misdemeanor and upon conviction thereof shall be punished as provided in Chapter 1-116 of this code. Each day such violation is committed or permitted to continue constitutes a separate offense and is punishable as such hereunder. (Ord. 2072, Sec. 2, 2004)
- 5-412.       **LICENSES, PERMITS ISSUED PRIOR TO THIS ARTICLE.** All licenses and permits issued prior to the effective date of the ordinance codified in this article shall expire on December 31, 2004. (Ord. 2072, Sec. 2, 2004)

## ARTICLE 5. MASSAGE THERAPY

### 5-501. LICENSE REQUIRED.

- (a) No person shall operate an in-office massage therapy establishment, or massage establishment, as defined in this Article, without first having obtained a license therefore, issued by the City Clerk. It is unlawful to conduct such a business unless the license for said business is current, valid, and not suspended. A separate license shall be required for each and every separate place of business operated by any licensee.
- (b) Licenses are valid for a period of twelve (12) months from the date of issuance. Individuals conducting "in-office massage therapy" as defined by this Article shall be required to hold only one (1) permit; provided, however, that individuals providing massages at massage establishments on permanent premises, in addition to providing in-office massage therapy, must hold a separate permit for the in-office massage therapy and for the massage establishment conducted on premises.  
(Ord. 2204, Sec. II, 2009)

5-502. MASSAGE THERAPY LICENSE REQUIRED. No person shall perform massage therapy or in-office massage therapy within the City unless he or she has a valid massage therapist license issued by the City pursuant to the provisions of this Article.  
(Ord. 2204, Sec. II, 2009)

5-503. REQUIREMENTS FOR THE LICENSE. To be eligible for a massage therapist license, an applicant must provide proof of the following:

- (a) That the applicant has successfully completed:
  - i. A course of instruction made up of not less than five hundred (500) hours, in the theory, method, or practice of massage. Proof that the applicant is certified by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB) will be accepted as proof of fulfillment of this requirement of completion of a course of instruction; or
  - ii. A massage therapeutic training course of instruction consisting of not less than one hundred (100) hours, in the theory, method, or practice of massage and is a State-licensed health care professional in good standing.
- (b) That the applicant has successfully completed the requirements for certification in first aid and in cardiopulmonary resuscitation by the American Heart Association or the equivalent.  
(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. I, 2010)

### 5-504. OBTAINING A LICENSE.

- (a) Proof of completion of educational and training requirements must be by certified transcript. The educational and training requirements imposed by this Article may be fulfilled by proof of attendance at more than one school; however, the applicant must be a graduate from an institution.
- (b) Individuals licensed with the City as massage therapists as of the effective date of this Section have until December 31, 2011 to satisfy the educational and training requirements of this Article; provided, however, all applicants for a massage therapist

license must provide proof of successful completion of the requirements for certification in first aid and in cardiopulmonary resuscitation by December 31, 2009.

(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. II, 2010)

5-505. CONTINUING EDUCATION REQUIREMENT. As of December 31, 2009 all licensed massage therapists applying for a renewal license must provide proof that they have received a minimum of twelve (12) hours (50 minutes per hour) of continuing education during the preceding twelve (12) month licensing period. One (1) hour continuing education credit will be awarded for each hour of training relating to the theory or clinical application of theory of massage, to include, but not limited to, clinical business practices, hygiene, record keeping, medical terminology, professional ethics, business management, human behavior, client interaction and State and local laws. Credits to be used toward the continuing education requirement of this Article must be received from an accredited college or university. An applicant who holds a valid certification with the NCBTMB may submit their continuing education in the same manner as the NCBTMB requires as long as they meet the minimum hours required. (Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. III, 2010)

5-506. APPLICATION FOR BUSINESS LICENSE.

- (a) Every applicant for a license to maintain, operate, or conduct any establishment covered by this Article shall file an application with the Office of the City Clerk and pay an annual fee as adopted by the Governing Body and on record in the Office of the City Clerk. The application for a license to operate a massage therapy business shall set forth the exact nature of the services to be provided; the proposed place of business and facilities; and the name, address, and telephone number of each applicant, including any stockholder holding more than ten percent (10%) of the stock of the corporation, any partner, when a partnership is involved, and any manager. In addition to the foregoing, any applicant for a business license shall furnish the following:
  - i. Written proof that the applicant is at least eighteen (18) years of age.
  - ii. The business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application.
  - iii. The massage therapy and in-office massage therapy establishment business license history of the applicant; whether such person has previously had any massage license revoked or suspended and the reason therefore.
  - iv. Any criminal convictions, other than traffic infractions, including the jurisdiction in which the offense took place; the sentence or other penalty, if any; and the current status of the case.
  - v. Authorization for the City, its agents and employees to conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant.
  - vi. Massage therapy establishments who employ massage therapists conducting in-office massages at a client's business facilities shall maintain an annual log (ledger) of such in-office massages which includes the therapist's name, name of business visited, physical address of the business, and date and time of appointment.
- (b) Applicants for a business license who also desire to provide massage therapy themselves, must apply for and receive a massage therapist license as provided for in Section 5-507 of this Article.

(Ord. 2204, Sec. II, 2009)

5-507. APPLICATION FOR MASSAGE THERAPIST LICENSE.

- (a) Any person who desires to perform massage therapy or in-office massage therapy shall file a written application with the Office of the City Clerk and pay an annual filing fee as adopted by the Governing Body and on record in the Office of the City Clerk. A massage therapist license shall be valid for a period of twelve (12) months from the date of issuance. This fee shall cover the cost of processing the application. Only one (1) massage therapy license shall be required for a massage therapist regardless of the activity or activities, permitted by this Article, in which the therapist engages.
- (b) Any applicant for a massage therapist license shall furnish the following:
- i. The applicant's name, home address, and home phone number, and description of the individual, including height, weight, race, and color of hair and eyes.
  - ii. Written proof that the applicant is at least (18) year of age.
  - iii. Date of Birth and Social Security number for the purpose of processing a background check.
  - iv. The business, occupation, or employment of the applicant for the three (3) years immediately preceding the date of the application.
  - v. Any criminal convictions, other than traffic infractions, including the jurisdiction in which the offense took place; the sentence or other penalty, if any; and the current status of the case.
  - vi. The position or function the applicant is expected to perform within the business.
  - vii. Proof of completion of the educational requirements for a massage therapist license, as set forth in Section 5-504 of this Article.
  - viii. Authorization for the City, its agents and employees to conduct an investigation into the truth of the statements set forth in the application and the qualifications of the applicant.
  - ix. Provide a copy of any current license(s) held in any other jurisdiction.
- (Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. IV, 2010)

5-508. PROCESSING OF APPLICATIONS. Upon receipt of an application for a massage therapy business license, the City Clerk shall immediately transmit (1) copy of the application to the Chief of Police or his or her designee to investigate the applicant. In addition, the City Clerk shall transmit a copy of the application to the Building Official. It shall be the duty of the Police Department to investigate the applicant and to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued a license. The Chief of Police shall report the results of such investigation to the City Clerk no later than ten (10) working days from the date the application is received by the City Clerk. It shall be the duty of the Building Official to determine whether the structure where the business will be located complies with the requirements of the applicable zoning, building, fire and property maintenance codes of the City. The Building Official shall report the results of his investigation to the City Clerk. Upon receipt of the reports from the Chief of Police and the Building Official, the City Clerk shall issue a license to the applicant provided it is in compliance with Section 5-510. Items relating to the structural design of the building in which the business will be

located which the Building Official cannot verify prior to consideration by the City Clerk may be verified by approving the application contingent on a final inspection.

(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. V, 2010)

5-509. IDENTIFICATION CARDS. All massage therapists holding licenses under the provisions of this Article shall, at all times when working in a massage therapy establishment or providing any service regulated by this Article, have in their possession valid identification cards issued by the City and bearing the massage therapist's license number and photograph. All persons granted licenses under the provisions of this Article shall, at times, keep their licenses available for inspection upon request by any person authorized by law to inspect the same. All new applicants must come to the Office of the City Clerk to have their photograph taken for their identification card.

(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. VI, 2010)

5-510. ISSUANCE OF BUSINESS LICENSES.

(a) Upon receipt of an application for a business license, in the proper form, the City Clerk shall issue a license; unless upon examination of the application, it finds that:

- i. The correct license fee has not been tendered to the City, or, in the case of a check or bank draft, it has not been honored with payment on presentation;
- ii. The operation, as proposed by the applicant, would not comply with all applicable laws, including, but not limited to, the City's building, zoning and health regulations;
- iii. The applicant, if an individual; or any of the stockholders holding more than ten percent (10%) of the stock of the corporation; or any of the officers or directors, if the applicant is a corporation; or any of the partners, if the applicant is a partnership; or the manager or other person principally responsible for the operation of the business, has been convicted of, or diverted on, any of the following:
  - a. A felony;
  - b. An offense involving sexual misconduct with children;
  - c. An offense involving obscenity;
  - d. Prostitution;
  - e. Promoting prostitution;
  - f. Solicitation for prostitution; or
  - g. Battery
  - h. Any sex-related offense.
- iv. The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document required by the City in conjunction therewith;
- v. The applicant has had a massage therapy establishment or other similar permit or license denied, suspended, or revoked for any of the above listed causes by this City or any other state or local jurisdiction within five (5) years of the date of the application;
- vi. The applicant has previously been issued a license for an adult entertainment business or escort service, or has been employed by any such establishment;
- vii. The applicant, if an individual; or any of the officers and directors, if the applicant is a corporation; or any of the partners, if the applicant is a partnership; or the manager or other person primarily responsible for the operation of the business, has not attained the age of eighteen (18) years; or

- viii. The manager or other person primarily responsible for the operation of the business would be ineligible to receive any license under the provisions of this Article.
- (b) If approved, the City Clerk shall issue the proper license. The license shall state that it is not transferable or refundable. The license shall be kept posted in a conspicuous place on the premises of the licensee. If an applicant is disapproved, the applicant shall be immediately notified by certified mail, return receipt requested, mailed to the last known mailing address of the applicant, and the notice shall state the basis for the disapproval. Any applicant aggrieved by the disapproval may seek a review by the City Council.
- (c) Any license issued under the provisions of this Article shall, at all times, be displayed by the licensee in an open and conspicuous place on the premises where the licensed business is conducted.  
(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec.VII, 2230)

5-511. PROCESSING OF MASSAGE THERAPIST APPLICATIONS. The City Clerk shall issue a massage therapist license within twenty-one (21) days of receiving a completed application unless, upon examination of the application, it is determined that:

- (a) The applicant for the massage therapist license has been convicted of, or diverted on, any of the following:
  - i. A felony;
  - ii. An offense involving sexual misconduct with children;
  - iii. An offense involving obscenity;
  - iv. Prostitution;
  - v. Promoting prostitution;
  - vi. Solicitation for prostitution;
  - vii. Battery; or
  - viii. Any sex-related offense.
- (b) The applicant has knowingly made any false, misleading, or fraudulent statement of fact in the license application or in any document by the City in conjunction therewith.
- (c) The correct license fee has not been tendered to the City; or, in the case of a check or bank draft, it has not been honored with payment on presentation.
- (d) The applicant has not successfully completed the educational requirements under the provisions of this Article. In any case in which the applicant is refused a massage therapist license for failure to provide proof of successful completion of the educational requirements, the applicant will be afforded the opportunity for a hearing before the City Council.
- (e) Applicant has not provided all required documentation.  
(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. VIII, 2010)

5-512. REVOCATION OF BUSINESS LICENSE.

- (a) Any license issued for an in-office massage therapy establishment may be revoked or suspended by the City Clerk where it is found that any of the provisions of this Article are violated or the licensee or any employee of the licensee, including a massage therapist, has been convicted of any offense which would make them ineligible to receive a license; or in any case, in which the licensee refused to permit any duly authorized police officer or employee of the City to enter upon and inspect the premises or the operations of the licensee.

- (b) The City Clerk, before revoking or suspending any license, shall give the licensee at least ten (10) days' written notice of the charges against him and the opportunity for a hearing before the City Administrator at which time the licensee may present evidence bearing upon the question. In such cases, the charges shall be specific and in writing. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- (c) All revocation or suspensions affirmed by the City Administrator may be appealed to the City Council upon written notice of appeal, filed with the City Clerk, within ten (10) days of receipt of the notice of revocation or suspension. (Ord. 2204, Sec. II, 2009)

5-513. REVOCATION OF THERAPIST LICENSE.

- (a) A massage therapist license issued by the City Clerk may be revoked or suspended upon determination by the City Clerk that the therapist has been convicted of any offense which would make the therapist ineligible to receive a license or that the therapist has violated any of the provisions of this Article.
- (b) The City Clerk, before moving to revoke or suspend any massage therapist license, shall give the therapist at least ten (10) days' written notice of the inquiry into the therapist's eligibility and the opportunity for a hearing before the City Administrator. The City Administrator may uphold the revocation or suspension; or may rescind the revocation or suspension, and if applicable, specify certain conditions and stipulations associated therewith.
- (c) All revocations or suspensions affirmed by the City Administrator may be appealed to the City Council upon written notice of appeal, filed with the City Clerk, within ten (10) days of receipt of the notice of revocation or suspension.  
(Ord. 2204, Sec. II, 2009)

5-514. TRANSFER OF LICENSES.

- (a) No massage therapy business license, in-office massage therapy business license, or massage therapist license is transferable and such authority as a license confers shall be conferred only on the individual named therein.
- (b) Any application made, fee paid, and license obtained under the provisions of this Article shall be in addition to and not as a substitute for any other fee, permit or license required under the provisions of this Code.  
(Ord. 2204, Sec. II, 2009)

5-515. INSPECTION NECESSARY. No business shall be conducted on licensed premises unless, after an inspection, the Building Official certifies that the establishment complies with each of the following requirements:

- (a) The walls shall be clean and painted with washable, mold-resistant paint in all rooms where water or steam baths are given. Floors shall be free from any accumulation of dust, dirt, or refuse. All equipment used in the operation of the business shall be maintained in a clean and sanitary condition. Towels, linens, and items for personal use of operators and patrons shall be clean and freshly laundered for each patron. Towels, cloths, and sheets shall not be used for more than one (1) patron. Heavy white paper may be substituted for sheets; provided, that such paper is changed for each patron. No



service or practice shall be carried on within any cubicle, room, booth, or other area within any licensed premises which is fitted with a door that can be locked.

- (b) Toilet facilities shall be provided in convenient locations. When five (5) or more employees and patrons are on the premises at the same time, separate toilet facilities shall be provided for men and women.
- (c) Lavatories or wash basins with both hot and cold running water shall be installed in either the toilet room or a vestibule. Lavatories or wash basins shall be provided with soap in a dispenser and with sanitary towels.  
(Ord. 2204, Sec. II, 2009; Ord. 2230, Sec. IX, 2010)

5-516. RIGHT OF ENTRY. The Chief of Police or his or her designee and Building Official may, from time to time, make an inspection of each licensed massage therapy establishment in the City, including locations where an in-office massage therapy establishment provides services, for the purposes of determining that the provisions of this Article are being complied with. Such inspections shall be made at reasonable times and in a reasonable manner. Any failure on the part of any licensee or employee to permit immediate access to an inspector shall be grounds for revocation or suspension of any business license or therapist license.  
(Ord. 2204, Sec II, 2009; Ord. 2230, Sec. X, 2010)

5-517. REGULATIONS PERTAINING TO OPERATIONS. Operation of any in-office massage therapy establishment or massage therapy establishment shall be subject to the following regulations:

- (a) Hours of Operation: Businesses shall be closed and operations shall cease between the hours of ten (10:00) P.M. and six (6:00) A.M. each day, with the exception that in-office massage therapy may be provided during those hours on the premises of a business which has evening and night shifts.
- (b) Separation of Sexes: It shall be unlawful for a massage therapy business to provide treatment for customers of the opposite sex in the same room at the same time.
- (c) Alcoholic Beverages: No consumption of alcoholic beverages shall be permitted in or upon any premises licensed under the provisions of this Article.
- (d) Conduct on Premises: All licensees licensed under the provisions of this Article shall, at all times, be responsible for the conduct of business on the premises and for any act or conduct on the part of the employees of the business which constitutes a violation of the provisions of this Article. Any violation of any State or Federal laws committed on the premises by any such licensee or employee touching upon the eligibility of or sustainability of the person to hold a license may be grounds for suspension or revocation of a license.  
(Ord. 2204, Sec. II, 2009)

5-518. SUPERVISION. A licensee shall have the premises supervised at all times when open for business. The licensee or a person employed by the business shall be present and personally supervise on the premises, and not violate or permit others to violate any applicable provision of this Article. The violation of any provisions of any section of this Article by any employee of the licensee shall be deemed a violation by the licensee.  
(Ord. 2204, Sec. II, 2009)

- 5-519. EMPLOYEE REGISTERS. All operators licensed under the provisions of this Article shall keep and maintain on the premises a current register of all employees, showing the employees' names, addresses, and license numbers. Such register shall be open to inspection at all reasonable times by any City inspector or the Police Department.  
(Ord. 2204, Sec. II, 2009)
- 5-520. REGULATION OF DRESS.
- (a) All employees who provide massage therapy services must wear sanitary outer garments. Provisions must be made for separate dressing rooms for each sex, on the premises, with individual lockers for each employee who provides massage therapy services.
  - (b) All licensed employees and massage therapists must be modestly clothed while providing massage therapy services, and both male and female therapists must cover their upper torso while providing services.
  - (c) Patrons' genitalia must be covered by sanitary towels, cloths, or undergarments while in the presence of an employee or massage therapist. Contact by an employee or massage therapist with a patron's genital area is strictly prohibited.  
(Ord. 2204, Sec. II, 2009)
- 5-521. RESTRICTIONS ON ADVERTISING. No establishment granted a license under the provisions of this Article shall place, publish, or distribute any advertisement for the business that depicts any activity or any portion of the human body that would suggest to any reasonable person who viewed such advertising that the business provides any service other than those permitted under this Article, or that the employees of the business will be dressed in any manner inconsistent with the regulations set forth in Section 5-520(c) of this Article, nor shall any massage therapy business licensed under the provisions of this Article indicate in the text of any advertising promulgated by that business that any service is available other than those services permitted under this Article.  
(Ord. 2204, Sec. II, 2009)
- 5-522. PERSONS UNDER EIGHTEEN PROHIBITED FROM PREMISES. No licensee shall perform any massage therapy for or permit any massage therapy to be provided to any person under the age of eighteen (18) years of age unless accompanied by a parent or legal guardian.  
(Ord. 2204, Sec. II, 2009)
- 5-523. RESTRICTION OF BUSINESS TO PREMISES. All business or activity provided for under this article shall be conducted and performed on the respective premises; provided, however, that massage therapy business licensees or masseurs or masseuses employed by a licensee may perform their services in behalf of patients in such patient's home, residence or other designated place, provided that they are licensed under this article.  
(Ord. 2204, Sec. II, 2009)

- 5-524. FURTHER REGULATIONS. The Chief of Police may, after a public hearing, make and enforce reasonable rules and regulations not in conflict with, but to carry out, the intent of this article.  
(Ord. 2204, Sec. II, 2009)
- 5-525. FALSE INFORMATION.
- (a) It shall be unlawful for any person to give false information either in writing or orally for the obtaining of any license to operate a business license pursuant to this Article.
  - (b) Any person convicted of a violation of subsection (a) shall be punished by a fine not to exceed \$250 nor less than \$100, or by imprisonment in the city jail for a period not to exceed 90 days, or by both such fine and imprisonment.  
(Ord. 2204, Sec. II, 2009)
- 5-526. PENALTY. Any person convicted of a violation of any of the provisions of this Article shall be deemed guilty of a public offense and subject to the provisions of Section 5-116 of this code.  
(Ord. 2204, Sec. II, 2009)
- 5-527. DEFINITIONS. When used in this Article, the following words and terms shall have the meanings ascribed to them in this Section:
- (a) Accredited College or University: An institution of higher education offering undergraduate or graduate degrees.
  - (b) Healing Arts Practitioner: A person who has been licensed pursuant to K.S.A. 65-3801 *et seq.* to practice medicine and surgery, osteopathic medicine and surgery or chiropractic.
  - (c) In-office Massage Therapy: Massage therapy conducted on the premises of the license massage therapist's clients as opposed to a single permanent location or in a private residence.
  - (d) Massage Therapist: A person who applies any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. Massage therapy, as defined herein, does not include the touching in any fashion of human genitalia. A massage therapist must also successfully complete at least the minimum educational and practical requirements as set out specifically in this Code.
  - (e) Massage Therapy: Any method of pressure on or friction against, or stroking, kneading, rubbing, tapping, pounding, vibrating, or stimulating of the external soft parts of the body with the hands or with the aid of any mechanical or electrical apparatus or appliance with or without such supplementary aids as rubbing alcohol, liniments, antiseptics, oils, powder, creams, lotions, ointments, or other similar preparations commonly used in this practice. Massage therapy, as defined herein, does not include the touching in any fashion of human genitalia.

- (f) Massage Therapy Establishment (Also referred to as Massage Establishment): any establishment, operation or business primarily engaged in offering the services of massage therapy and licensed under Chapter 5 of the Code of the City of Prairie Village.
- (g) Medical or Dental Clinic: An establishment where patients, who are not lodged overnight except for observation or emergency treatment, are admitted for examination and treatment by a person or group of persons practicing any form of healing or health-building services, whether such persons be medical doctors, chiropractors, osteopaths, chiropodists, naturopaths, optometrists, dentists, or any such profession, the practice of which is lawful in the State, and also includes establishments which provide massage therapy subject to the licensing provisions in this Code.  
(Ord. 2204, Sec. II, 2009)

## ARTICLE 6. ADULT ENTERTAINMENT ESTABLISHMENTS

5-601. DEFINITIONS. For the purpose of this section and unless the context plainly requires otherwise, the following definitions are adopted:

(a) Adult Entertainment -- Any live exhibition, performance, display or dance of any type, including but not limited to talking, singing, reading, listening, posing, serving food or beverages, soliciting for the sale of food, beverages or entertainment, pantomiming, modeling, removal of clothing or any service offered for amusement on a premises where such exhibition, performance, display or dance is intended to seek to arouse or excite the sexual desires of the entertainer, other entertainers or patrons, or if such entertainment involves a person who is nude or in such attire, costume or clothing is to expose to view any portion of the human genitals, pubic region, vulva, pubic hair, buttocks, female breast or breasts below a point immediately above the top of the areola or nipple or the human male genitals in a discernibly erect state, even if completely and opaquely covered.

(b) Adult Entertainment Business -- Any premises to which the public, patrons or members are invited or admitted and wherein an entertainer provides adult entertainment to a member of the public, a patron or a member.

(c) Employee -- Any person who provides adult entertainment within an adult entertainment premises as defined in this section, whether or not a fee is charged or accepted for entertainment.

(e) Manager -- Any person who manages, directs, administers, or is in charge of the affairs and/or conduct of any portion of any activity involving adult entertainment occurring at any adult entertainment premises.

(f) Operator -- Any person operating, conducting or maintaining an adult entertainment business.

(g) Person -- Any individual, partnership, corporation, trust, incorporated or unincorporated association, marital community, joint venture, governmental entity or other entity or group of person however organized.

(h) Public Place -- Any area generally visible to public view and includes streets, sidewalks, bridges, alleys, plazas, parks, driveways, parking lots and automobiles whether moving or not.

(i) Server -- Any person who serves food or drink at an adult entertainment business.

(j) Specified Anatomical Areas -- (1) Uncovered or exposed human genitals, pubic region or pubic hair; or buttock; or female breast or breasts below a point immediately above the top of the areola or nipple; or any combination of the foregoing; or (2) human male genitals in a discernible erect state, even if completely and opaquely covered.

(k) Specified Sexual Activities -- Sexual conduct, being actual or simulated, acts of human masturbation; sexual intercourse; or physical contact, in an act of apparent sexual stimulation or gratification, with a person's clothed or unclothed genitals, pubic area, buttocks or the breast of a female; or any sadomasochistic abuse or acts including animals or any latent objects in an act of apparent sexual stimulation or gratification.

(Ord. 1834, Sec. 1)

- 5-602. LICENSE REQUIRED FOR ADULT ENTERTAINMENT BUSINESS. (a) It shall be unlawful for any person to operate or maintain an adult entertainment business in the city unless the owner, operator or lessee thereof has obtained an adult entertainment business license from the city, or to operate such business after such license has been revoked or suspended by the city.  
(b) It is unlawful for any entertainer, employee or manager to knowingly perform any work, service or entertainment directly related to the operation of an unlicensed adult entertainment business.  
(c) It shall be prima facie evidence that any adult entertainment business that fails to have posted, in the manner required by this section, an adult entertainment business license, has not obtained such a license. In addition, it shall be prima facie evidence that any entertainer, employee or manager who performs any service or entertainment in an adult entertainment business in which an adult entertainment license is not posted, in the manner required by this section, had knowledge that such business was not licensed.  
(Ord. 1834, Sec. 1)
- 5-603. LICENSE REQUIRED FOR MANAGERS, SERVERS, ENTERTAINERS. It is unlawful for any person to work as an entertainer, server or manager at an adult entertainment business without first obtaining a license to do so from the city, or to work as an entertainer, server or manager at an adult entertainment business after such person's license to do so has been revoked or suspended. (Ord. 1834, Sec. 1)
- 5-604. LICENSE, CLASSIFICATION AND FEES. (a) The license year for all fees required under this article shall be from January 1st through December 31st. The application for a license shall be accompanied by payment in full of the fee stated in this section by certified or cashier's check or money order and no application shall be considered complete until such fee is paid.  
(b) All licenses shall be issued for a specific location and shall be nonrefundable and nontransferable.  
(c) The classification of licenses and fees for each shall be in an amount to be adopted by the governing body and on record in the office of the City Clerk.  
(Ord. 1834, Sec. 1)
- 5-605. LICENSE APPLICATION. (a) Adult Entertainment Business License. All persons desiring to secure a license to operate an adult entertainment business under the provisions of this article shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to conduct or operate the adult entertainment business. All applications shall be submitted on a form supplied by the City Clerk and shall require the following information:  
(1) The name, residence address, home telephone number, occupation, date and place of birth and social security number of the applicant.  
(2) The name of the adult entertainment business, a description of the adult entertainment to be performed on the licensed premises, and the name of the owner of the premises where the adult entertainment business will be located.

(3) The names, residence addresses, social security numbers and dates of births of all partners, if the applicant is a partnership; and if the applicant is a corporation, the same information for all corporate officers and directors and stockholders who own more than 10 percent or greater interest in the application.

(4) The addresses of the applicant, or of all partners, or of all corporate offices and directors for the five years immediately prior to the date of application.

(5) A statement from the applicant, or from all partners, or from all corporate officers and directors whether any such person, or entity, in previously operating in this or another city, county or state, has had a business license of any type revoked or suspended, and if so, the reason for the suspension or revocation and the business activity subjected to the suspension or revocation.

(6) A statement of the business, occupation or employment of the applicant, or of all partners, or of all corporate officers and directors for the three years immediately preceding the date of the application.

(7) A statement from the applicant, or from each partner, or from each corporate officer and director, that each such person has not been convicted of, released from confinement for conviction of, or diverted from prosecution on

(1) A felony criminal act within five years immediately preceding the application, or

(2) A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Kansas Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Controlled Substances Act or other statutes or ordinances.

The statement shall also indicate that the applicant, each partner or each corporate officer and director has not been convicted of a municipal ordinance violation or diverted from prosecution on a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

(8) A full set of fingerprints and a photograph, to be taken by the police department, of the applicant, or of all partners if the applicant is a partnership, or of all corporate officers and directors if the applicant is a corporation.

(9) If the applicant is a corporation, a current certificate of registration issued by the Kansas Secretary of State.

(10) A statement signed under oath that the applicant has personal knowledge of the information contained in the application and that the information contained therein is true and correct and that the applicant has read the provisions for this article regulating adult entertainment businesses.

Failure to provide the information and documentation required by this subsection shall constitute an incomplete application which shall not be processed.

(b) Adult Entertainment Manager, Server or Entertainers License. All persons desiring to secure a license under the provisions of this article to be an adult entertainment manager, server, or entertainer shall make a verified application with the City Clerk. All applications shall be submitted in the name of the person proposing to be an adult entertainment manager, server or entertainer. All applications shall be

submitted on a form supplied by the City Clerk and shall require the following information:

(1) The applicant's name, home address, home telephone number, date and place of birth, social security number, and any stage name or nicknames used in entertaining.

(2) The name and address of each adult entertainment business where the applicant intends to work as a manger, server or entertainer, and an intent to hire statement from an adult entertainment business that is licensed, or that has applied for a license, under the provisions of this article indicating the adult entertainment business intends to hire the applicant to manage, serve or entertain on the premises.

(3) A statement from the applicant, that the applicant has not been convicted of, released from confinement for conviction of, or diverted from prosecution on:

- (A) A felony criminal act within five years immediately preceding the application; or
- (B) A misdemeanor criminal act within two years immediately preceding the application, where such felony or misdemeanor criminal act involved sexual offenses, prostitution, promotion of prostitution, sexual abuse of a child, pornography or related offenses as defined in the Kansas Criminal Code, or involved controlled substances or illegal drugs or narcotics offenses as defined in the Kansas Controlled Substances Act or other statutes or ordinances.

The statement shall indicate that the applicant has not been convicted of a municipal ordinance violation, within two years immediately preceding the application where such municipal ordinance violation involved sexual offenses, indecent exposure, prostitution or sale of controlled substances or illegal drugs or narcotics.

(4) A full set of fingerprints and a photograph, to be taken by the police department, of the applicant.

(5) The applicant shall present to the City Clerk who shall copy documentation that the applicant has attained the age of 18 years at the time the application is submitted. Any of the following shall be accepted as documentation of age:

- (A) A motor vehicle operator's license issued by any state bearing the applicant's photograph and date of birth;
- (B) A state-issued identification card bearing the applicant's photograph and date of birth;
- (C) An official and valid passport issued by the United States of America;
- (D) An immigration card issued by the United States of America;
- (E) Any other form of picture identification issued by a governmental entity that is deemed reliable by the City Clerk; or
- (F) Any other form of identification deemed reliable by the City Clerk.

Failure to provide the information required by this subsection shall constitute an incomplete application and shall not be processed.

(c) Application Processing. Upon receipt of a complete application for an adult entertainment or an adult entertainment manager, server or entertainer license, the City Clerk shall immediately transmit one copy of the application to the chief of police for investigation of the application. In addition, the City Clerk shall transmit a copy of the application to the building official. It shall be the duty of the chief of police to investigate such application to determine whether the information contained in the application is accurate and whether the applicant is qualified to be issued the license



applied for. The chief of police shall report the results of the investigation to the City Clerk not later than 10 working days from the date the applications received by the City Clerk. It shall be the duty of the building official to determine whether the structure where the adult entertainment business will be conducted complies with the requirements and meets the standards of the applicable health, zoning building code, fire and property maintenance ordinances of the city. The building official shall report the results of their investigation to the City Clerk not later than 10 working days from the date the application is received by the City Clerk. Upon receipt of the reports from the chief of police and the building official, the City Clerk shall schedule the application for consideration by the governing body at the earliest meeting consistent with the notification requirements established by law, provided the license application for an adult entertainment business and for an adult entertainment manager, server or entertainer license shall be approved or disapproved within 45 days from the date of filing of a completed application with the clerk's office. The applicant shall be notified in writing of the date when the governing body will consider the application. (Ord. 1834, Sec. 1)

5-606. EXAMINATION OF APPLICATION; ISSUANCE OF LICENSE, DISAPPROVAL.

(a) If the application for an adult entertainment business or an adult entertainment business manager, server or entertainer is in proper form and accompanied by the appropriate license fee, the governing body shall examine the application, and after such examination, the governing body shall, if the applicant is qualified approve a license as provided for by law, provided a license shall not be approved to any person ineligible pursuant to section 5-607.

(b) The record of the governing body shall show the action taken on the application, and if the license is granted the governing body shall direct the City Clerk to issue the proper license. The license shall state that it is not transferable to other persons and the calendar year for which it is issued. The license shall be kept posted in a conspicuous place in the place of business that is licensed or where the licensee is working.

(c) If an application for a license is disapproved, the applicant shall immediately be notified by registered or certified mail to the applicant's last known address, and the notification shall state the basis for such disapproval. Any applicant aggrieved by the disapproval of a license application may seek judicial review in a manner provided by law. (Ord. 1834, Sec. 1)

5-607. LICENSE; INELIGIBILITY AND DISQUALIFICATION. No person is eligible nor shall a license be issued to:

(a) An adult entertainment business applicant if one or more of the following conditions exist:

(1) The applicant's premises is located within 500 feet of any school, church or licensed child care center or liquor store or business selling alcoholic liquor. Measurements shall be made in a straight line, without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such school, church, licensed day care center, liquor store or business selling alcoholic beverages.

- (2) The applicant's premises is located within 500 feet of any other adult entertainment enterprise for which there is a license issued. Measurements shall be made in a straight line without regard to intervening structures or objects, from the nearest point on the property line of the applicant's enterprise to the nearest point on the property line of such other adult entertainment businesses;
  - (3) The applicant failed to supply all of the information requested on the application;
  - (4) The applicant gave materially false, fraudulent or untruthful information on the application;
  - (5) The applicant's proposed business premises does not comply with or meet the requirements for the applicable health, zoning, building code, fire and property maintenance ordinances of the city, provided, that upon a showing that the premises meets the requirements and that the applicant is otherwise qualified, the application shall be eligible for reconsideration by the governing body.
  - (6) The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth in subsection 5-605(b) during the time period set forth in this subsection.
  - (7) The applicant has had an adult entertainment license revoked or suspended in this or any other city during the past five years.
  - (b) An applicant for an adult entertainment manager, server or entertainer if one or more of the following conditions exist:
    - (1) The employer for whom the applicant intends to work does not have or is ineligible to receive an adult entertainment business license for any of the reasons stated in subsection (a) above;
    - (2) The applicant has been convicted, released from incarceration for conviction or diverted on any of the crimes set forth in subsection 5-605(b) during the time period set forth in this subsection;
    - (3) The applicant failed to supply all of the information requested on the application;
    - (4) The applicant gave materially false, fraudulent or untruthful information on the application;
    - (5) The applicant has had an adult entertainment manager, server or entertainer license revoked or suspended in this or any other city during the past five years.
- (Ord. 1834, Sec. 1)

5-608. **STANDARDS OF CONDUCT.** The following standards of conduct shall be adhered to by all adult entertainment business licensees, their employees and all adult entertainment business managers, servers and entertainers and patrons of adult entertainment businesses, while on or about the premises of the business:

- (a) Age Restriction. Only persons 18 years of age or older shall be permitted on the premises of any adult entertainment businesses.
- (b) Exterior Observation. The premises of all adult entertainment businesses will be so constructed as to include an anteroom, foyer, partition or other physical barrier on all customer entrances, that will insure observation of the interior of the premises is not observable from the exterior of the building. In addition, all windows will be covered to prevent the viewing of the interior of the building from the outside and all doorways not constructed with an anteroom or foyer will be covered so as to prevent observation of the interior of the premises from the exterior of the building.

(c) Exterior Display. No adult entertainment business will be conducted in any manner that permits the observation of live performers engaged in an erotic depiction or dance or any material or persons depicting, describing or relating to specified sexual activities or specified anatomical areas, as defined herein, from any exterior source by display, decoration, sign, show window or other opening.

(d) Nudity Prohibited. No employee, server or entertainer in an adult entertainment business shall appear nude, unclothed in less than opaque attire or in any fashion that exposes to view any specified anatomical area.

(e) Certain Acts Prohibited. (1) No employee, server or entertainer shall perform any specified sexual activities as defined herein, wear or use any device or covering exposed to view which stimulates any specified anatomical area, use artificial devices or inanimate objects to perform or depict any of the specified sexual activities as defined herein, or participate in any act of prostitution.

(2) No employee, server, entertainer or patron of an adult entertainment business shall knowingly touch, fondle, caress any specified anatomical area of another person, or knowingly permit another person to touch, fondle or caress any specified anatomical area of such employee, server, entertainer or patron, whether such specified anatomical areas are clothed, unclothed, covered or exposed.

(3) No employee, server or entertainer of an adult entertainment business shall be visible from the exterior of the adult entertainment business while such person is unclothed or in such attire, costume or clothing as to expose to view any specified anatomical area.

(4) No adult entertainer shall solicit, demand or receive any payment or gratuity from any patron or customer for any act prohibited by this article and no adult entertainer shall receive any payment or gratuity from any customer for any entertainment except as follows:

(A) While such entertainer is on the stage a customer or patron may place such payment into a box affixed to the stage.

(B) While such entertainer is on the stage and is clothed so as to not expose to view any specified anatomical area, a customer or patron may either place such payment or gratuity into the entertainer's hand, or under a leg garter worn by such entertainer at least four inches below the bottom of the pubic region.

(5) No owner, operator, manager or other person in charge of the premises of an adult entertainment premises shall:

(A) Knowingly permit alcoholic liquor or cereal malt beverages to be brought upon or consumed on the premises;

(B) Knowingly allow or permit the sale, distribution, delivery or consumption of any controlled substance or illegal drug or narcotic on the premises;

(C) Knowingly allow or permit any person under the age of 18 years of age to be in or upon the premises;

(D) Knowingly allow or permit any act of prostitution or patronizing prostitution on the premises; or

(E) Knowingly allow or permit a violation for this article or any other city ordinance, provision or state law.

(f) Signs Required. All adult entertainment businesses shall have conspicuously displayed in the common area at the principal entrance to the premises a sign, on

which uppercase letters shall be at least two inches high, and lowercase letters at least one inch high, which shall read as follows:

**THIS ADULT ENTERTAINMENT BUSINESS IS REGULATED AND  
LICENSED BY THE CITY OF PRAIRIE VILLAGE**

**ENTERTAINERS ARE:**

Not permitted to engage in any type of sexual conduct or prostitution on the premises or to fondle, caress or touch the breasts, pubic region, buttocks or genitals of any employee, patron or other entertainer, or to permit an employee, patron or other entertainer to fondle, caress or touch the breasts, pubic region, buttocks or genitals of the entertainer.

Not permitted to be nude, unclothed, or in less than opaque attire, costume or clothing so as to expose to view any portion of the breasts below the top of the areola, or any portion of the pubic region, buttocks or genitals, unless upon a stage at least two feet above the customer floor and a sufficient distance from the customers to prevent the customers from touching the entertainers.

Not permitted to demand or collect any payment or gratuity from any customer for entertainment, except as follows:

While the entertainer is on the stage, by placing such payment or gratuity into a box affixed to the stage, or  
While such entertainer is not on the stage, by either placing such payment or gratuity into the entertainer's hand, or under the entertainer's leg garter.

**CUSTOMERS ARE:**

Not permitted on the stage at any time.

Not permitted to touch, caress or fondle the breasts, pubic region, buttocks or genitals of any employee, server or entertainer or engage in solicitation for prostitution.

(g) Lighting Required. The premises of all adult entertainment businesses shall be equipped with overhead lighting of sufficient intensity to illuminate every place to which customers are permitted to access to an illumination of not less than one-foot candle as measured at the floor level and such illumination must be maintained at all times that any customer or patron is present in or on the premises.

(h) Closed Booths or Rooms Prohibited. The premises of all adult entertainment businesses shall be physically arranged in such manner that the entire interior portion of any booths, cubicles, rooms or stalls is visible from a common area of the premises. Visibility shall not be blocked or obscured by doors, curtains, drapes, or any other obstruction whatsoever.

(i) Ventilation and Sanitation Requirements. The premises of all adult entertainment businesses shall be kept in a sanitary condition. Separate dressing rooms and

restrooms for men and women shall at all times be maintained and kept in a sanitary condition.

(j) Hours of Operation. No adult entertainment business may be open or in use between the hours of 2:00 a.m. and 9:00 a.m. on any day other than a Sunday when the business may not be open between the hours of 2:00 a.m. and 12:00 noon.

(Ord. 1834, Sec. 1)

5-609. LICENSE; POSTING OR DISPLAY. (a) Every person under this article as an adult entertainment business shall post license in a conspicuous place and manner on the adult entertainment facility premises.

(b) Every person holding an adult entertainment server, manager or entertainment license shall post his or her licenses in his or her work area on the adult entertainment facility premises so it shall be readily available for inspection by city authorities responsible for enforcement of this article.

(Ord. 1834, Sec. 1)

5-610. MANAGER ON PREMISES. (a) An adult entertainment manager shall be on duty at an adult entertainment business at all times the premises is open for business. The name of the manager on duty shall be prominently posted during business hours.

(b) It shall be the responsibility of the manager to verify that any person who provides adult entertainment or works as a server within the premises possesses a current and valid adult entertainment server's license and that such licenses are prominently posted.

(Ord. 1834, Sec. 1)

5-611. INSPECTORS AND INSPECTIONS. All adult entertainment businesses shall permit representatives of the police department or any other city official acting in their official capacity to inspect the premises as necessary to insure the business is complying with all applicable regulations and laws. (Ord. 1834, Sec. 1)

5-612. SUSPENSION, REVOCATION, OR NON-RENEWAL; LICENSE. Whenever the City Clerk has information that:

(a) The owner or operator of an adult entertainment business or a holder of an adult entertainment manager, server or entertainer license has violated, or knowingly allowed or permitted the violation of, any of the provisions of this article;

(b) There have been recurrent violations of provisions of this article that have occurred under such circumstances that the owner or operator of an adult entertainment business knew or should have known that such violations were committed;

(c) The adult entertainment business license or the adult entertainment manager, server or entertainer license was obtained through false statements in the application for such license, or renewal thereof;

(d) The adult entertainment business licensee or the adult entertainment manager, server or entertainer licensee failed to make a complete disclosure of all information in the application for such license, or renewal thereof;

(e) The owner or operator, or any partner, or any corporate officer or director holding an adult entertainment business license has become disqualified from having a license by a conviction as provided in subsection 5-605(a);

(f) The holder of an adult entertainment manager, server or entertainer license has become disqualified from having a license by a conviction as provided in subsection 5-605(b), then the City Clerk shall make this information known to the governing body, which upon five days' written notice to the person holding the license conduct a public hearing to determine whether the license should be suspended or revoked. The governing body may pass a resolution setting forth the procedures for the conduct of such hearings. Based on the evidence produced at the hearing, the governing body may take any of the following actions:

(1) Suspend the license for up to 90 days.

(2) Revoke the license for the remainder of the license year.

(3) Place the license holder on administrative probation for a period of up to one year, on the condition that no further violations of this article occur during the period of probation. If a violation does occur and after the hearing the violation is determined to have actually occurred the license will be revoked for the remainder of the license year.

(Ord. 1834, Sec. 1)

5-613. RENEWAL. (a) A license may be renewed by making application to the City Clerk on the application forms provided for that purpose. License shall expire on December 31st of each calendar year, and renewal applications for such licenses shall be submitted between December 16th and December 31st.

(b) Upon timely application and review as provided for a new license, a license issued under the provisions of this article shall be renewed by issuance of a new license in the manner provided in this article.

(c) If the application for renewal of a license is not made during the time provided in subsection (a) of this section, the expiration of such license shall not be affected, and a new application shall be required.

(Ord. 1834, Sec. 1)

5-614. JUDICIAL REVIEW; STAY OF ENFORCEMENT OF ORDERS. Following the entry of an order by the City Clerk suspending or revoking a license issued pursuant to this article, or disapproving the renewal application for a license, such licensee or applicant may seek judicial review in a manner provided by law. The City Clerk may stay enforcement of such order for a period of time not to exceed 30 days pending the filing and/or final disposition of proceedings for judicial review. (Ord. 1834, Sec. 1)

5-615. REGULATIONS. The City Clerk shall have the power to promulgate regulations as may be necessary and feasible for the carrying out of the duties of his or her office and which are not inconsistent with the provisions of this article. (Ord. 1834, Sec. 1)

## ARTICLE 7. RESIDENTIAL RENTAL PROPERTIES

- 5-701. SCOPE. The provisions of this article shall apply to all residential structures in districts zoned R-1a, R-1b, R-2, R-3, R-4, or planned residential district, and MXD designated, used or intended to be used as rental property for human habitation. The term residential structure shall mean a building or portion thereof, designed exclusively for residential occupancy. The term dwelling unit shall mean any room or group of rooms located within a residential structure and forming a single habitable unit with facilities which are used or are intended to be used, for living, sleeping, cooking and eating.  
(Ord. 1855, Sec. I; Ord. 2203, Sec. III, 2009)
- 5-702. APPLICATION FOR OCCUPATIONAL LICENSE REQUIRED. No person, as defined in section 5-101(d), shall lease or rent or offer for lease or rent any residential structure without first making application to the City for an occupation license on the terms and conditions set forth in this code. The person making application for such an occupational license shall state in the application that the residential structure for which application is sought is in compliance with the City's building and property maintenance codes, as set out in Chapter 4.  
(Ord. 1855, Sec. I; Ord. 2203, Sec. III, 2009)
- 5-703. RENEWAL OF OCCUPATIONAL LICENSE. Any such occupational license shall be renewed on an annual basis. Application for renewal of the occupational license shall be made no more than 60 days and no less than seven days prior to the expiration of the current occupational license, if any, held by the owner of a residential structure offered for lease or rent.  
(Ord. 1855, Sec. I; Ord. 2203, Sec. III, 2009)
- 5-704. OCCUPATIONAL FEE LEVIED.
- (a) Persons engaged in the business of owning and renting residential structures subject to being leased which are zoned R-1a, RP-1a, R-1b, or RP-1b shall pay an occupation fee per dwelling unit adopted by the Governing Body and on record in the Office of the City Clerk.
  - (b) Persons engaged in the business of owning or leasing apartments, duplexes, and all other residential rental properties which are zoned R-2, RP-2, R-3, RP-3, R-4, RP-4 and MXD shall pay an occupational fee based upon square footage of living space leased or subject to being leased, the fee shall be adopted by the Governing Body and on record in the Office of the City Clerk. The owner-lessor or the leasing agent of the rental property other than R-1a, RP-1a, R-1b, or RP-1b shall make a declaration of square footage which must accompany the fee payment to the City Clerk's Office each year. If the square footage is declared incorrectly, a fee per building as adopted by the Governing Body and on record in the Office of the City Clerk will be charged the owner-lessor or the leasing agent to help defray the additional administrative costs necessary to compute the declaration. The square footage of living space referred to above in apartments

and duplexes shall be determined by measuring the area within each individual living unit. Measurement of the square footage of living space shall include the living area, and shall exclude the garage, carport area, and basement.

- (c) For the purpose of this section, subject to being leased shall mean all residential property being offered for lease to a tenant and available for rental or lease as an apartment, duplex, or other type of residential dwelling.
- (d) If the rental property is offered lease by a leasing agent of the owner, then the declaration hereinafter required shall be made and the fee paid by the leasing agent.
- (e) If any rental property is offered for lease by the owner who is not a resident of Johnson County, Kansas, the owner must designate a resident agent who resides in Johnson County, Kansas. The agent shall be responsible for the payment of all fees and penalties provided in this article.

(Code 1973, 5.04.050; Ord. 2203, Sec. III, 2009)

5-705.

#### PENALTIES FOR VIOLATION.

- (a) Any persons engaged in the business of owning residential rental properties for which a certificate of payment of the occupation is required, is deemed to do so unlawfully, and for such violation of this article is guilty of a misdemeanor and upon conviction thereof shall be fined in a sum of not more than \$100. Each and every day that such violation continues constitutes a separate offense.
- (b) The payment of the fine for failure to pay the fee and to secure a license shall not constitute payment of the fee nor excuse the person from making payment, and the City may proceed by civil action to collect the tax.
- (c) Any person liable to pay such occupation fee shall be liable for and pay in addition to same, after the expiration of 30 days from the date the fee became payable, a penalty of \$10 per month, for an amount not to exceed \$100 per year. After 60 days' delinquency a complaint shall be filed in the municipal court of the City charging the alleged violator with a violation of this article.
- (d) If any person fails or refuses to pay any fee or penalties as provided by this section, the City may collect the amount due in the same manner as a personal debt of the property owner to the City by bringing an action in the District Court of Johnson County, Kansas. Such actions may be maintained, prosecuted, and all proceedings taken, including any award of post-judgment interest the same effect and extent as for the enforcement of an action for debt. All provisional remedies available in such actions shall be and are hereby made available to the City in the enforcement of the payment of such obligations. In such actions, the City also shall be entitled to recover interest at the rate provided in K.S.A. 79-2968, and amendments thereto from and after the date a delinquency occurs in the payment of special assessments. If the amount owing is to be assessed against the property, the City Clerk, at the time of certifying other taxes to the county clerk, shall certify the aforesaid fees and penalties owing by the property owner; and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground, and it shall be collected by the county treasurer and paid to the City as other city taxes are collected and paid. The City may pursue collection both by levying a special assessment and in the manner of a civil action as



described herein, but only until the full cost and any applicable interest has been paid in full.

(Ord. 1637, Sec. III; Ord. 2203, Sec. III, 2009)

5-706. LICENSE REQUIRED. No residential structure used for rental purposes shall be occupied without the owner first making application to the City for the occupation license required herein and maintaining such license in force and effect. No residential structure may be occupied if the occupational license for the residential structure is revoked. The City Clerk may declare a residential structure used for rental purposes to be uninhabitable if a valid occupational license for such structure is not in effect and, at the direction of the Governing Body, may commence civil actions to evict persons residing in such structures.

(Ord. 1855, Sec. I; Ord. 2203, Sec. III, 2009)

5-707. COMPLIANCE WITH THE CITY'S BUILDING AND PROPERTY MAINTENANCE CODES. The occupation license for a residential structure used for rental purposes may be granted, and shall remain in effect, only so long as the residential structure and underlying real estate are maintained in compliance with the City's building and property maintenance codes as set out in Chapters 4 and 8.

(Ord. 1855, Sec. I; Ord. 2203, Sec. III, 2009)

5-708. SUSPENSION, REVOCATION AND DENIAL OF OCCUPATIONAL LICENSE. An occupational license shall not be granted and may be suspended or revoked by the City Clerk if:

- (a) The owner refuses to grant to the Building Official or his or her agent access to the dwelling unit or premises; or
- (b) The Building Official or his or her agent finds or determines that there exists in the dwelling unit or on the premises a violation of the building or property maintenance codes, as set out in Chapters 4 and 8; provided, however, that whenever the Building Official or his or her agent in inspecting a rental dwelling unit finds or determines on the premises a violation of such building or property maintenance codes, the Building Official shall provide written notice by certified mail to the owner or resident agent describing each such violation, specifying a time period for correction of the violations, and informing the owner or resident agent that reinspection of the dwelling unit will be performed within five days after notification from the owner or resident agent that the violations of the building or property maintenance codes have been corrected.
- (c) Any decision of the City Clerk may be appealed by the owner to the Governing Body by filing a notice with the City Clerk within 10 days of the date on which the owner or resident agent was served with the City Clerk's order. If the owner does not appeal such decision to the Governing Body, the decision shall be final. In the event an appeal is filed, the Governing Body shall conduct a hearing on the decision of the City Clerk to revoke the license, and shall either affirm or deny such decision. The decision of the Governing Body shall be final.

(Ord. 1855, Sec. I; Ord. 2203, Sec. III, 2009)

5-709. REQUEST FOR INSPECTION BY TENANT OR OCCUPANT. Nothing herein shall be construed to prohibit an inspection by the Building Official or his or her agent of any dwelling unit when requested by the tenant or occupant of the dwelling unit. (Ord. 1855, Sec. I; Ord. 2203, Sec. III, 2009)

5-710. RIGHT OF ENTRY; UNLAWFUL INTERFERENCE; PENALTY.

(a) Any authorized officer or agent of the City, pursuant to this article, shall be allowed to enter onto any land within the City limits to investigate violations of this article, provided that such entries shall be made in such a manner as to cause the least possible inconvenience to the persons in possession and the officer or agent shall obtain an order for this purpose from a court of competent jurisdiction in the event entry is denied or resisted.

(b) It shall be unlawful for any person to interfere with a public officer or agent of the City in performing his or her duties pursuant to this section.

(c) Any person who interferes with an officer or agent of the City pursuant to this article shall be punished as provided in section 1-116.

(Ord. 1855, Sec. I; Ord. 2203, Sec. III, 2009)

5-711. FAILURE TO OBTAIN AN OCCUPATIONAL LICENSE; FAILURE TO MAINTAIN A CURRENT VALID OCCUPATIONAL LICENSE; OCCUPYING A RESIDENTIAL STRUCTURE OFFERED FOR RENTAL PURPOSES FOR WHICH A VALID OCCUPATIONAL LICENSE IS NOT IN EFFECT; PENALTIES. It shall be unlawful for any owner to rent or lease a residential structure for human habitation without obtaining and maintaining in force and effect a current valid occupational license for such structure. It shall be unlawful for a tenant or person in possession to occupy a lease or rental residential structure for which the owner does not hold a current valid occupational license. Persons who are in violation of this section shall be punished by a fine of up to \$500 or by a jail term not to exceed five days, or both. Each day that a violation continues shall constitute a separate offense.

(Ord. 1855, Sec. I; Ord. 2203, Sec. III, 2009)

## ARTICLE 8. PROHIBITED DISCRIMINATION IN EMPLOYMENT, HOUSING OR PUBLIC ACCOMMODATIONS

### 5 – 801. DEFINITIONS.

The definitions contained within the Kansas Acts Against Discrimination, K.S.A. 44-1001 et seq., the Kansas Age Discrimination in Employment Act, K.S.A. 44-1111 et seq., and the Discrimination Against Military Personnel Act, K.S.A. 44-1125 et seq., and amendments thereto, shall apply to this article unless specifically defined herein. For purposes of this article, certain terms shall be interpreted or defined as follows unless the context clearly indicates otherwise.

- (a) **Aggrieved individual** means any individual who has a good faith belief that such individual has been injured by an unlawful discriminatory practice.
- (b) **City** means the City of Prairie Village, Kansas.
- (c) **Code** means the Code of the City of Prairie Village, Kansas.
- (d) **Days** means calendar days. If a deadline falls on a day city hall is not open (e.g. a weekend, a holiday recognized by the city, emergency closure) the deadline will be extended to the next day city hall is open.
- (e) **Employee** means any individual employed by an employer, but does not include any individual employed by such individual's parents, spouse or child or in the domestic service of any individual. Employee also does not include an independent contractor.
- (f) **Employer** means any individual or entity (e.g. corporation, partnership, limited liability company, association, labor organization, mutual company, joint-stock company, trust, unincorporated organization) employing one or more employees, the city (including all departments, boards, agencies), and any city contractor. For purposes of this article, no non-profit fraternal or social association/corporation shall be considered to be an employer.
- (g) **Gender identity** means an individual's actual or perceived (by the individual or another) gender-related identity, expression, appearance, or mannerisms, or other gender-related characteristics regardless of the individual's designated sex at birth.
- (h) **Hearing officer** means the City of Prairie Village Municipal Judge.
- (i) **Investigator** means the City of Prairie Village Prosecutor.
- (j) **Nonprofit fraternal or social association/corporation** means an association or corporation that meets all of the following requirements: (1) it is organized in good faith for social or fraternal purposes; (2) membership entails the payment of bona fide initiation fees or regular dues; (3) there exists a regularly established means of self-government by the members thereof clearly set forth in a constitution or by-laws adopted by the membership; (4) there is a regularly established means of and criteria for admitting members and for expulsion of members by the existing membership or by their duly elected or appointed delegates; and (5) it is not operated, directly or indirectly for purposes of profit for any individual or groups of individuals other than the membership as a whole.

- (k) **Place of public accommodation** shall include every establishment within the city that is open to the public and offers any product, service or facility. The term place of public accommodation shall include, but not be limited to, all taverns, hotels, motels, apartment hotels, apartment houses with one or more tenant units, restaurants or any place where food or beverages are sold, retail and wholesale establishments, hospitals, theaters, motion picture houses, museums, bowling alleys, golf courses and all public conveyances, as well as the stations or terminals thereof. The term place of public accommodation shall not, however, include: (1) a religious organization; (2) any hotel, motel, restaurant or theater operated by a nonprofit fraternal or social association/corporation which restricts its facilities and services to the members of such association/corporation and their guests; or (3) any nonprofit fraternal or social association/corporation, or bona fide civic, political or religious organization, when the profits of such association/corporation or organization, above reasonable and necessary expenses, are solely for its benefit or mission.
  - (l) **Religious organization** means a church, mosque, temple, synagogue, or other entity principally devoted to religious practice or religious teaching.
  - (m) **Rent** means to lease, to sublease, to let or otherwise to grant the right to occupy premises not owned by the occupant in exchange for payment or other consideration.
  - (n) **Rental housing** means any real property, consisting of more one or more dwelling units, which is required to obtain a license or permit pursuant to the provisions of Chapter 5 of the Code.
  - (o) **Respondent** means the individual or entity against whom a complaint alleging discrimination or retaliation has been filed with the city.
  - (p) **Sexual orientation** means an individual's actual or perceived (by the individual or another) emotional, romantic, or sexual attraction to other people, such as heterosexual, homosexual, bisexual, pansexual or asexual.
- (Ord. 2396; 2018)

**5 – 802. DECLARATION OF POLICY.**

- (a) The right of an otherwise qualified individual to be free from discrimination because of that individual's race, color, religion, national origin, sex, sexual orientation, gender identity, age, disability, marital status, familial status, or military status is hereby recognized. This right shall include, but not be limited to, any of the following:
    - (1) The right to pursue and hold employment and the benefits associated therewith without wrongful discrimination.
    - (2) The right to the full enjoyment of any of the services, advantages or privileges of any place of public accommodation without wrongful discrimination.
    - (3) The right to engage in property transactions, including obtaining housing for rent or purchase and credit therefor, without wrongful discrimination.
    - (4) The right to exercise any right granted under this ordinance without retaliation.
  - (b) To protect these rights, it is hereby declared to be the purpose of this article to extend the law to prohibit discrimination and retaliation based upon sexual orientation and gender identity and to provide a local process for the acceptance, investigation and resolution of complaints of discrimination and retaliation relating to sexual orientation and/or gender identity arising hereunder.
- (Ord. 2396; 2018)

**5 – 803. UNLAWFUL PRACTICES.**

- (a) **Employment.** It shall be an unlawful discriminatory practice for an employer, because of the sexual orientation or gender identity of an otherwise qualified individual, to refuse to hire or employ such individual, to bar or discharge such individual from employment or to otherwise discriminate against such individual in compensation or in terms, conditions or privileges of employment without a valid business necessity. This article shall not apply to employment by a religious organization that consists of religious teaching, ministry, or other religious duties or practices.
- (b) **Housing.** It shall be an unlawful discriminatory practice for an individual or entity to discriminate against any individual in the terms, conditions or privileges of the sale or lease of real property or the lease of rental housing, or in the provision of services or facilities in connection therewith, because of sexual orientation or gender identity or to discriminate against any individual in such individual's use or occupancy of rental housing because of the sexual orientation or gender identity of individuals with whom such individual associates. Nothing in this article shall prohibit a religious organization or any nonprofit institution or organization operated, supervised or controlled by or in conjunction with a religious organization, from limiting the sale, rental or occupancy of real property or rental housing which it owns or operates for other than a commercial purpose to individuals of the same religion, or from giving preference to such individuals.
- (c) **Public Accommodation.** It shall be an unlawful discriminatory practice for the owner, operator, lessee, manager, agent or employee of any place of public accommodation to refuse, deny or make a distinction, directly or indirectly, in offering its goods, services, facilities, privileges, advantages and accommodations to any individual because of sexual orientation or gender identity.
- (d) It shall be a defense to any allegation of an unlawful discriminatory practice:
  - (1) that the individual or entity did not know the aggrieved individual's sexual orientation or gender identity.
  - (2) that the individual or entity acted in good faith and had reasonable grounds for believing that an act or omission was not a violation of this ordinance.
  - (3) that any adverse action taken against the aggrieved individual would have been taken regardless of the individual's sexual orientation or gender identity (*i.e.* the aggrieved individual violated the law, a workplace rule, a lease provision or policy applicable to all similarly situated individuals, such as employees, lessees, customers, etc.).
- (e) Nothing in this article shall:
  - (1) prohibit a fraternal or social association/corporation in fact not open to the public, which as an incident to its primary purpose or purposes provides lodging which it owns or operates for other than a commercial purpose, from limiting the rental or occupancy of such lodging to its members or from giving preference to its members.
  - (2) prohibit an employer from requiring an employee, during the employee's hours at work, to adhere to reasonable dress or grooming standards not prohibited by other provisions of Federal, State, or local law.

- (3) require an employer to hire unqualified individuals or to retain employees when there is a legitimate non-discriminatory or non-retaliatory reason to terminate employment.
- (4) be construed to prohibit an employer from requiring all of its employees, as a condition of employment, to utilize the employer's applicable established internal human resource procedure(s) to address any allegation of discrimination or retaliation in the workplace. The fact that employer requires an employee to utilize the employer's applicable established internal human resource procedure(s) to address any allegation of discrimination or retaliation in the workplace shall not, in itself, be deemed a violation of this article. However, an employee may simultaneously file a complaint with the city as provided in this ordinance; completion of the employer's procedures is not a pre-requisite to filing a complaint with the city.
- (5) be construed to require any person or entity subject to this article to make changes requiring a building permit to any existing facility, except as otherwise required by law.
- (6) be construed to prohibit an employer or place of public accommodation to post signs for restrooms and dressing rooms based on gender.
- (7) be construed to make it lawful to discriminate or retaliate against individuals on the basis of race, color, religion, national origin, sex, age, disability, marital status, familial status, or military status. Such discrimination and retaliation is not addressed in this article because federal and state law consistently address unlawful discriminatory and retaliatory practices related to those characteristics and provide a complaint, investigation and enforcement process for such discrimination and retaliation.

(Ord. 2396; 2018)

#### **5 – 804. ENFORCEMENT.**

- (a) An aggrieved individual may file a written, verified complaint that the individual has been, or is being, subject to an alleged unlawful discriminatory practice set forth in this article personally or through an attorney (or if a minor, through the minor's parent, legal guardian or attorney) by completing and signing the form provided by the city. The complaint form shall state the names and contact information of the aggrieved individual, the individual(s) and/or entity/entities alleged to have committed the unlawful discriminatory practice(s), a description of the alleged unlawful conduct and all other information as may be required by the form provided by the city. The city is to provide the complaint form without charge.
- (b) The complaint form shall be submitted to the investigator via hand-delivery, certified mail, email or fax, and shall only be considered complete if all information required by the city's form has been provided to the extent such information is reasonably available to the aggrieved individual.
- (c) The complaint form must be filed within sixty (60) days of the alleged unlawful discriminatory practice, unless the act complained of constitutes a continuing pattern or practice of discrimination, in which event it must be filed within sixty (60) days of the last act of discrimination.

- (d) Upon receipt of a complete complaint, the investigator shall notify the respondent(s) of the complaint, providing sufficient details related to the complaint so the respondent(s) may respond. The investigator shall give the respondent(s) thirty (30) days to file a written answer to the complaint, and to provide any documentation or evidence related to the complaint. The investigator may, at the request of respondent(s), extend the answer period an additional thirty (30) days. If the respondent(s) charged with violating the provisions of this article is the city, the city will engage an independent investigator who shall not otherwise be an employee, agent, or contractor of the city and shall not have any association with the complainant or the respondent(s).
- (e) Following the conclusion of the answer period, the investigator may initiate an investigation period, requesting that the complainant and/or respondent(s) provide additional information, documentation or testimony as needed to facilitate the investigation of the complaint. The investigator shall have the power to issue process and compel the production of documents. Such process shall be executed by the chief of police and shall be enforced as in all cases of city ordinances. This investigation period shall be concluded within sixty (60) days of the investigator's last request for information, unless the investigator notifies the complainant and the respondent(s) in writing of the need for additional time and reason(s) therefore.
- (f) Within thirty (30) days of the conclusion of the investigation period, the investigator will review all evidence received during the investigation and make a determination whether probable cause exists that the respondent(s) committed an unlawful discriminatory practice. The investigator will maintain all evidence received during the investigation for a period of two (2) years after the deadline for appeal or completion of appeal, whichever is later.
- (g) If the investigator finds that probable cause does not exist, then the investigator shall notify the complainant and the respondent(s), and no further action shall be taken by the city. The complainant may appeal the investigator's determination to the District Court of Johnson County, Kansas, in accordance with K.S.A. 60-2101(d), and amendments thereto. Within thirty (30) days of service of the notice of appeal pursuant to K.S.A. 60-2101(d), or within further time allowed by the court or by other provision of law, the city shall transmit to the court a certified copy of the investigator's written determination and a certified copy of all evidence received by the investigator during the investigation.
- (h) If the investigator finds that probable causes exists that an unlawful discriminatory practice was committed by respondent(s), the investigator shall not notify the complainant and respondent(s) and request conciliation and settlement. If a party refuses to participate in conciliation and settlement, or if a settlement agreement is not executed within sixty (60) days of the date of the finding of probable cause, the matter shall be referred to the hearing officer for a hearing. The investigator may extend the time for signing a settlement agreement for good cause and with written notice to the parties.
- (i) If the investigator has determined that probable cause exists that the respondent(s) committed an unlawful discriminatory practice against the complainant, and the complaint could not be conciliated and settled within sixty (60) days of the date of such determination (or the last day of any extension, whichever is later), the complaint shall be set for a hearing before the hearing officer. The parties will be given at least

ten (10) days' written notice of the date, time and place of the hearing. At such hearing, the parties shall be entitled to call witnesses and to present such other evidence as appropriate. The hearing shall be conducted in accordance with such procedures as may be established by the hearing officer, but the rules of evidence used in courts of law need not be strictly enforced. The hearing officer shall have the power to administer oaths and to issue process and compel the attendance of any party or witness. Such process shall be executed by the chief of police and shall be enforced as in all cases of city ordinances. The hearing officer shall issue a written determination within ten (10) days of the date of the hearing. The determination shall indicate whether the preponderance of the evidence proves that respondent committed the unlawful discriminatory practice against the complainant. If the hearing officer finds that a violation of this article has occurred, the hearing officer may award to the complainant actual damages, or a civil penalty in the amount of up to \$1,000.00, whichever is greater, for each violation. Each party is to bear their own attorneys' fees, if any. The hearing officer shall preserve all evidence presented at the hearing for a period of two (2) years after the deadline for appeal or completion of appeal, whichever is later.

- (j) Any party aggrieved by a determination of the hearing officer under this section may appeal that determination to the District Court of Johnson County, Kansas, in accordance with K.S.A. 60-2101(d), and amendments thereto. Within thirty (30) days of service of the notice of appeal pursuant to K.S.A. 60-2101(d), or within further time allowed by the court or by other provision of law, the city shall transmit to the court a certified copy of the written determination of the hearing officer and a certified copy all evidence presented at the hearing. On appeal, the district court may enter such order or judgment as justice shall require, and may award the prevailing party court costs and reasonable attorney fees incurred to prosecute or defend the appeal.
  - (k) The filing of a complaint for the alleged violation of this article or a response thereto shall in no way preclude any party from seeking other relief under state or federal law.
  - (l) Any individual making false, malicious, or unfounded accusations against an entity subject to this ordinance is guilty of a violation and upon conviction thereof shall be punished by a fine of \$100 for each such violation.
- (Ord. 2396; 2018)

#### **5 – 805. SEVERABILITY.**

Should any section, subsection, sentence, clause or phrase of this article, or the application thereof to any person or circumstance, be declared to be unconstitutional or invalid or unenforceable, such determination shall not affect the validity of the remaining portions of this article. (Ord. 2396; 2018)



## CHAPTER VI. ELECTIONS

Article 1. City Elections

Article 2. Wards

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### ARTICLE 1. CITY ELECTIONS

- 6-101. CONDUCT OF ELECTION. The election of city officials shall be conducted in all respects as provided by the laws of Kansas governing the holding of city elections. (K.S.A. 25-2101 *et seq.*; Code 2003)
- 6-102. HOURS OF VOTING. At all city elections the polls shall be open at 7:00 a.m. and close at 7:00 p.m., unless different hours are set and publicly announced by the county election officer. (K.S.A. 25-2111, 26-206; Code 2003)
- 6-103. QUALIFICATIONS OF ELECTIVE OFFICERS. All officers elected shall be qualified electors of the city, and the removal from the city of any officer shall occasion a vacancy in such office. No person shall be eligible to any elective office unless he or she shall have been a resident of the city at least six months prior to the time of his or her election. (Code 1973, 2.08.010)
- 6-104. CITY OFFICERS; GENERAL ELECTION; PRIMARY ELECTION
- (a) **Nonpartisan.** City elections for mayor and council shall be non-partisan.
  - (b) **General Election.** The general election of city officers, when required, will be held on the first Tuesday of April through 2016, and commencing in 2017, the general election of city officers, when required, will be held on the Tuesday succeeding the first Monday in November.
  - (c) **Primary elections.**
    - (i) Except as otherwise provided in subsection (ii) of this section, there shall be a primary election of city officers on the Tuesday preceding by five weeks the first Tuesday in April of every year that the City of Prairie Village has an April city election, and on the first Tuesday in August of each odd-numbered and even-numbered year, if needed, in every year that the City of Prairie Village has a November city election.
    - (ii) A primary election shall be held only if needed to reduce the number of candidates for each office in the general election to no more than two (2) candidates. No primary election for city officers shall be held unless by holding such primary one (1) or more persons will be eliminated as candidates for office. In the event there are not more than two (2) candidates for any one office, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for city officers, but the names of such candidates shall be placed on the general city election ballot. (C.O. No. 15, Secs. 2:3; Ord. 2338, Sec. 1, 2015)

6-105.

COUNCILMEMBERS ELECTIONS; MAYOR ELECTIONS; TERMS.

- (a) **November Elections.** The general election of city officers, when required, will be held on the Tuesday succeeding the first Monday in November.
- (b) **Council Member Terms of Office Shortened.** As provided in City Resolution No. 2019-13, the terms of council members elected in the April 2016 election shall expire on the first Monday in January 2020 when the council members elected in the November 2019 general city election take office. The terms of the council members elected in the November 2017 election shall expire on the first Monday in December 2021, when the council members elected in the November 2021, general city election take office. The terms of the council members elected in the November 2019 election shall expire on the first Monday in December 2023, when the council members elected in the November 2023, general city election take office. Thereafter, terms of office shall commence as set forth in Section 6-106 below.
- (c) **Mayor Term of Office Shortened.** As provided in City Resolution No. 2019-13, the term of mayor elected in the November 2018 election shall expire on the first Monday in December 2022, when the mayor elected in the November 2022 general election takes office. Thereafter, terms of office shall commence as set forth in Section 6-106 below.
- (d) **Council Member Elections in Odd-Numbered Years.** Each ward of the city shall have two council members with staggered terms so that one council member from each ward shall be elected at each odd-numbered year election by qualified voters within such ward. There shall be elected one council member from each ward at the general election on the Tuesday succeeding the first Monday in November of every odd-numbered year. Terms of office shall commence as set forth in Section 6-106 below.
- (e) **Mayor Election in Even-Numbered Years.** The office of mayor shall be elected in even-numbered years by qualified voters from the city at large. There shall be a general election on the Tuesday succeeding the first Monday in November of 2018 for the office of mayor completing the current term of office in January of 2019. Thereafter, the general election of mayor shall be held on the Tuesday succeeding the first Monday in November of every fourth year. Terms of office shall commence as set forth in Section 6-106 below.
- (f) **Vacancies.** Vacancies in the office of council member or mayor shall be filled in accordance with Section 1-208 of the Code of the City of Prairie Village. (C.O. No. 13, Sec. 3; C.O. No. 14, Sec. 2; Ord. 2338, Sec. 2, 2015; Ord. 2405, Sec. 2, 2019)

6-106.

COMMENCEMENT OF TERMS OF OFFICE; OATH OF OFFICE.

- (a) As provided in City Resolution No. 2019-13, the terms of office for all city officials elected after November 6, 2019 shall commence on the first Monday in December following certification of the election and shall be for four years, and until a successor is elected and qualified, with their terms expiring on the first Monday in December four years thereafter, when the city officials elected in the previous November general city election take office. No person shall be eligible to the office of the council member who is not at the time of his or her election an actual resident

of the ward for which he or she was elected. All elected officers shall be qualified electors of the City under the constitution of the State of Kansas.

- (b) Every person elected or appointed to city office, before entering upon the duties of such office, shall take and subscribe an oath or affirmation as specified in K.S.A. 54-106, and amendments thereto, and every such oath or affirmation shall be filed with the city clerk. (Code 2003; Ord. 2338, Sec. 2, 2015, Ord. 2405, Sec. 3, 2019)

- 6-107. **DECLARATION OF CANDIDACY – ELECTIONS AT LARGE, NOMINATING PETITION.** Any person desiring to become a candidate for city office elected at large by nominating petition shall file with the county election officer, before the filing deadline established in K.S.A. 25-205, and amendments thereto, a declaration of candidacy on a form furnished by the county election officer as specified by the secretary of state. The number of qualified electors of the city which must sign a nomination petition shall be 50 qualified electors of the City or by a number of such qualified electors equal to not less than 1% of the ballots cast in the last general election of the City, whichever is less. (Ord. 2386, Sec. 1, 2018)

## **ARTICLE 2. WARDS**

- 6-201. **WARDS GENERALLY.** The city shall be divided into six wards, and the boundaries of the same are designated and described as follows in this article. (Code 1973, 1.32.010)

- 6-202. **WARD ONE.** Ward one shall be as follows:  
That part of the city bounded on the east by the city limits to the northeast corner of the city limits on Mission Road; thence west along the back lot lines between 62nd Terrace and 63rd Street to its intersection with the centerline of Roe Avenue; thence south along the centerline of Roe Avenue to its intersection with the centerline of 63rd Street; thence west along the centerline of 63rd Street to its intersection with the centerline of Nall Avenue; thence south along the centerline of Nall Avenue to its intersection with the centerline of 69th Street; thence west along the centerline of 69th Street to its intersection with the centerline of Reeds Road; thence south along the centerline of Reeds Road to its intersection with the centerline of 71st Street; thence east along the centerline of 71st Street to a point which is the east city limit; thence north along the city limit to the point of beginning. (Code 1973, 1.32.020)

- 6-203. **WARD TWO.** Ward two shall be as follows:  
That part of the city beginning at the intersection of Brush Creek and 71st Street, thence in a southwesterly direction along Brush Creek, including the property of Porter Park, to its intersection with the centerline of Roe Avenue; thence south along the centerline of Roe Avenue to its intersection with the centerline of 75th Street; thence west along the centerline of 75th Street to its intersection with the centerline of Juniper Avenue; thence south on Juniper Avenue to the centerline of 79th Street; thence west along the centerline of 79th street to its intersection with the centerline of Lamar Avenue; thence north along the centerline of Lamar Avenue to its intersection with the centerline of 78th Street; thence west along the centerline of 78th Street to its

intersection with the centerline of Walmer Lane; thence north along the centerline of Walmer Lane to its intersect with the centerline of 77th Street; thence west along the centerline of 77th Street to its intersection with the centerline of Walmer Lane; thence north along the centerline of Walmer Lane to its intersection with the centerline of 75th Street; thence east along the centerline of 75th Street to its intersection with the centerline of Nall Avenue; thence north along the centerline of Nall Avenue; thence north along the centerline of Nall Avenue to its intersection with the centerline of 71st Street; thence east along the centerline of 71st Street to the point of beginning. (Code 1973, 1.32.030)

6-204.           WARD THREE. Ward three shall be as follows:  
That part of the city beginning at the intersection of Brush Creek and 71st Street; thence southwesterly along Brush Creek excluding the property of Porter Park, to its intersection with the centerline of Roe Avenue; thence south along the centerline of Roe Avenue to its intersection with the centerline of 75th Street, thence east on the centerline of 75th Street to its intersection with the centerline of State Line Road; thence north on the centerline of State Line Road to its intersection with the northeast boundary of the city; thence west along the north boundary of the city to its intersection with the centerline of Mission Road; thence west along the centerline of 71st Street to the point of the beginning. (Code 1973, 1.32.040)

6-205.           WARD FOUR. Ward four shall be as follows:  
That part of the city beginning at the intersection of the centerline of 75th Street with the centerline of Mission Road; thence west along the centerline of 75th Street to its intersection with the centerline of Juniper Street; thence south along the centerline of Juniper Street to its intersection with the centerline of 79th Street; thence west along the centerline of 79th Street to its intersection with the centerline of Lamar Avenue; thence south along the centerline of Lamar Avenue to its intersection with the centerline of 83rd Street; thence east along the centerline of 83rd Street to its intersection with the centerline of Mission Road; thence north along the centerline of Mission Road to the centerline of 75th Street, the point of beginning. (Code 1973, 1.32.050)

6-206.           WARD FIVE. Ward five shall be as follows:  
That part of the city beginning at the intersection of 83rd and Nall Avenue, thence south along the centerline of Nall Avenue to its intersection with the centerline of 95th Street; thence east along the centerline of 95th Street to its intersection with the centerline of Mission Road; thence north along the centerline of Mission Road to a point being the back lot line of 84th Terrace; thence east along the back lot lines to a point being the back lot line of Reinhardt; thence north along the back lot line and its prolongation to the centerline of 83rd Street; thence west along the centerline of 83rd Street, including the property of Corinth School, to its intersection with the centerline of Nall Avenue, the point of beginning. (Code 1973, 1.32.060)

6-207.           WARD SIX. Ward six shall be as follows:  
That part of the city beginning at the intersection of the centerline of Mission Road with the centerline of 75th Street; thence east along the centerline of 75th Street to its intersection with the centerline of State Line Road; thence south along the eastern

boundary of the city to its intersection with the northern city limits of the City of Leawood; thence generally westerly along the northerly city limits of the City of Leawood to its intersection with the centerline of 83rd Street; thence west along the centerline of 83rd Street to Mission Road; thence north along the centerline of Mission Road to the centerline of 75th Street, to the point of beginning. (Code 1973, 1.32.070)

## CHAPTER VII. FIRE

- Article 1. Fire Department
- Article 2. International Fire Code (IFC)
- Article 3. Hazardous Materials Response; Recovery of Costs

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### ARTICLE 1. FIRE DEPARTMENT

- 7-101.        ADOPTION OF FIRE CONTROL MEASURES AND REGULATIONS    There is hereby adopted by the city the fire control measures and regulations as herein set forth for the purposes of controlling conditions which could impede or interfere with fire suppression forces, as adopted by Ordinance No. 2286.
- (a) Authority at Fires and Other Emergencies.    The Fire Code Official or duly authorized representatives, as may be in charge at the scene of a fire or other emergency involving the protection of life and/ or property, is empowered to direct such operations as may be necessary to extinguish or control any suspected or reported fires, gas leaks, or other hazardous conditions or situations or of taking any other action necessary in the reasonable performance of their duty. The Fire Code Official may prohibit any person, vehicle or object from approaching the scene and may remove or cause to be removed from the scene any persons, vehicle or object which may impede or interfere with the operations of the fire department. The Fire Code Official may remove or cause to be removed any person, vehicle or object from hazardous areas. All persons ordered to leave a hazardous area shall do so immediately and shall not re-enter the area until authorized to do so by the Fire Code Official.
  - (b) Interference with Fire Department Operations.    It shall be unlawful to interfere with, attempt to interfere with, conspire to interfere with, obstruct or restrict the mobility of, or block the path of travel of any fire department emergency vehicle in any way, or to interfere with, attempt to interfere, conspire to interfere with, obstruct or hamper any fire department operation.
  - (c) Compliance with Order.    A person shall not willfully fail or refuse to comply with any lawful order or direction of the Fire Code Official or to interfere with the compliance attempts of another individual.
  - (d) Vehicles Crossing Fire Hose.    A vehicle shall not be driven or propelled over any unprotected fire hose of the fire department when laid down on any street, alleyway, private drive or any other vehicular roadway without the consent of the Fire Code Official in command of the operation.
  - (e) Definition of Authorized Emergency Vehicle.    Authorized emergency vehicles shall be restricted to those which are defined and authorized under the laws of the State of Kansas.
  - (f) Operation of Vehicles on Approach of Authorized Emergency Vehicles.    Upon the approach of authorized emergency vehicles, giving audible and visual signal, the operator of every other vehicle shall immediately drive the same to a position as near as possible and parallel to the right hand edge or curb of the street or roadway, clear of any intersection, and shall stop and remain in such position until the authorized emergency vehicle or vehicles shall have passed, unless otherwise directed by the fire official or a police officer.

- (g) Vehicle Following Fire Apparatus. It shall be unlawful for the operator of any vehicle, other than one on official business, to follow closer than 300 feet from any fire apparatus traveling in response to a fire alarm, or to drive any vehicle within the block or immediate area where fire apparatus has stopped in answer to a fire alarm.
- (h) Unlawful Boarding or Tampering with Fire Department Emergency Equipment. A person shall not without proper authorization from the Fire Code Official in charge of the fire department emergency equipment, cling to, attach himself or herself to, climb upon or into, board or swing upon any fire department emergency vehicle, whether the same is in motion or at rest, or sound the siren, horn, bell or other sound-producing device thereon, or to manipulate or tamper with any levers, valves, switches, starting devices, brakes, pumps or any equipment or protective clothing on, or a part of, any fire department emergency vehicle.
- (i) Damage Injury; Fire Department; Equipment, Personnel. It shall be unlawful for any person to damage or deface or attempt, or conspire to damage or deface any fire department emergency vehicle at any time, or to injure, or attempt to injure or conspire to injure fire department personnel while performing departmental duties.
- (j) Emergency Vehicle Operation. The driver of any emergency vehicle, as defined in subsection (e) of this section, shall not sound the siren thereon or have the front red lights on or disobey any existing traffic regulation, except when the vehicle is responding to an emergency call or when responding to, but not returning from a fire. Tactical strategies such as, but not restricted to, move-ups do not constitute an emergency call. The driver of an emergency vehicle may:
- (1) Park or stand irrespective of the provisions of existing traffic regulations.
  - (2) Proceed past a red or stop signal or other sign, but only after slowing down as may be necessary for safe operation;
  - (3) Exceed the prima facie speed limit so long as the action does not endanger life or property;
  - (4) Disregard regulations governing direction of movement or turning in specified directions.
- The exemptions herein granted to an emergency vehicle shall apply only when the driver of any such vehicle while in motion sounds audible signal by bell, siren or exhaust whistle as may be reasonably necessary and when the vehicle is equipped with at least one lighted lamp displaying a red light visible under normal atmospheric conditions from a distance of 500 feet to the front of such vehicle.
- (k) Blocking Fire Hydrants and Fire Department Connections. It shall be unlawful to obscure from view, damage, deface, obstruct or restrict the access to any fire hydrant or any fire department connection for the pressurization of fire suppression systems including fire hydrants and fire department connections that are located on public or private streets and access lanes, or on private property.
- If upon the expiration of the time mentioned in a notice of violation, obstructions or encroachments are not removed, the Fire Code Official shall proceed to remove the same. Cost incurred in the performance of necessary work shall be paid from the municipal treasury on certificate of the Fire Code Official and with the approval of the chief administrative official and the legal authority of the municipality shall institute appropriate action for the recovery of such costs.

- (l) Hydrant Use Approval. A person shall not use or operate any fire hydrant intended for the use of the fire department for fire suppression purposes unless such person first secures a permit for such use from the Fire Code Official and the water company having jurisdiction.
- (m) Public Water Supply. The Fire Code Official shall recommend to the chief administrative official of the municipality the location or relocation of new or existing fire hydrants and the placement or replacement of inadequate water mains located upon public property and deemed necessary to provide an adequate fire flow and distribution pattern. A fire hydrant shall not be placed into or removed from service until approved by the Fire Code Official.
- (n) Maintenance of Fire Suppression Equipment. A person shall not obstruct, remove, tamper with or otherwise disturb any fire hydrant or fire appliance required to be installed or maintained under the provisions of the International Fire Code except for the purpose of extinguishing fire, training or testing purposes, recharging or making necessary repairs, or when permitted by the fire official. Whenever a fire appliance is removed as herein permitted, it shall be replaced or reinstalled as soon as the purpose for which it was removed has been accomplished. Defective and non-approved fire appliances or equipment shall be replaced or repaired as directed by the Fire Code Official.
- (o) Sale of Defective Fire Extinguisher. A person shall not sell, trade, loan or give away any form, type or kind of fire extinguisher which is not approved by the fire official, or which is not in proper working order, or the contents of which do not meet the requirements of the fire official. The requirements of this section shall not apply to the sale, trade or exchange of obsolete or damaged equipment for junk when the units are permanently disfigured or marked with a permanent sign identifying the unit as inoperable or junk.
- (p) Street Obstructions. A person or persons shall not erect, construct, place or maintain any bumps, fences, gates, chains, bars, pipes, wood, or metal hoses or any other type of obstruction in or on any street, within the boundaries of the municipality. The word street as used in this article, shall mean any roadway accessible to the public for vehicular traffic, including, but not limited to, private streets or access lanes, as well as all public streets and highways within the boundaries of the municipality.
- (q) Fire Hazards Generally. It is unlawful for any person to cause or create anywhere within the City, or to permit on any premises under his or her control, any situation or condition that is conducive to or likely to cause or permit the outbreak of or the spreading of fire. Any situation or condition conducive to the outbreak of and spreading of fire is declared to be a fire hazard. The violation of or failure to comply with any law or regulation pertaining to the storage, handling, or use of any flammable materials, gases, explosives and all wires and other conductors charged with electricity, is declared to be a fire hazard. The placing of stools, chairs, or any other obstruction in the aisles, hallways, doorways, stairways or exits of any theater, public hall, auditorium, school, church or other places with an assembly occupancy, or the failure to provide any such place with sufficient accessible and unobstructed fire exits, routes and escapes is declared to be a fire hazard. The obstruction of any street, avenue, alley, fire hydrant or any other condition that might delay the fire department in fighting fire is declared to be unlawful.
- (Ord. 1848, Sec. 2; Ord. 2286, Sec. 1, 2013)



## ARTICLE 2. INTERNATIONAL FIRE CODE (IFC)

7-201. INTERNATIONAL FIRE CODE INCORPORATED. There is hereby adopted and incorporated by reference that certain fire code, known as the “International Fire Code,” 2012 edition and appendices B, C, D, and I copyrighted in 2011 by the International Code Council (hereinafter referred to as the “IFC” or “Fire Code”) except for the amendments provided in this Article. Not less than one copy of the Fire Code shall be marked or stamped “Official Copy as Adopted by Ordinance No. 2287.” A copy of this ordinance shall be attached to each Fire Code copy and shall be on file with city hall to be open for inspection and available to the public at all reasonable business hours. The municipal court, and all administrative departments of the City charged with the enforcement of the Fire Code shall be supplied, at the cost of the City, with such numbers of official copies similarly marked as deemed expedient.  
(Ord. 2053, Secs. 1:2, 2003; Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)

7-202. AMENDMENTS TO SECTION 101.1 – TITLE. Section 101.1 of the IFC is hereby amended to read as follows:  
These regulations shall be known as the Fire Code of the City of Prairie Village, Kansas, hereinafter referred to as the “IFC” or “this Code”.  
(Code 2003; Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)

7-203. AMENDMENTS TO SECTION 101.2 – SCOPE. Section 101.2 of the 2012 IFC is hereby amended to read as follows:  
This code establishes regulations affecting or relating to structures, processes, premises and safeguards regarding:

1. The hazard of fire and explosion arising from the storage, handling or use of structures, materials or devices;
2. Conditions hazardous to life, property or public welfare in the occupancy of structures or premises;
3. Fire hazards in the structure or on the premises from occupancy or operation;
4. Matters related to the construction, extension, repair, alteration or removal of fire suppression or alarm systems; and
5. Conditions affecting the safety of fire fighters and emergency responders during emergency operations.

101.2.1 APPENDICES. Provisions in the appendices shall not apply unless specifically adopted.

101.2.1.1 APPENDICES ADOPTED. The following appendices are adopted as part of this code:

- Appendix B- Fire Flow Requirements for Building
- Appendix C- Fire Hydrant Locations and Distribution
- Appendix D- Fire Apparatus Access Roads
- Appendix I- Fire Protection Systems-noncompliant

(Code 2003; Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)

7-204. AMENDMENTS TO SECTION 104.1 – GENERAL. Section 104.1 of the 2012 IFC is hereby amended to read as follows:

- The Fire Code official is hereby authorized to enforce the provisions of this code and shall have the authority to render interpretations of this code, and to adopt policies, procedures, rules and regulations in order to clarify the application of its provisions. Such interpretations, policies, procedures, rules and regulations shall be in compliance with the intent and purpose of this code and shall not have the effect of waiving requirements specifically provided for in this code.  
(Ord. 2287, Sec. 1, 2013)
- 7-205            AMENDMENTS TO SECTION 105.4.1 – SUBMITTALS. Section 105.4.1 of the 2012 IFC is hereby amended to read as follows:  
Construction documents and supporting data shall be submitted in three (3) sets with each application for a permit and in such form and detail as required by the Fire Code Official. The construction documents shall be prepared by a registered design professional where required by the statutes of the jurisdiction in which the project is to be constructed.  
(Code 2003; Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)
- 7-206            SECTIONS DELETED. Sections 105.6.1 through 105.6.13; Sections 105.6.15 through 105.6.19; Sections 105.6.21 through 105.6.29; Sections 105.6.31 through 105.6.35; Sections 105.6.37 through 105.6.42; and Sections 105.6.44 through 105.6.46 are hereby deleted.  
(Code 2003, Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)
- 7-207            AMENDMENTS TO SECTION 105.6.20 – HAZARDOUS MATERIALS. Section 105.6.20 of the 2012 IFC is hereby amended to read as follows:  
An operational permit is required to store, transport on site, dispense, use or handle hazardous materials in excess of the amounts listed in Table 105.6.20.  
(Code 2003, Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)
- 7-208            AMENDMENTS TO SECTION 105.6.30 – OPEN BURNING. Section 105.6.30 of the 2012 IFC is hereby amended to read as follows:  
An operational permit is required for the kindling or maintaining of an open fire or a fire on any public street, alley, road, or other public or private ground. Instructions and stipulations of the permit shall be adhered to.  
Exception: Recreational fires.  
(Code 2003, Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)
- 7-209.            AMENDMENTS TO SECTION 105.6.43 – TEMPORARY MEMBRANE STRUCTURES, TENTS AND CANOPIES. Section 105.6.43 of the 2012 IFC is hereby amended to read as follows:  
An operational permit is required to operate an air-supported temporary membrane structure or a tent having an area in excess of 900 square feet, or a canopy in excess of 900 square feet.  
Exceptions:  
1. Tents used exclusively for recreational camping purposes.  
2. Funeral tents and curtains or extensions attached thereto, when used for funeral services.  
3. Fabric canopies open on all sides which comply with all of the following:  
3.1 Individual canopies having a maximum size of 900 square feet;

3.2 The aggregate area of multiple canopies placed side by side without a fire break of not less than twelve feet (12') shall not exceed 900 square feet.  
less than twelve feet (12') shall not exceed 900 square feet.

3.3 A minimum clearance of twelve feet (12') to structures and other tents shall be provided.

(Code 2003; Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)

7-210. AMENDMENTS TO SECTION 109.4 – VIOLATION PENALTIES. Section 109.4 of the 2012 IFC is hereby amended to read as follows:

Persons who shall violate a provision of this code, or shall fail to comply with any of the requirements thereof or who shall erect, install, alter, repair or do work in violation of the approved construction documents or directive of the Fire Code Official, or of a permit or certificate used under the provisions of this code, shall be subject to penalties as prescribed by law, or other references incorporated, and are guilty of a public offense, punishable as provided in PVMC Chapter 8, Article 2, Sec. 8-201.

109.4.1 ABATEMENT OF VIOLATION. In addition to the imposition of the penalties herein described, the Fire Code Official is authorized to institute appropriate action to prevent unlawful construction or to restrain, correct or abate a violation; or to prevent illegal occupancy of a structure or premises; or to stop an illegal act, conduct of business or occupancy of a structure on or about any premises.

(Code 2003; Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)

7-211. AMENDMENTS TO SECTION 111.4 - FAILURE TO COMPLY. Section 111.4 of the 2012 IFC is hereby amended to read as follows:

Any person who shall continue work after having been served a stop work order, except such work as that person is directed to perform to remove a violation or unsafe condition, shall be liable to a fine as provided in PVMC Chapter 8, Article 2, Sec. 8-201

(Code 2003; Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)

7-212. AMENDMENTS TO SECTION 113.2 – SCHEDULE OF PERMIT FEES. Section 113.2 of the 2012 IFC is hereby amended to read as follows:

A fee for each permit shall be paid as required, in accordance with the schedule as established by resolution of the Governing Body and as provided in PVMC Chapter 4, Article 4, Sec. 4-112.

(Code 2003; Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)

7-213. AMENDMENTS TO SECTION 307 – OPEN BURNING, RECREATIONAL FIRES AND PORTABLE OUTDOOR FIREPLACES. Section 307 of the 2012 IFC is hereby amended to read as follows:

307.1 GENERAL. A person shall not kindle or maintain or authorize to be kindled or maintained any open burning unless conducted and approved by the Fire Code Official and Sections 307.1.1 through 307.5.

Definitions:

“Open Burning”- The burning of materials wherein products of combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. Open burning does not include road flares, smudgepots and similar devices associated with safety or occupational uses typically considered open

flames, recreational fires or use of portable outdoor fireplaces. For the purpose of this definition, a chamber shall be regarded as enclosed when, during the time combustion occurs, only apertures, ducts, stacks, flues or chimney necessary to provide combustion air and permit the escape of exhaust gas are open.

“Recreational Fires”- An outdoor fire burning material other than rubbish where the fuel being burned is not contained in an incinerator, outdoor fireplace, portable outdoor fireplace, barbecue grill, or barbecue pit and has a total fuel area of three feet (3') or less in diameter and 2 feet (2') or less in height for pleasure, religious, ceremonial, cooking, warmth or similar purposes.

“Portable Outdoor Fireplace”- A portable, outdoor, solid-fuel-burning fireplace that may be constructed of steel, concrete, clay or other noncombustible material. A portable outdoor fireplace may be open in design, or may be equipped with a small hearth opening and a short chimney or chimney opening at the top.

307.1.1 PROHIBITED FROM BURNING. Open burning shall be prohibited when wind speeds exceed fifteen (15) MPH and when atmospheric conditions or local circumstances make such fires hazardous as determined by the Fire Code Official.

307.2 PERMIT REQUIRED. A permit shall be obtained from the Fire Code Official, prior to kindling a fire for recognized silvicultural or range or wildlife management practices, prevention or control of disease or pests, or a bonfire. Application for such approval shall only be presented by and permits issued to the owner of the land upon which the fire is to be kindled.

307.2.1 AUTHORIZATION. Where required by state or local law or regulations, open burning shall only be permitted with prior approval from the state or local air and water quality management authority, provided that all conditions specified in the authorization are followed.

307.3 EXTINGUISHMENT AUTHORITY. When open burning creates or adds to a hazardous or objectionable situation, or a required permit for open burning has not been obtained, the Fire Code Official is authorized to order the extinguishment of the open burning operation.

307.4 LOCATION. The location for open burning shall not be less than fifty feet (50') from any structure, and provisions shall be made to prevent the fire from spreading to within fifty feet (50') of any structure.

Exceptions:

1. Fires in approved containers that are not less than fifteen feet (15') from a structure.
2. The minimum required distance from a structure shall be twenty five feet (25') when the pile size is three feet (3') or less in diameter and two feet (2') or less in height.

307.4.1 BONFIRES. A bonfire shall not be conducted within fifty feet (50') of a structure or combustible material unless the fire is contained in a barbecue pit. Conditions which would cause a fire to spread within twenty five feet (25') of a structure shall be eliminated prior to ignition.

307.4.2 PORTABLE OUTDOOR FIREPLACES. Portable outdoor fireplaces shall be used in accordance with the manufacturer's instructions and shall not be operated within fifteen feet (15') of a structure or combustible material.

Exception: Portable outdoor fireplaces used at one-and two-family dwellings.

307.5 ATTENDANCE. Open burning, bonfires, recreational fires and use of portable outdoor fireplaces shall be constantly attended until the fire is extinguished. A minimum of one (1) portable fire extinguisher complying with Section 906 with a minimum 4-A rating or other approved on-site fire extinguishing equipment such as dirt, sand, water barrel, garden hose or water truck, shall be available for immediate utilization.

(Code 2003; Ord. 2145, Sec. 1, 2007; Ord. 2287, Sec. 1, 2013)

7-214. AMENDMENTS TO SECTION 308 – OPEN FLAMES. Section 308 of the 2012 IFC is hereby amended to read as follows:

308.1 GENERAL. Open flame, fire and burning on all premises shall be in accordance with Sections 308.1.1 through 308.4.1 and with other applicable sections of this code.

308.1.1 WHERE PROHIBITED. A person shall not take or utilize an open flame or light in a structure, vessel, boat or other place where highly flammable, combustible or explosive material is utilized or stored. Lighting appliances shall be well-secured in a glass globe and wire mesh gage or a similar approved device.

308.1.2 THROWING OR PLACING SOURCES OF IGNITION. No person shall throw or place, or cause to be thrown or placed, a lighted match, cigar, cigarette, matches, or other flaming or glowing substance or object on any surface or article where it can cause an unwanted fire.

308.1.3 TORCHES FOR REMOVING PAINT. Persons utilizing a torch or other flame-producing device for removing paint from a structure shall provide a minimum of one (1) portable fire extinguisher complying with Section 906 and with a minimum 4-A rating, two (2) portable fire extinguishers, each with a minimum 2-A rating, or a water hose connected to the water supply on the premises where such burning is done. The person doing the burning shall remain on the premises one (1) hour after the torch or flame-producing device is utilized.

308.1.4 OPEN-FLAME COOKING DEVICES. Charcoal burners and other open-flame cooking devices shall not be located or operated on combustible balconies or within ten feet (10') of combustible construction.

Exceptions:

1. One and two family dwellings.
2. Where buildings, balconies and decks are protected by an automatic sprinkler system.

308.1.5 LOCATION NEAR COMBUSTIBLES. Open flames such as from candles, lanterns, kerosene heaters and gas-fired heaters shall not be located on or near decorative material or similar combustible materials.

308.1.6 OPEN-FLAME DEVICES. Torches and other devices, machines or processes liable to start or cause fire shall not be operated or used in or upon wildfire risk areas, except by a permit in accordance with Section 105.6, secured from the Fire Code Official.

Exception: Use within inhabited premises or designated campsites which are a minimum of thirty feet (30') from grass-, brush-, or forest-covered areas.

308.1.6.1 SIGNALS AND MARKERS. Flame-employing devices, such as lanterns or kerosene road flares, shall not be operated or used as a signal or marker in or upon wildfire risk areas.

Exception: The proper use of flares at the scenes of emergencies or as required by standard railroad operation procedures.

308.1.6.2 PORTABLE FUELED OPEN-FLAME DEVICES. Portable open-flame devices fueled by flammable or combustible gases or liquids shall be enclosed or installed in such a manner as to prevent the flame from contacting combustible material.

Exceptions:

1. LP-gas fueled devices used for swearing pipe joints or removing paint in accordance with Chapter 61.
2. Cutting and welding operations in accordance with Chapter 35.
3. Torches or flame-producing devices in accordance with Section 308.4.
4. Candles and open-flame decorative devices in accordance with Section 308.3.

308.1.7 RELIGIOUS CEREMONIES. When, in the opinion of the Fire Code Official, adequate safeguards have been taken, participants in religious ceremonies are allowed to carry hand-held candles. Hand-held candles shall not be passed from one person to another while lighted.

308.1.7.1 AISLES AND EXITS. Candles shall be prohibited in areas where occupants stand, or in an aisle or exit.

308.1.8 FLAMING FOOD AND BEVERAGE PREPARATION. The preparation of flaming food or beverages in places of assembly and drinking or dining establishments shall be in accordance with Sections 308.8.1 through 308.1.8.5.

308.1.8.1 DISPENSING. Flammable or combustible liquids used in preparation of flaming foods or beverages shall be dispensed from one of the following:

1. A one (1) ounce container; or
2. A container not exceeding one (1) quart capacity with a controlled pouring device that will limit the flow to a one (1) ounce serving.

308.1.8.2 CONTAINERS NOT IN USE. Containers shall be secured to prevent spillage when not in use.

308.1.8.3 SERVING OF FLAMING FOOD. The serving of flaming foods or beverages shall be done in a safe manner and shall not create high flames. The pouring, ladling or spooning of liquids is restricted to a maximum height of eight inches (8") above the receiving receptacle.

308.1.8.4 LOCATION. Flaming foods or beverages shall be prepared only in the immediate vicinity of the table being serviced. They shall not be transported or carried while burning.

308.1.8.5 FIRE PROTECTION. The person preparing the flaming foods or beverages shall have a wet cloth towel immediately available for use in smoldering the flames in the event of an emergency.

(Ord. 2287, Sec. 1, 2013)

7-215. AMENDMENTS TO SECTION 314.4 – VEHICLES. Section 314.4 of the 2012 IFC is hereby amended to read as follows:

Liquid- or gas-fueled vehicles, boats or other motorcraft shall not be located indoors except as follows:

1. Batteries are disconnected or disabled in an approved manner.
2. Fuel in tanks does not exceed one-quarter tank or five (5) gallons, whichever is least, or as approved by the Fire Code Official.
3. Fuel tanks and fill openings are closed and sealed to prevent tampering.
4. Vehicles, boats or other motorcraft equipment are not fueled or de-fueled within the building.

(Ord. 2287, Sec. 1, 2013)

7-216. AMENDMENTS TO SECTION 503.3 – MARKING. Section 503.3 of the 2012 IFC is hereby amended to read as follows:

Where required by the Fire Department, approved signs or other approved notices shall be provided for fire apparatus access roads to identify such roads or prohibit the obstruction thereof. Signs or notices shall be maintained in a clean and legible condition at all times and be replaced or repaired when necessary to provide adequate visibility.

503.3.1 MARKING REQUIREMENTS. Each separate fire lane signage, which may consist of one sign or a combination of signs, shall have a cumulative minimum size of 96 square inches and contain the “NO Parking” words or symbol with the words “Fire Lane” located directly beneath the “No Parking” words or symbol. Each sign or combination of signs are required to be uniformly mounted between two feet eight inches (2’-8”) to seven feet zero inches (7’-0”) above grade to the bottom of the sign, and so located not to obstruct pedestrian traffic. The sign or combination of signs shall be mounted within six feet (6’) of the curb or striped pavement and are required to face or run parallel with oncoming vehicular traffic. The sign or combination of signs may be mounted on the building, pole base, or any other structure provided the signage meets the setback and minimum and maximum height requirements indicated above. The sign, or combination of signs, are required to be spaced no more than two hundred feet (200’) apart. In addition, the curb, or pavement if a curb is absent, is required to be marked with a yellow or red stripe that shall run not less than six feet (6’) of each thirty foot (30’) length of fire lane. Each separate yellow or red striped area shall contain three inch (3”) black lettering indicating “Fire Lane”; provided, however, that the presence of such lettering is not a prerequisite to the enforcement of fire lane parking violations. Furthermore, the exceeding of any standards intended to inform the public of the location of a fire lane shall not affect the enforcement of this Section.

(Ord. 2287, Sec. 1, 2013)

7-217. AMENDMENTS TO SECTION 503.6 – SECURITY GATES. Section 503.6 of the 2012 IFC is hereby amended to read as follows:

Where security gates are installed, an approved means of emergency operation shall be provided. The security gates and emergency operation shall be maintained operational at all times and shall comply with the following:

1. All gates shall be of the sliding, hinged, or counter-balanced type, and where electrically controlled, shall be capable of being operated to the full open position by emergency responders during a loss of power to the gate's operating mechanism.
2. Electrical or mechanical operated gates shall be capable of being unlocked or opened with an approved Fire Department county keyed cylinder installed at an accessible location on the entry side of the gate. The key-operated switch shall bypass the release mechanism to allow the gate to be operated by emergency response personnel.
3. In addition to an approved key cylinder operation device, gates shall be equipped with audible release, set to operate with an emergency response yelp tone.
4. Keypads and other entry devices installed on gates shall not interfere with the operation of either the approved key access cylinder or emergency response audible release.

(Ord. 2287, Sec. 1, 2013)

7-218. AMENDMENTS TO SECTION 505.1 – ADDRESS NUMBERS. Section 505.1 of the 2012 IFC is hereby amended to read as follows:

New and existing buildings shall have approved address numbers, building numbers, or approved building identification placed in a position on the building or on any structure, mail box, sign or monument on the property that is securely fixed to the ground to be plainly legible and visible from the street or road fronting the property. These numbers shall contrast with their background. Address numbers shall be Arabic numerals. Numbers shall be a minimum of four inches (4") high with a minimum stroke width of one-half inch (0.5"). Numbers shall be a minimum height of four inches (4") in Use groups R-3 and R-4; six inches (6") in Use Group R-3 Child Care Facilities; and eight inches (8") in all other Use Groups. Where required by the Fire Code Official the identifying numbers shall be lighted by an approved light source.

**505.1.1 SECONDARY ADDRESS NUMBERS.** Multi-tenant retail shopping centers in which tenant spaces have secondary entry doors from an exterior façade of the building and have paved vehicle access adjacent to such doors, shall have approved numbers or addresses placed on or adjacent to each door. Secondary address numbers shall be a minimum of four inches (4") in height.

Exceptions:

1. If more than one entry door is installed on a façade, only one door needs to be marked (entry doors defined as overhead cargo doors and normal passage doors).
2. Further exceptions shall be permitted by the Fire Code Official after consultation with the Crime Prevention Unit of the Prairie Village Police Department, if it can be shown that marking the doors would create a security risk.

**505.1.2 ADDITIONAL INFORMATION.** Where identification of additional exits would be of benefit to emergency response personnel, a sequential numbering system can



be required by the Fire Code Official whereby the interior and exterior surfaces of each exit is marked in an approved manner.  
(Ord. 2287, Sec. 1, 2013)

7-219. AMENDMENTS TO SECTION 505.2 – STREET OR ROAD SIGNS. Section 505.2 of the 2012 IFC is hereby amended to read as follows:  
Streets and roads shall be identified with approved signs. The signage shall consist of Arabic numerals or alphabet letters which are reflective and contrast with their background. The numbers and letters shall be a minimum of six inches (6”) high with a minimum stroke width of 0.5 inches. Temporary signs shall be installed at each street intersection when construction of new roadways allows passage by vehicles. Signs shall be of an approved size, weather resistant and be maintained until replaced by permanent signs.  
(Ord. 2287, Sec. 1, 2013)

7-220. AMENDMENTS TO SECTION 506.2 – KEY BOX MAINTENANCE. Section 506.2 of the 2012 IFC is hereby amended to read as follows:  
The operator of the building shall immediately notify Consolidated Fire District #2 (CFD#2) and provide the new key when a lock is changed or re-keyed. The key to such lock shall be secured in the key box. The key box shall be maintained in working order by the operator/owner/occupant of the building.  
(Ord. 2287, Sec. 1, 2013)

7-221. AMENDMENTS TO SECTION 507.1 – REQUIRED WATER SUPPLY. Section 507.1 of the 2012 IFC is hereby amended to read as follows:  
An approved water supply capable of supplying the required fire flow for fire protection shall be provided to premises upon which facilities, buildings or portions of the buildings are hereafter constructed or moved into or within the jurisdiction.

507.1.1 WATER DISTRIBUTION SYSTEM FAILURES. Water districts serving areas within Prairie Village shall notify the Emergency Notifications Center of any failure in their water distribution system; hydrant repair; main breaks; pump failures; or other interruptions of water supply that may affect water supply for fire control purposes.  
(Ord. 2287, Sec. 1, 2013)

7-222. AMENDMENTS TO SECTION 507.5 FIRE HYDRANT SYSTEM. Section 507.5 of the 2012 IFC is hereby amended to read as follows:  
Fire hydrant systems shall comply with Sections 507.5.1 through 507.5.6.

507.5.1 WHERE REQUIRED. Where a portion of the facility or building hereafter constructed or moved into or within the jurisdiction is more than 400 feet from a hydrant on a fire apparatus access road, as measured by an approved route around the exterior of the facility or building, on-site fire hydrants and mains shall be provided where required by the Fire Code Official.

Exceptions:

1. For Group R-3 occupancies the distance shall be 600 feet.
2. For Group U occupancies the distance shall be 600 feet, or as approved by the Fire Code Official.

507.5.1.1 HYDRANT FOR STANDPIPE SYSTEMS. Buildings equipped with a standpipe system installed in accordance with Section 905 shall have a fire hydrant within 100 feet of the Fire Department connections.

Exception: The distance shall be permitted to exceed 100 feet where approved by the Fire Code Official.

507.5.2 INSPECTION, TESTING AND MAINTENANCE. Fire hydrant systems shall be subject to periodic test as required by the Fire Code Official. Fire hydrant systems shall be maintained in an operative condition at all times and shall be repaired when defective. Additions, repairs, alterations and servicing shall comply with approved standards.

507.5.3 PRIVATE FIRE SERVICE MAINS AND WATER TANKS. Private hydrants shall be painted red in color. Private fire service mains and water tanks shall be periodically inspected, tested and maintained in accordance with NFPA 25 at the following intervals:

1. Private fire hydrants (all types): Inspection annually and after each operation; flow test and maintenance annually.
2. Fire service main piping: Inspection of exposed, annually; flow test every five (5) years.
3. Fire service main piping strainers: Inspection and maintenance after each use.

507.5.4 OBSTRUCTION. Unobstructed access to fire hydrants shall be maintained at all times. The Fire Department shall not be deterred or hindered from gaining immediate access to fire protection equipment or fire hydrants. All hydrants shall be painted and highly visible.

507.5.5 CLEAR SPACE AROUND HYDRANTS. A three foot (3') clear space shall be maintained around the circumference of fire hydrants, except as otherwise required or approved by the Fire Code Official.

507.5.6 PHYSICAL PROTECTION. Where fire hydrants are subject to impact by a motor vehicle, guard posts or other approved means shall comply with section 312. (Ord. 2287, Sec. 1, 2013)

7-223. AMENDMENTS TO SECTION 509.1 – IDENTIFICATION. Section 509 of the 2012 IFC is hereby amended to read as follows:

Fire protection equipment shall be identified in an approved manner. Rooms containing controls for air conditioning systems, sprinkler risers and valves, or other fire detection, suppression or control elements shall be identified for the use of the Fire Department. Approved signs required to identify fire protection equipment and equipment location, shall be constructed of durable materials, permanently installed and readily visible.

509.1.1 IDENTIFICATION STANDARD. Rooms containing the equipment identified in Section 509.1 shall be identified by minimum four inch (4") high letters with a minimum 0.5 inch (0.5") stroke on contrasting background.

509.1.2 UTILITY IDENTIFICATION. Where required by the Fire Code Official, gas shutoff valves, electric meters, service switches and other utility equipment shall be

clearly and legibly marked to identify the unit or space that it serves. Identification shall be made in an approved manner, readily visible and shall be maintained.

509.2 EQUIPMENT ACCESS. Approved access shall be provided and maintained for all fire protection equipment to permit immediate safe operation and maintenance of such equipment. Storage, trash, miscellaneous items and other materials or objects shall not be placed or kept in such a manner that would prevent such equipment from being readily accessible.  
(Ord. 2287, Sec. 1, 2013)

7-224. AMENDMENTS TO SECTION 903.3.5 – WATER SUPPLIES. Section 903.3.5 of the 2012 IFC is hereby amended to read as follows:

Water supplies for automatic sprinkler systems shall comply with this Section and the standards referenced in Section 903.3.1. The potable water supply shall be protected against backflow in accordance with the requirements of this Section and the International Plumbing Code.

903.3.5.1 DOMESTIC SERVICES. Where the domestic service provides the water supply for the automatic sprinkler system, the supply shall be in accordance with this Section.

903.3.5.1.1 LIMITED AREA SPRINKLER SYSTEM. Limited area sprinkler systems serving fewer than twenty (20) sprinklers on any single connection are permitted to be connected to the domestic service where a wet automatic standpipe is not available. Limited area sprinkler systems connected to domestic water supplies shall comply with each of the following requirements:

1. Valves shall not be installed between the domestic water riser control valve and the sprinklers.  
Exception: An approved indicating control valve supervised in the open position in accordance with Section 903.4.
2. The domestic service shall be capable of supplying the simultaneous domestic demand and the sprinkler demand required to be hydraulically calculated by NFPA 13, NFPA 13R, or NFPA 13D.

903.3.5.1.2 RESIDENTIAL COMBINATION SERVICES. A single combination water supply shall be allowed provided that the domestic demand is added to the sprinkler demand as required by NFPA 13R.

903.3.5.2 SECONDARY WATER SUPPLY. An automatic secondary on-site water supply having a capacity not less than the hydraulically calculated sprinkler demand, including the hose stream requirement, shall be provided for high-rise buildings in Seismic Design category C, D, E, or F as determined by the International Building Code. An additional fire pump shall not be required for the secondary water supply unless needed to provide the minimum design intake pressure at the suction side of the fire pump supplying the automatic sprinkler system. The secondary water supply shall have a duration of not less than thirty (30) minutes as determined by the occupancy hazard classification in accordance with NFPA 13.  
Exception: Existing buildings.

903.3.5.3 MAIN CONTROL VALVES. Water supply lines for automatic sprinkler systems shall be provided with a control valve located on the riser. The valve shall be capable of isolating the underground fire service main from the automatic sprinkler system.

903.3.5.3.1 MAIN CONTROL VALVE ACCESS. The isolation control valve shall be accessible. To be considered accessible, a clear space three feet (3') by three feet (3') by seven feet (7') high shall be provided in front of the valve. Access to the clear space shall be provided by an unobstructed aisle not less than three feet (3') wide and seven feet (7') high. The valve shall be operable from floor level. (Ord. 2287, Sec. 1, 2013)

7-225. AMENDMENTS TO SECTION 903.4 – SPRINKLER SYSTEM MONITORING AND ALARMS. Section 903.4 of the 2012 IFC is hereby amended to read as follows: All valves controlling the water supply for automatic sprinkler systems, pumps, tanks, water levels and temperatures, critical air pressure, and water-flow switches on all sprinkler systems shall be electrically supervised by a listed fire alarm control unit.

Exceptions:

1. Automatic sprinkler systems protecting one- and two-family dwellings.
2. Limited area systems serving fewer than twenty (20) sprinklers.
3. Automatic sprinkler systems installed in accordance with NFPA 13R where a common supply main is used to supply both domestic water and the automatic sprinkler system and a separate shut-off valve for the automatic sprinkler system is not provided.
4. Jockey pump control valves that are sealed or locked in the open position.
5. Control valves to commercial kitchen hoods, paint spray booths or dip tanks that are sealed or locked in the open position.
6. Valves controlling the fuel supply to fire pump engines that are sealed or locked in the open position.
7. Trim valves to pressure switches in dry, pre-action and deluge sprinkler systems that are sealed and locked in the open position.
8. On existing installations, isolation valves for the backflow prevention devices remotely located pits which are locked and/or chained in the open position.

903.4.1 MONITORING. Alarm, supervisory and trouble signals shall be distinctly different and shall be automatically transmitted to an approved supervising station or, when approved by the Fire Code Official, shall sound an audible signal at a constantly attended location.

Exceptions:

1. Underground key or hub valves in roadway boxes provided by the municipality or public utility are not required to be monitored.
2. Backflow prevention device test valves located in limited area sprinkler system supply piping shall be locked in the open position. In occupancies required to be equipped with a fire alarm system, the backflow preventer shall be electrically supervised by a tamper switch installed in accordance with NFPA 72.

903.4 ALARMS. An approved audio/visual device shall be connected to each automatic sprinkler system. Such sprinkler system water-flow alarm devices shall be activated by water flow equivalent to the flow of a single sprinkler of the smallest orifice size installed in the system. Alarm devices shall be provided on the exterior of

the building directly above the Fire Department connection or in an approved location. Where a fire alarm system is installed, actuation of the automatic sprinkler system shall actuate the building fire alarm system.

903.4.3 FLOOR CONTROL VALVES. Approved supervised indicating control valves shall be provided at the point of connection to the riser on each floor of a multi-floor building.

Exception: Automatic sprinkler systems designed in accordance with Sections 903.3.1.2 or 903.3.1.3.

(Ord. 2287, Sec. 1, 2013)

7-226. AMENDMENTS TO SECTION 906.1 – WHERE REQUIRED. Section 906.1 of the 2012 IFC is hereby amended to read as follows:

Portable fire extinguishers shall be installed in the following locations:

1. In new and existing Group A, B, E, F, H, I, M, R-1, R-2, R-4 and S occupancies.

Exception: In Group R-2 occupancies, portable fire extinguishers shall be required only in locations specified in items 2 through 6 where each dwelling unit is provided with a portable fire extinguisher having a minimum rating of 1-A: 10-B:C.

2. Within 30 feet of commercial cooking equipment.

3. In areas where flammable or combustible liquids are stored, used or dispensed.

4. On each floor of structures under construction, except group R-3 occupancies, in accordance with Section 3315.1.

5. Where required by the sections indicated in Table 906.1.

6. Special hazard areas, including but not limited to laboratories, computer rooms and generator rooms, where required by the Fire Code Official.

(Ord. 2287, Sec. 1, 2013)

7-227. AMENDMENTS TO SECTION 907.6 – INSTALLATION. Section 907.6 of the 2012 IFC is hereby amended to read as follows:

A fire alarm system shall be installed in accordance with Sections 907.6.1 through 907.6.5.2 and NFPA 72.

907.6.1 WIRING. Wiring shall comply with the requirements of NFPA 70 and NFPA 72. Wireless protection systems utilizing radio frequency transmitting devices shall comply with the special requirements for supervision of low-power wireless systems in NFPA 72.

907.6.2 POWER SUPPLY. The primary and secondary power supply for the fire alarm system shall be provided in accordance with NFPA 72.

Exception: Backup power for single-station and multiple-station smoke alarms as required in Section 907.2.11.4.

907.6.3 ZONES. Each floor shall be zoned separately and a zone shall not exceed 22,500 square feet. The length of any zone shall not exceed 300 feet in any direction.

Exception: Automatic sprinkler system zones shall not exceed the area permitted by NFPA 13.

907.6.3.1 ZONING INDICATOR PANEL. A zoning indicator panel and the associated controls shall be provided in an approved location. The visual zone indication shall lock in until the system is reset and shall not be cancelled by the operation of an audible alarm-silencing switch.

907.6.3.2 HIGH RISE BUILDINGS. In high-rise buildings, a separate zone by floor shall be provided for each of the following types of alarm-initiating devices where provided:

1. Smoke detectors.
2. Sprinkler water-flow devices.
3. Manual fire alarm boxes.
4. Other approved types of automatic fire detectors-devices or suppression systems.

907.6.4 ACCESS. Access shall be provided to each fire alarm device and notification appliance for periodic inspection, maintenance and testing.

907.6.5 MONITORING. Fire alarm systems required by this Chapter or by the International Building Code shall be monitored by an approved supervisory station in accordance with NFPA 72. The fire alarm system shall be monitored by an approved entity that has been listed by a nationally recognized agency to perform such service.

Fire alarm systems that require two or more zones, or have addressable fire alarm panels, shall report a signal to the monitoring company wherein the fire alarm initiating device and its location can be determined. The monitoring company shall then report this information to the emergency communications center dispatch.

Exception: Monitoring by a supervising station is not required for:

1. Single-and multiple-station smoke alarms required by Section 907.2.11.
2. Smoke detectors in Group I-3 occupancies.
3. Automatic sprinkler systems in one-and two-family dwellings.
4. Proprietary systems as approved by the Fire Code Official.

907.6.5.1 AUTOMATIC TELEPHONE-DIALING DEVICES. Automatic telephone devices used to transmit an emergency alarm shall not be connected to any Fire Department telephone number unless approved by the Fire Code Official.

907.6.5.2 TERMINATION OF MONITORING SERVICE. Termination of fire alarm monitoring service shall be in accordance with Section 901.9.  
(Ord. 2287, Sec. 1, 2013)

7-228. AMENDMENTS TO SECTION 912.3 – ACCESS. Section 912.3 of the 2012 IFC is hereby amended to read as follows:

Immediate access to Fire Department connections shall be maintained at all times and without obstruction by fences, bushes, trees, walls or any other fixed or moveable object. Access to Fire Department connections shall be approved by the Fire Code Official.

Exception: Fences, where provided with an access gate equipped with a sign complying with the legend requirements of Section 912.4 and a means of emergency operation. The gate and means of emergency operation shall be approved by the Fire Code Official and maintained operational at all times.

- 912.3.1 LOCKING FIRE DEPARTMENT CONNECTION CAPS. The Fire Code Official is authorized to require locking caps on Fire Department connections for water-based fire protection systems where the responding Fire Department carries the appropriate key wrenches for removal.
- 912.3.2 FIRE DEPARTMENT CONNECTIONS. The location of Fire Department connections shall be in an approved location. The connection shall be fitted with a five-inch (5") Storz quick coupling connector.
- 912.3.3 CLEAR SPACE AROUND CONNECTIONS. A working space of not less than thirty-six inches (36") in depth and seventy-eight inches (78") in height shall be provided and maintained in front of and to the sides of wall-mounted Fire Department connections and around the circumference of free-standing Fire Department connections, except as otherwise required or approved by the Fire Code Official.
- 912.3.4 PHYSICAL PROTECTION. Where Fire Department connections are subject to impact by a motor vehicle, vehicle impact protection shall be provided in accordance with Section 312 of the International Fire Code (IFC). (Ord. 2287, Sec. 1, 2013)
- 7-229. AMENDMENTS TO SECTION 913.4 – VALVE SUPERVISION. Section 913.4 of the 2012 IFC is hereby amended to read as follows:  
Where provided, the fire pump suction, discharge and bypass valves, and the isolation valves on the backflow prevention device or assembly shall be supervised open by one of the following methods:
1. Central-station, proprietary, or remote-station signaling service.
  2. Local signaling service that will cause the sounding of a noticeable signal at a constantly attended location.
- 913.4.1 TEST OUTLET VALVE SUPERVISION. Fire pump test outlet valves shall be supervised in the closed position. (Ord. 2287, Sec. 1, 2013)
- 7-230. AMENDMENTS TO SECTION 1022.9 – FLOOR IDENTIFICATION SIGNS. Section 1022.9 of the 2012 IFC is hereby amended to read as follows:  
A sign shall be provided at each floor landing in an interior exit stairway and ramp connecting more than three (3) stories designating the floor level, the terminus of the top and bottom of the interior exit stairway enclosure and the identification of the stair or ramp. The signage shall also state the story of, and the direction to, the exit discharge and the availability of roof access from the interior exit stairway for the Fire Department. The signs shall be color coded, or have colored borders that are identified as follows: red shall be used for the primary exit enclosure with roof access; yellow for the secondary stairwell; blue for the third stairwell; white for the fourth stairwell, and green for the fifth stairwell. The sign shall be located five feet above the floor landing in a position which is readily visible when the doors are in the open and closed positions. In addition to the stairway identification signs, a floor level sign in raised characters and Braille complying with ICC A 117.1 shall be located at each floor level landing adjacent to the door leading from the interior exit stairway and ramp into the corridor to identify the floor level.

1022.9.1 SIGNAGE REQUIREMENTS. Stairway identification signs shall comply with all of the following requirements:

1. The signs shall be a minimum size of eighteen inches (18") by twelve inches (12").
2. The letters designating the identification of the interior exit stairway and ramp shall be a minimum of one-and one-half inches (1 ½") in height.
3. The number designating the floor level shall be a minimum of five inches (5") in height and located in the center of the sign.
4. All other lettering and numbers shall be a minimum of one inch (1") in height.
5. Characters and their background shall have a non-glare finish, Characters shall contrast with their background, with either light characters on a dark background or dark characters on a light background.
6. When signs required by Section 1022.9 are installed in interior exit stairways and ramps of buildings subject to Section 1024, the signs shall be made of the same materials as required by Section 1024.4.

(Ord. 2287, Sec. 1, 2013)

7-231. SECTIONS DELETED. Section 1103.2, 1103.9, AND 1104.24 of the 2012 IFC are hereby deleted.

(Ord. 2287, Sec. 1, 2013)

7-232. AMENDMENTS TO SECTION 5601.1 – SCOPE. Section 5601.1 of the 2012 IFC is hereby amended to read as follows:

The provisions of this Chapter shall govern the possession, manufacture, storage, handling, sale and use of explosive materials, fireworks and small arms ammunition.

Exceptions:

1. The Armed Forces of the United States, Coast Guard or National Guard.
2. Explosives in forms prescribed by the official United States Pharmacopoeia.
3. The possession, storage and use of small arms ammunition when packaged in accordance with DOT packaging requirements.
4. The possession, storage and use of not more than one (1) pound of commercially manufactured sporting black powder, twenty (20) pounds of smokeless powder and 10,000 small arms primers for hand loading of small arms ammunition for personal consumption.
5. The use of explosive materials by federal, state and local regulatory, law enforcement and fire agencies acting in their official capacities.
6. Items preempted by Federal Regulations.

(Ord. 2287, Sec. 1, 2013)

7-233. AMENDMENTS TO SECTION 5601.1.3 – FIREWORKS. Section 5601.1.3 of the 2012 IFC is hereby amended and added to read as follows:

Sections 5601.1.3.1 through 5601.3.1.8 shall govern the possession, manufacture, storage, sale, handling and use of fireworks.

5601.1.3.1 FIREWORKS; DEFINED. For purposes of this Section, the term fireworks shall mean those items as defined by the rules and regulations of the Kansas State Fire Marshal, K.A.R. 22-6-1 *et seq.* and shall include but not be limited to: firecrackers, torpedoes, sparklers, Roman candles, sky rockets, pin wheels, cap or toy pistols (except such pistols or any like device designed to discharge paper caps containing not more than .25 grains of explosive mixture), canes, bombs,



cannons or other like devices and all classes of fireworks that may be shot into the air or propelled over the ground by explosive discharges or any device using blank cartridges.

5601.1.3.2 FIREWORKS; PROHIBITED. It shall be unlawful for any person to keep, store, display for sale, fire, discharge or explode any fireworks.

Exceptions:

1. Toy paper caps containing not more than .25 of a grain of explosive composition per cap;
2. The manufacture, storage, sale or authorized use of signals necessary for the safe operation of railroads or other classes of public or private transportation;
3. The military or naval forces of the United States or of this State while in the performance of official duty;
4. Law enforcement officers while in the performance of official duty;
5. The sale or use of blank cartridges for ceremonial, theatrical or athletic events.

5601.1.3.3 EXCEPTIONS; DISCHARGES. The Governing Body of the City may, in its discretion, grant permission at any time for the public display of fireworks by responsible individuals or organizations when such display or displays shall be of such a character and so located, discharged and fired as shall not be a fire hazard or endanger persons or surrounding property. It shall be unlawful for any person, firm or corporation to give any public display of fireworks without having first obtained a permit thereof.

5601.1.3.4 SALE PROHIBITED. It shall be unlawful for any person to sell, display for sale, and offer to sell or give away any type of fireworks within the city.

5601.1.3.5 PERMIT FOR PUBLIC FIREWORKS DISPLAY REQUIRED.

It shall be unlawful for any person to give or provide a fireworks display for the public or for organized groups without first obtaining a permit to do so by making application at least 20 days in advance of the desired display. Approval of the permit shall be by the Fire Chief and Chief of Police. No permit shall be approved unless the applicant furnishes a certificate of public liability insurance for the display in a minimum amount of \$5,000,000, written by an insurance carrier licensed to do business in Kansas, conditioned as being non-cancellable except by giving 10 days advance written notice to the City Clerk. In the event of cancellation of the insurance prior to the display, the permit shall automatically be revoked and void. The insurance policy must name the City of Prairie Village, Kansas as well as Consolidated Fire District No. 2, their employees, officers, elected and appointed officials as additional insured's. The application for the permit shall clearly state:

1. The name of the applicant.
2. The group for which the display is planned.
3. The location of the display including a diagram or sketch of the grounds on which the exhibition is to be held showing the point at which the fireworks are to be discharged, the location of all buildings, improvements and public streets or thoroughfares within two hundred (200) yards and the lines behind which the public will be restrained.
4. The date and time of the display as well as planned rain dates.
5. The nature or kind of fireworks to be used.

6. The name of the person, firm or corporation that will make the actual discharge of the fireworks and a copy of their Alcohol, Tobacco, Firearms and Explosives permit for possession of Division 1.3G Fireworks as well as current copies of Public Display Operators licenses issued by the Kansas State Fire Marshal.
7. The number, size and kinds of fireworks to be discharged, including their National Fire Protection Association (NFPA) division designation.
8. The Fire Chief and/or Chief of Police may impose conditions, requirements or restrictions when public safety or the general welfare of the public is a matter of concern based on the venue, location, date/time, or expected volume of spectators. (Ord. 2302, Sec. 1, 2014)

No permit shall be issued if the location, nature of the fireworks or other relevant factor is such as to create an undue hazard or risk of harm or damage to persons or property.

The City of Prairie Village, the Prairie Village Police Department and/or Consolidated Fire District No. 2 of Northeast Johnson County reserves the right to cancel, postpone or delay the beginning of the event in the case of inclement weather, high winds, extreme dry conditions or other matters of public safety.

**5601.1.3.6 DISCHARGE ON STREETS AND PUBLIC PROPERTY PROHIBITED.** It shall be unlawful for any person to discharge, ignite or fire any fireworks upon any public street, alley or avenue or in any park or public place within the city.

**5601.1.3.7 THROWING PROHIBITED.** It shall be unlawful for any person to throw, cast or propel fireworks of any kind in the direction of or into the path of any animal, person or group of persons, or from, in the direction of or into any vehicle of any kind.

**5601.1.3.8 AUTHORITY OF POLICE CHIEF.** The Chief of the Police Department is authorized to seize and confiscate all fireworks which may be kept, stored or used in violation of any section of this Article. He or she shall dispose of all such fireworks as may be directed by the Governing Body.  
(Ord. 2287, Sec. 1, 2013)

7-234. **AMENDMENTS TO SECTION 5701.2.13 – ABANDONMENT AND STATUS OF TANKS.** Section 5704.2.13 of the 2012 IFC is hereby amended to read as follows:

Tanks taken out of service shall be removed in accordance with Section 5704.2.14, or safeguarded in accordance with Section 5704.2.13.1 through 5704.2.13.2.3 and API 1604.

**5704.2.13.1 UNDERGROUND TANKS.** Underground tanks taken out of service shall comply with Sections 5704.2.13.1.1 through 5704.2.13.1.4.

**5704.2.13.1.1 TEMPORARILY OUT OF SERVICE.** Underground tanks temporarily out of service shall have the fill line, gauge opening vapor return and pump connection secure against tampering. Vent lines shall remain open and be maintained in accordance with Sections 5704.2.7.3 and 5704.2.7.4.

5704.2.13.1.2 OUT OF SERVICE FOR 90 DAYS. Underground tanks not used for a period of 90 days shall be safeguarded in accordance with all the following or be removed in accordance with Section 5704.2.14.

1. Flammable or combustible liquids shall be removed from the tank.
2. All piping, including fill line, gauge opening, vapor return and pump connection, shall be capped or plugged and secured from tampering.
3. Vent lines shall remain open and be maintained in accordance with Sections 5704.2.7.3 and 5704.2.7.4.

5704.2.13.1.3 OUT OF SERVICE FOR ONE YEAR. Underground tanks that have been out of service for a period of one year shall be removed from the ground in accordance with Section 5704.2.14.

5704.2.13.1.4 REINSTALLATION OF UNDERGROUND TANKS. Tanks which are reinstalled for flammable or combustible liquid service shall be in accordance with this Chapter, ASME Boiler and Pressure Vessel Code (Section VIII) API 12-P, API 1615, UL 58 and UL 1316.

5704.2.13.2 ABOVE-GROUND TANKS. Above-ground tanks taken out of service shall comply with Sections 5704.3.13.2.1 through 5704.2.13.2.3.

5704.2.13.2.1 TEMPORARILY OUT OF SERVICE. Above-ground tanks temporarily out of service shall have all connecting lines isolated from the tank and be secured against tampering.

Exception: In-place fire protection (foam) lines.

5704.2.13.2.2 OUT OF SERVICE FOR 90 DAYS. Above-ground tanks not used for a period of 90 days shall be safeguarded in accordance with Section 5704.2.13.1.2 or removed in accordance with Section 5704.2.14.

Exceptions:

1. Tanks and containers connected to oil burners that are not in use during the warm season of the year or are used as a backup heating system to gas.
2. In-place, active fire protection (foam) lines.

5704.2.13.2.3 OUT OF SERVICE FOR ONE YEAR. Above-ground tanks that have been out of service for a period of one year shall be removed in accordance with Section 5704.2.14.

Exception: Tanks with operating facilities.  
(Ord. 2287, Sec. 1, 2013)

7-235. AMENDMENTS TO SECTION D107.1 – ONE- OR TWO-FAMILY DWELLING RESIDENTIAL DEVELOPMENT. Section D107.1 of Appendix D of the 2012 IFC is hereby amended to read as follows:

D107.1 ONE- OR TWO-FAMILY DWELLING RESIDENTIAL DEVELOPMENTS.

Developments of one- or two-family dwellings where the number of dwelling units exceed fifty (50) shall be provided with two (2) separate and approved fire apparatus access roads, and shall meet the requirements of Section D104.3.

Exceptions:

1. Where there are more than fifty (50) dwelling units on a single public or private fire apparatus access road and all dwelling units are equipped throughout with an approved automatic sprinkler system in accordance with Sections 903.3.1.1, 903.3.1.2, or 903.3.1.3 of the International Fire Code (IFC), access from two (2) directions shall not be required.
  2. The number of dwelling units on a single fire apparatus access road shall not be increased unless fire apparatus access roads will connect future development, as determined by the Fire Code Official.
- (Ord. 2287, Sec. 1, 2013)

**ARTICLE 3. HAZARDOUS MATERIALS RESPONSE;  
RECOVERY OF COSTS**

- 7-301. AUTHORIZATION. The fire chief is authorized to clean up or abate the effects of any release of hazardous material and to respond to any threatened release. (Ord. 1847, Sec. 1; Ord. 2288, Sec. 1, 2013)
- 7-302. JOINT AND SEVERAL LIABILITY. The following described persons shall be jointly and severally strictly liable to the city for the payment of all costs incurred by the city as a result of any cleanup or abatement of hazardous materials or as a result of a city response to a threatened release of hazardous materials.
- (a) The person or persons whose negligent or willful act or omission caused such release or threatened release
- (b) The person or persons who owned or had custody or control of the hazardous material at the time of such release or threatened release, without regard to fault or cause; and
- (c) The person or persons who owned or had custody or control of the container which held such hazardous material at the time or immediately prior to such release or threatened release, without regard to fault or cause.
- (Ord. 1847, Sec. 11; Ord. 2288, Sec. 1, 2013)
- 7-303. CLEAN UP SUPERVISOR. In the event that any person undertakes, either voluntarily or upon order of the fire chief or his or her designated representative, to clean up or abate the effects of any release of hazardous material, the fire chief may take such action as is necessary to supervise or verify the adequacy of the cleanup or abatement. The person undertaking any cleanup must be approved by the fire chief or his or her designated representative before beginning the cleanup. The persons described herein shall be liable to the city for all costs incurred as a result of such supervision or verification. (Ord. 1847, Sec. 11; Ord. 2288, Sec. 1, 2013)
- 7-304. DEFINITIONS. For purposes of this section, the following words shall have the following meanings:
- (a) Hazardous Material -- Any material that, because of its quantity, concentration or physical or chemical characteristics, poses a significant present or potential hazard to human health and safety or to the environment if released.
- (b) Release -- Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing of any hazardous material into or on any structure, land, water or air.
- (c) Threatened Release -- Any imminent or impending event potentially causing but not resulting in a release, which event causes the city to respond.
- (Ord. 1847, Sec. 11; Ord. 2288, Sec. 1, 2013)
- 7-305. RECOVERY OF COSTS. (a) City personnel and departments involved in a response to a release or threatened release shall keep an itemized record of their actions. After the completion of the response, all departments shall certify the costs of their actions to the city administrator.
- (b) The city shall submit a written itemized claim for the total costs incurred by the city to the responsible person or persons and a written notice that unless the amounts are paid in full within 30 days, the city will file a civil action for recovery of such costs.

(c) For purposes of this section, costs incurred by the city shall include, but shall not be limited to, the following compensation of city personnel, including benefits and administrative overhead; use of equipment operation; any contract labor and materials; disposal materials and supplies consumed or expended; rental or lease of equipment; replacement of equipment contaminated beyond use or repair; decontamination of equipment; special technical services; laboratory tests; cleanup, storage or disposal of hazardous material; evacuation; medical care; legal services, including efforts to recover costs pursuant to this article. Costs shall not include actual fire suppression services which are normally or usually provided by the fire department.

(Ord. 1847, Sec. 11; Ord. 2288, Sec. 1, 2013)

7-306. REMEDIES. The remedies provided by this section shall be in addition to any other remedies provided by law or this code. (Ord. 1847, Sec. 11; Ord. 2288, Sec. 1, 2013)

## **CHAPTER VIII. HEALTH AND WELFARE**

- Article 1. Board of Health
- Article 2. Property Maintenance Code
- Article 3. Open Occupancy Regulation
- Article 4. Air Pollution Control
- Article 5. Noise and Vibration Control

### **ARTICLE 1. BOARD OF HEALTH**

- 8-101. BOARD OF HEALTH. The City appoints Johnson County to serve as the City's board of health. Johnson County Board of Health shall appoint the Johnson County health officer as the City health officer for the city to represent the city in health matters. (Code 1973, 7.02.010; Code 2003; Ord. 2289, Sec. 1, 2013)

## ARTICLE 2. PROPERTY MAINTENANCE CODE

**8-201. PROPERTY MAINTENANCE CODE- INCORPORATION. INTERNATIONAL PROPERTY MAINTENANCE CODE ADOPTED.** In addition to the other provisions set forth in this chapter, there is hereby adopted and incorporated by reference that certain property maintenance code, known as the “International Property Maintenance Code”, 2012 edition and appendix A copyrighted in 2011 by the International Code Council (hereinafter referred to as the IPMC), regulating and governing the conditions and maintenance of all property, buildings, and structures; by providing the standards for supplied utilities and facilities and other physical things and conditions essential to ensure that structures are safe, sanitary and fit for occupation and use; and the condemnation of buildings of such existing structures in the City; providing for the issuance of permits and collection of fees. Not less than (4) four copies of the Property Maintenance Code shall be marked or stamped as “Official Copy” as Adopted by Ordinance No. \_\_\_\_\_. A copy of this ordinance shall be attached to each Property Maintenance Code copy and shall be on file with the City to be open for inspection and available to the public at all reasonable business hours. The Municipal Court and all administrative departments of the City charged with the enforcement of the Property Maintenance Code shall be supplied, at the cost of the City, such number of official copies as deemed expedient. (Ord. 1994, Sec. 1; Ord. 2289, Sec. 1, 2013)

**8-202. TITLE, SCOPE, APPLICABILITY AND ADMINISTRATION.**

Section 101.1 of the 2012 IPMC is hereby amended to read as follows:

**101.1 Title.** These regulations shall be known as the International Property Maintenance Code of the City of Prairie Village, Kansas, hereinafter referred to as “this code” and/or “IPMC”.

Section 101.2 of the 2012 IPMC is hereby added to read as follows:

**101.2 Scope.** The provisions of this code shall apply to all existing residential and nonresidential structures and all existing premises and constitute minimum requirements and standards for premises, structures, equipment and facilities for light, ventilation, space, heating, sanitation, protection from the elements, life safety, safety from fire and other hazards and for safe and sanitary maintenance; the responsibility of owners, operators and occupants; the occupancy of existing structures and premises and for administration, enforcement and penalties.

Section 102.3 of the 2012 IPMC is hereby added to read as follows:

**102.3 Application of other codes.** Repairs, additions or alterations to a structure, or changes of occupancy, shall be done in accordance with the procedures and provisions of the International Building Code, International Energy Conservation Code, International Fire Code, International Fuel Gas Code, International Mechanical Code, International Plumbing Code, International Residential Code and NFPA 70(NEC). Nothing in this Code shall be construed to cancel, modify or set aside any provision of Chapter 16 of the Prairie Village Municipal Code also known as the “Zoning Regulations”.

Section 103.5 of the 2012 IPMC is hereby deleted and will be replaced with Section 106.4.

Section 104.1(a) of the 2012 IPMC is hereby added to read as follows:



**104.1 (a) Public Officer.** The assistant city attorney is hereby designated the public officer to exercise the powers prescribed in this chapter. The mayor may appoint, with the approval of the Governing Body, some other city official to serve as the public officer. In addition to the authority which may be specifically provided in the chapter, the public officer may exercise such powers as may be necessary or convenient to carry out and effectuate the purposes and provisions of this chapter. The public officer may appoint some city employee to act as his or her agent(s) to carry out the purposes of this chapter and he or she may delegate any of the aforementioned functions or powers to such employees.

Section 106.4 of the 2012 IPMC is hereby amended as follows:

**106.4 Violation penalties.** Any person who shall violate a provision of this code, or fail to comply therewith, or with any of the requirements thereof, may be prosecuted within the limits provided by state or local law in the Prairie Village Municipal Court. Each day that a violation continues, after due notice has been served, shall be deemed as a separate offense. Prosecution of any violation as a public offense pursuant to this section may be in addition to, or as an alternative to, any other remedy or course of action available to the city under this chapter.

(a) Upon first conviction of a violation of any provision of this chapter, a person shall be punished by a fine not exceeding \$500.

(b) Upon a second conviction for a violation of any provision of this chapter a person shall be punished by a fine of at least \$100 and not more than \$500 or by imprisonment for not more than 10 days or by both such fine and imprisonment.

(c) Upon a third or subsequent conviction for a violation of any provision of this chapter, a person shall be punished by a fine of at least \$250 and not more than \$1000 or by imprisonment for not more than 10 days or by both such fine and imprisonment.

(d) For the purpose of determining whether a conviction is first, second, third or subsequent in sentencing under this section, only convictions occurring in the immediate preceding three years shall be taken into account, but the court may consider other prior convictions in determining the sentence to be imposed within the limits provided for a first, second, third or subsequent offender, whichever is applicable.

Section 107.5 of the 2012 IPMC is hereby amended to read as follows:

**107.5 Penalties.** Penalties for noncompliance with orders and notices shall be as set forth in Section 106.4.

Section 108.8 (A) through (D) of the 2012 IPMC is hereby added to read as follows:

**108.8 (A) through (D) Damage by fire, explosion or windstorm; insurance proceeds.** Damage created by fire, explosion, or windstorm shall comply with the provisions of Sections 108.8 (A) through (D).

A. If fire, explosion, or windstorm causes damage to a structure that is covered by insurance and the covered claim payment is in excess of 75 percent (75%) of the face value of the policy covering the structure, then the insurance provider shall be required to pay to the City an amount not to exceed 15% of the proceeds of such policy. The insurer first shall pay all amounts due the holder of a first real estate mortgage against the structure pursuant to the terms of the policy and endorsements thereto and then shall withhold from the covered claim payment the sums required to be paid to the City. Such payments shall be made to the City on or before the date any moneys are released by the insurer to any party, or within 30 days of the incident

resulting in the claim, whichever is earlier in time. The payment shall be made by check or money order made payable to the "City of Prairie Village" with no post-dating of the check or money order allowed and sent by certified mail, return receipt requested to the City Clerk of Prairie Village, Kansas, 7700 Mission Road, Prairie Village, Kansas 66208, along with a statement explaining the reason for payment and giving the address of the property involved. All such funds received by the City Clerk shall be placed in an interest bearing account of the City. (Ref. K.S.A. 40-3901 et seq.)

- B. The City shall release the insured's proceeds and any interest which has accrued thereon within 30 days after receipt of such monies, unless the City has instituted abatement proceedings and/ or a permit has been issued for re-construction pursuant to this chapter. If such proceedings have been instituted, the City shall retain the proceeds until the abatement proceedings and/or re-construction is complete. At the conclusion of the abatement proceedings and/or re-construction, all monies in excess of that expended by the City for abatement proceedings and /or re-construction expenses (such as removing mud or debris off the streets), less any salvage value, shall be paid to the insured.
- C. The City may create a lien in favor of the City in the proceeds of any insurance policy based upon a covered payment made for damage or loss to the building or other structure, caused by or arising out of any fire, explosion or windstorm.
- D. The City Clerk shall notify the Commissioner of Insurance for the State of Kansas within 14 days after the adoption of this section. Such notification shall state that the city has enacted an ordinance, pursuant to the authority of K.S.A.40-3901 et seq. concerning payment of insurance proceeds to the City arising out of claims due to fire, explosion or windstorms. A copy of the notice shall be maintained by the City Clerk.

Section 109.1 of the 2012 IPMC is hereby amended to read as follows:

**109.1 Imminent danger.** When in the opinion of the Code Official, there is imminent danger of failure or collapse of a building or structure which endangers life, or when any structure or part of a structure has fallen and life is endangered by the occupation of the structure, or when there is actual or potential danger to the building occupants or those in proximity of any structure because of explosives, explosive fumes or vapors or the presence of toxic fumes, gases or materials, or operation of defective or dangerous equipment, the Code Official is hereby authorized and empowered to order and require the occupants to vacate the premises forthwith. The Code Official shall cause to be posted at each entrance to such structure a notice reading as follows: "This structure is unsafe and its occupancy has been prohibited by the Code Official". It shall be unlawful for any person to enter such structure except for the purpose of securing the structure, making the required repairs, removing the hazardous condition or demolishing the same. When the Code Official has determined that a structure is in danger of collapse or has suffered a partial collapse and thus poses an imminent danger to life for those in proximity to the structure, the Code Official is further authorized to order the immediate removal or demolition of the structure or portion thereof as authorized under K.S.A. 12-1756.

Section 110 of the 2012 IPMC is hereby amended to read as follows:

#### **Section 110**

## **Demolition**

**110.1 Order of demolition.** The Code Official shall order the owner of any premises upon which is located any structure, which in the Code Official's judgment after review is so deteriorated or dilapidated or has become so out of repair as to be dangerous, unsafe, insanitary or otherwise unfit for human habitation or occupancy, and such that it is unreasonable to repair the structure, to demolish and remove such structure; or such structure is capable of being made safe by repairs, to repair and make safe and sanitary, or to board up and hold for future repair or to demolish and remove at the owner's option; or where there has been a cessation of normal construction of any structure for a period of more than two years, the Code Official shall order the owner to demolish and remove such structure, or board up until further repair. Boarding the building up for future repair shall not extend beyond one year, unless approved by the Building Official. All notices and orders shall comply with Section 107.

**110.2 Demolition or repair by the City.** The Governing Body shall have the power to cause the repair or removal of, or to remove any structure located within the city, which may have become unsafe or dangerous. This provision and the following subsections are intended to conform with the provisions of K.S.A. 12-1750 et seq.; and to the extent there is any conflict, the Statute shall take precedent.

**110.2.1 Code official's report.** Whenever the Code official's investigation discloses a basis that any structure is unsafe or dangerous, the Code Official shall file a written report with the Governing Body describing the situation, its location and the circumstances that support the determination that the structure is unsafe or dangerous.

**110.2.2 Notice and publication for hearing.** The Governing Body, by resolution, shall fix a time and place at which the owner, the owner's agent, any lienholders of record and any occupant of such structure may appear and show cause why such structure should not be condemned and ordered repaired or demolished. Such resolution shall be published once each week for two (2) consecutive weeks on the same day of each week. At least thirty (30) days shall elapse between the last publication and the date set for the hearing. A copy of the resolution shall be mailed by certified mail within three (3) days after its first publication to each such owner, agent, lienholder and occupant, at the last known address and shall be marked "deliver to addressee only."

**110.2.3 Hearing.** On the date fixed for hearing or any adjournment thereof, the Governing Body shall hear all evidence submitted by the owner, the owner's agent, lienholders of record and occupants having an interest in such structure as well as evidence submitted by the Code Official and shall make findings by resolution. Provided, in the event the Code Official determines on or before the date fixed for hearing that the structure has been sufficiently repaired or removed, the Code official shall inform the Governing Body and recommend the cancellation of the hearing. Upon acceptance of said recommendation, no further action shall be required by the Governing Body.

**110.2.4(a), (b) Findings and resolution.**

(a). If the Governing Body finds that such structure is unsafe or dangerous, such resolution shall direct the structure to be repaired or removed and the premises made safe and

secure. Such resolution shall be published once in the official City paper and a copy mailed to the owners, agents, lienholders of record and occupants in the same manner provided for the notice of hearing. The resolution shall affix a reasonable time within which the repair or removal of such structure shall be commenced and a statement that if the owner of such structure fails to commence the repair or removal of such structure within the time stated, or fails to diligently prosecute the same until the work is completed, the Governing Body will cause the structure to be repaired or razed and removed.

(b). If the Governing Body finds that such structure is not unsafe or dangerous, such resolution shall state such finding and that the proceeding is terminated. Such resolution shall not be required to be published.

**110.2.5(a), (b), (c), (d) Action, assessment and collection of costs by the City.**

(a) If the owner of any structure has failed to commence the repair or removal of such structure within the time stated in the resolution or has failed to make diligent progress toward the same thereafter, the City may proceed to raze and remove such structure, make the premises safe and secure, or let the same to contract.

(b) The City shall keep an account of the cost of such work and may sell the salvage from such structure and apply the proceeds or any necessary portion thereof to pay the cost of removing such structure and making the premises safe and secure. All monies in excess of that necessary to pay such costs and the costs of publications of notice and any postage for mailing of notice, after the payment of all costs, shall be paid to the owner of the premises upon which the structure was located.

(c) The City shall give notice to the owner of such structure by restricted mail of the total cost incurred by the City in removing such structure and making the premises safe and secure and the cost of providing notice. Such notice also shall state that payment of such cost is due and payable within thirty (30) days following the receipt of such notice. If the cost is not paid within the thirty (30) day period and there is no salvageable material or if moneys received from the sale of salvage or from the proceeds of any insurance policy in which the City has created a lien pursuant to K.S.A. 40-3901 et seq. and amendments thereto, are insufficient to pay the costs of such work, the balance shall be collected in the manner provided by K.S.A. 12-1,115 and amendments thereto or shall be assessed as a special assessment against the lot or parcel of land on which the structure was located and the City Clerk, at the time of certifying other city taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against such lot or parcel of land. The City may pursue collection both by levying a special assessment and in the manner provided by K.S.A. 12-1,115 and amendments thereto, but only until the full cost and any applicable interest has been paid in full.

(d) Whenever any structure is removed from any premises under the provisions of this ordinance, the City Clerk shall certify to the County Appraiser that such structure, describing the same, has been removed.

**110.3 Duties of owner after removal of structure.** The owner of any structure, upon removing the same, shall remove concrete spoils, debris and fill in any basement or other excavations located upon the premises and take any other action necessary to leave such premises in a safe and secure condition.

Section 110.4 of the 2012 IPMC is hereby deleted.

**8-203. DEFINITIONS.**

Section 202 of the 2012 IPMC is hereby amended as follows:

Definitions to be added:

Calendar year. The period of time beginning January 1 and ending December 31 of the same year.

Graffiti. Markings, as initials, slogans, or drawings written, spray painted, or sketched on a sidewalk, driveway, street, wall of a building, or public restroom, or the like.

Noxious plants. Means poison ivy, poison oak and poison sumac, at any height or state of maturity.

Public Officer. The Assistant City Attorney or person appointed by the Mayor and approved by the Governing Body to exercise the powers prescribed by this article.

Rank weeds. Means all vegetation which may exhale unpleasant or noxious odors, or transmit pollen into the air at any state of maturity and which exceeds 8 inches in height; also, all vegetation, regardless of height, including thickets, which conceals or invites filthy deposits, or which harbors rodents, refuse, or vermin. Such rank weeds include, but are not limited to the following: large crabgrass, large hairy crabgrass, barnyard grass, Pennsylvania smartweed, ladythumb, smartweed, curled dock, sour dock, lambsquarter, rough pigweed, redroot, shepherds purse, nodding spurge, upright spotted purge, velvet leaf, indian mallow, sticktight, blue stickseed, common ragweed, giant ragweed, horseweed, kinghead, dandelion, cocklebur, clotbur, downy brome grass, downy chess, bermuda grass, devilgrass, stinkgrass, lovegrass, witchgrass, tumble panicgrass, giant foxtail, Johnson grass, hop sedge, sloughgrass, hemp, stinging nettle, nettle, swamp smartweed, tanweed, devils shoestring, smooth dock, maple-leaved goosefoot, waterhemp, tumbleweed, tumble amaranth, common milkweed, common mullen, burdock, beggar tick, sticktight, devils pitchfork, tall con flower, golden glow, gray goldenrod, field goldenrod.

Thickets. Means dense growths of wild shrubbery and/or uncontrolled or invasive species including but not limited to bamboo, briar patches and similar growth having stems or trunks less than one and one half inches in diameter.

Vehicle. Any automobile, truck, tractor, farm machinery or motorcycle which as originally built contained an engine, regardless of whether it contains an engine at any other time.

Vehicle: Inoperable. Means a condition of being junked, wrecked, wholly or partially dismantled, discarded, abandoned, or unable to perform the function or purpose for which it was originally intended.

Workmanlike. Executed in a skilled manner; e.g., generally plumb, level, square, in line, undamaged and without marring adjacent work and compatible with the undamaged surfaces of the structure.

**8-204. GENERAL REQUIREMENTS.**

Section 302.2 of the 2012 IPMC is hereby amended to read as follows:

**302.2 Grading and drainage.** All premises shall be graded and maintained to include grass or suitable ground cover to prevent the erosion of soil and to prevent the accumulation of standing and/or stagnant water thereon, or within any structure located thereon.

Section 302.4 of the 2012 IPMC is hereby amended to read as follows:

**302.4 Weeds and Thickets.** All premises and exterior property shall be maintained free from weeds or plant growth in excess of eight (8) inches in height. All noxious weeds and uncontrolled thickets shall be prohibited. Weeds shall be defined as all grasses, annual plants and vegetation, other than trees or shrubs provided; however, this term shall not include cultivated flowers and gardens. Upon failure of the owner or agent having charge of a property to cut and destroy weeds and/ or uncontrolled thickets after a service of notice of violation, they shall be subject to prosecution in accordance with Section 106.3 and as prescribed by the authority having jurisdiction. Upon failure to comply with the notice of violation, any duly authorized employee of the jurisdiction or contractor hired by the jurisdiction shall be authorized to enter upon the property in violation and cut and destroy the weeds and/or uncontrolled thickets growing thereon, and the costs of such removal shall be paid by the owner or agent responsible for the property.

Sections 302.4.1 through 302.4.6 of the 2012 IPMC is hereby added to read as follows:

**302.4.1 Weeds/Thickets to be Removed.** It shall be unlawful for any owner, occupant, or agent of any property or any area between the property lines of said property and the centerline of any adjacent street or alley, including but not specifically limited to, sidewalks, streets alleys, easements, rights-of-way and all other areas, public or private. All weeds and/ or uncontrolled thickets as hereinabove defined are hereby declared a nuisance and are subject to abatement as hereinafter provided.

**302.4.2 Notice to Remove.**

A. The code official or an authorized agent shall direct the City Clerk to issue a notice of violation and order the owner, occupant, or agent of any property in the City upon which weeds exist in violation of this chapter; provided however, in the event a notice and order was previously served upon the owner, occupant or agent of the property for a violation of the City's weed control ordinance during the same calendar year, no further notice shall be required prior to any abatement action by the City. Such notice and order shall be issued in writing to the owner, occupant or agent by certified mail, return receipt requested, or by personal service. If the property is unoccupied and the owner is a nonresident, such notice and order shall be sent by certified mail, return receipt requested to the last known address of the owner. The notice and order may be made by publication in the official City newspaper in the event there is no resident agent and the owner is either unknown or is a nonresident (provided a nonresident owner with a known address is also sent notice by certified mail as required hereinabove.)

B. Such notice shall include the following:

1. That the owner, occupant, or agent is in violation of the City weed control ordinance.
2. That the owner, occupant, or agent is ordered to cut, destroy or remove the weeds and/or uncontrolled thickets within (5) days of the receipt of notice and order, or if the notice and order is served by publication, within (10) days of the date of publication.(the applicable time period hereinafter referred to as the "correction period".
3. That before the expiration of the correction period, the owner, occupant, or agent may request a hearing before the governing body or its designated representative.

4. That if within the correction period the owner, occupant, or agent fails to request a hearing or to cut destroy or remove the weeds and/or uncontrolled thickets to the satisfaction of the code official or an authorized assistant, the City or its authorized agent will cut, destroy, or remove the weeds and/or uncontrolled thickets and assess against the owner, occupant or agent the total costs of the cutting, destruction, or removal of the weeds and/or uncontrolled thickets including a reasonable administrative fee and the cost of all notices.
5. That payment of the assessed total costs are due and payable within thirty (30) days following the receipt of notice of such costs, or the city will levy such costs against the property as a special assessment. And further pursuant to Kansas statute, the City may also pursue the collection of such costs by seeking a personal judgment against the owner in Johnson County District Court as provided by K.S.A. 12-1, 115 and amendments thereto.
6. That no further notice shall be given by the City prior to any additional cutting or removal of weeds and/or uncontrolled thickets on the property by the City or its authorized agent during the current calendar year and that any such additional costs will be assessed in the same manner.
7. That separate from and independent of any abatement action of the weed violation by the City, the code official, at his or her option, may also file a complaint or complaints in the Municipal Court of the City against the owner, occupant or agent of the property for any violation of the City weed control ordinance.
8. That the code official shall be contacted if there are any questions regarding the notice and order.

C. In the event any owner, occupant or agent of any property refuses acceptance of any notice and order prescribed by subsection (A) above, or in the event the city has made reasonable but unsuccessful efforts to provide notice in the manner prescribed by subsection (A) above, a copy of said notice and order shall be posted on the premises and additional copies shall be sent to all known addresses of any owner, occupant or agent by First Class U.S. mail, and notice shall then be deemed given at such time pursuant to K.S.A 12-1617f.

#### **302.4.3 Abatement; Assessment of Costs.**

A. If during the correction period prescribed above, the owner, occupant or agent fails to request a hearing or refuses or fails to cut, destroy or remove such weeds and/or uncontrolled thicket to the satisfaction of the code official or an authorized assistant, the City or its authorized agent shall cut, destroy, or remove such weeds and/or uncontrolled thicket and shall keep an account of the cost of same and report them to the City Clerk. Provided, if a notice and order was previously served upon the owner, occupant, or agent of the property for a violation of the city weed control ordinance during the same calendar year, the city or its authorized agent may proceed to cut, destroy or remove any weeds and/or uncontrolled thicket without any delay or further notice.

B. The City shall issue a notice of costs to the owner, occupant or agent by certified mail, return receipt requested, providing the costs of abatement of the nuisance, which shall include the costs of cutting, destroying, or removing the weeds and/or uncontrolled thickets, a reasonable administrative fee and the cost of all notices. Such notice shall also

state that payment of the costs is due and payable within thirty (30) days following receipt of the notice.

C. If the costs of abatement remain unpaid after thirty (30) days following receipt of the notice of costs, a record of the costs of abatement shall be certified to the City Clerk, who shall cause such costs to be assessed against the property. The City Clerk shall certify the assessment to the County Clerk at the time other special assessments are certified for spreading on the tax rolls of the county. Further, the City may also pursue the collection of such costs by seeking a personal judgment against the owner in Johnson County District Court, as provided by K.S.A 12-1, 115, and amendments thereto.

D. If there is a change in the record owner of title to the property subsequent to giving notice pursuant to this article, the City may not recover any costs or levy an assessment for the costs incurred by the cutting, destruction or removal of weeds and/or uncontrolled thickets on the property unless a new record owner of title to the property is provided notice as required by this article. (K.S.A. 12-1617f)

**302.4.4 Right of Entry.** The City and its authorized agent(s) are hereby expressly authorized to enter upon private property at all reasonable hours for the purpose of cutting, destroying, or removing such weeds and/or uncontrolled thickets in a manner consistent with this article.

**302.4.5 Unlawful Interference.** It shall be unlawful for any person to interfere with or to attempt to prevent the City or its authorized agent(s) from entering upon any such property or from proceeding with such cutting, destruction, or removal. Such interference shall constitute a code violation.

**302.4.6 Complaint.** Separate from and independent of any abatement action as provided for herein, the code official, at his or her option, may also file a complaint or complaints in the Municipal Court of the City against the owner, occupant or agent of the property for any violation of the city weed control ordinance.

Section 302.8 of the 2012 IPMC is hereby amended to read as follows:

**302.8 Motor vehicles.** It is a violation of this chapter for any person, partnership, corporation, or other entity, or their agent either as owner, lessee, tenant, or occupant of land within the city to park, store, deposit, or permit to be parked, stored, or deposited on such land or on the public street adjacent thereto a vehicle that is inoperative or unlicensed. No vehicle shall at any time be in a state of major disassembly, disrepair, on in a state of being stripped or dismantled. Painting of vehicles is prohibited unless conducted inside an approved spray booth designed for the environmentally safe application of the paint. The provisions of this article shall not apply to owners who have temporarily placed their motor vehicle in an inoperable condition while working on the vehicle on their premises, provided that such work is performed inside an enclosed structure designed and approved for such use. In no event shall an owner or person in possession maintain a motor vehicle on his or her premises in an inoperable condition, outside of an enclosed structure, for a period in excess of 48 hours.

Sections 302.8.1 through 302.8.14 of the 2012 IPMC are hereby added as follows:



**302.8.1 Motor Vehicle Nuisances Unlawful; Defined; Exceptions.** It shall be unlawful for any person to maintain or permit any motor vehicle nuisance within the City.

(A) A motor vehicle nuisance is any motor vehicle which is not currently registered or tagged pursuant to K.S.A. 8-126 to 8-149 inclusive, as amended; or parked in violation of City ordinance; or incapable of moving under its own power; or in a junked, wrecked, or inoperable condition. Any one of the following conditions shall raise the presumption that a vehicle is junked, wrecked, or inoperable.

- (1) Absence of a current registration plate upon the vehicle;
- (2) Placement of the vehicle or parts thereof upon jacks, blocks, or other supports;
- (3) Absence of one or more parts of the vehicle necessary for the lawful operation of the vehicle upon street or highway.

(B) The provisions of this section shall not apply to:

- (1) Any motor vehicle which is fully enclosed in a garage or other building;
- (2) The parking or storage of a vehicle inoperable for a period of 48 consecutive hours or less;
- (3) Any person conducting a business enterprise in compliance with the existing zoning regulations.

However, nothing in this subsection shall be construed to authorize the maintenance of a public nuisance.

**302.8.2 Complaints; Inquiry and Inspection.** The code official shall make inquiry and inspection of premises upon receiving a complaint or complaints stating that a motor vehicle nuisance exists and describing the same and where located or is informed that a motor vehicle nuisance may exist by the Board of Health, Police Chief, or the Fire Chief. The code official may make such inquiry and inspection when he or she observes conditions which appear to constitute a motor vehicle nuisance. Upon making any inquiry and inspection, the code official shall maintain a written report of findings.

**302.8.3 Right of Entry.** It shall be a violation of this article to deny the code official or his or her designated agent(s) the right of access and entry upon private property at any reasonable time for the purpose of making inquiry and inspection to determine if a nuisance exists.

**302.8.4 Notice.** Any person found by the code official to be in violation of Section 302.8.1, as amended, shall be served a notice of such violation. The notice shall be served by restricted mail, postage prepaid, return receipt requested; provided that if the owner or his or her agent in charge of the motor vehicle is a resident of Johnson County, Kansas, the notice shall be personally served by the code official or a law enforcement officer. In the event that such person cannot be served in person or by restricted mail or such person is unknown or his or her location is unknown, the code official shall make an affidavit to that effect and service may be made by publication of the notice once each week for two consecutive weeks in an official city newspaper and by posting the notice on the motor vehicle.

**302.8.5 Same: Contents.** The notice shall state the condition(s) which is (are) in violation of Section 302.8.1. The notice shall also inform the person that:

- (1) He, she or they will have ten (10) days from the date of serving the notice to abate the condition(s);
- (2) He, she, or they will have ten (10) days from the date of serving the notice to request a hearing before the governing body on the matter as provided by Section 302.8.9.
- (3) Failure to abate the condition(s) or to request a hearing within the time allowed may result in prosecution as provided in Section 302.8.9 and/or abatement of the condition(s) by the City as provided in Section 302.8.7.

**302.8.6 Failure to Comply; Penalty.** Should the person fail to comply with the notice to abate the nuisance or request a hearing, the code official may file a complaint in the Municipal Court of the City against such person and upon conviction, be fined in an amount not to exceed \$500, or be imprisoned not to exceed 30 days, or be both fined and imprisoned. Each day during, or on which a violation occurs, or continues after notice has been served shall constitute an additional or separate offense.

**302.8.7 Abatement.** In addition to, or as an alternative to prosecution as provided in Section 302.8.6 the code official may seek to remedy violations of this article in the following manner. If a person to whom a notice has been sent pursuant to Section 302.8.4 has neither alleviated the condition(s) causing the alleged violation, or requested a hearing before the governing body within the time period specified herein, the code official may present a resolution to the governing body for adoption authorizing the code official or other agents of the city to abate the condition(s) causing the violation at the end of ten (10) days after passage of the resolution. The resolution shall further provide that the costs incurred by the city shall be charged against the lot or parcel of ground on which the motor vehicle nuisance was located, or against lots or parcels of property in the city which are owned by the owner of the motor vehicle causing the nuisance, as provided in Section 302.8.10. A copy of the resolution shall be served upon the person in violation in one of the following ways:

- (1) Personal service upon the person in violation;
- (2) Service by certified mail, postage prepaid, return receipt requested;
- (3) In the event the whereabouts of such person are unknown and the same cannot be ascertained in the exercise of reasonable diligence, an affidavit to that effect shall be made by the code official and filed with the city clerk, and the serving of the resolution shall be made by publishing the same once each week for two consecutive weeks in the official city newspaper and by posting a copy of the resolution on the premises where such condition(s) exist.

**302.8.8 Disposition of Vehicle.** Disposition of any motor vehicle removed and abated from private property pursuant to this article shall be as provided by K.S.A. 8-1102, as amended.

**302.8.9 Hearing.** If a hearing is requested within the ten (10) day period as provided in Section 302.8.5, such request shall be made in writing to the governing body. Failure to make a timely request for a hearing shall constitute a waiver of the person's right to contest the findings of the code official before the governing body. The hearing shall be held by the governing body as soon as possible after filing the request and the person shall be advised by the city of the time and place of the hearing at least five (5) days in advance

thereof. At such hearing the person may be represented by counsel, and the person and the city may introduce such witnesses and evidence as is deemed necessary and proper by the governing body. The hearing need not be conducted according to the formal rules of evidence. Upon conclusion of the hearing, the governing body shall record its determination of the matter by means of adopting a resolution and serving the resolution upon the person in the manner provided in Section 302.8.7.

**302.8.10 Costs Assessed.** If the city abates the motor vehicle nuisance pursuant to this chapter, the cost of abatement shall be charged against the lot or parcel of ground on which the nuisance was located or against lots or parcels of property in the city which are owned by the owner of the motor vehicle causing the nuisance. The city clerk shall, at the time of certifying other taxes to the county clerk, certify the costs as provided in this section. The county clerk shall extend the same on the tax roll and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid.

**302.8.11 Inoperable Vehicles; Authorization of Code Official to Order Removal.** It is a violation of this chapter for any person, partnership, corporation, or other entity, or their agent either as owner, lessee, tenant, or occupant of land within the city to park, store, or deposit, or permit to be parked, stored, or deposited on such land or on the public street adjacent thereto, a vehicle that is not in an operating condition. In the event that the code official finds that any such person has parked, stored, or deposited, or permitted to be parked, stored, or deposited on such land or in the streets immediately adjacent thereto such a vehicle, the orders that he or she enters may include an order to remove such vehicle from such land or the street immediately adjacent thereto. In the event the person to whom the order is directed fails to remove such vehicle within the specified time, the code official may enter an order authorizing the city to tow and remove the vehicle as provided by K.S.A. 8-1102, as amended.

**302.8.12 Parking and Storage of Inoperable Vehicles in Districts Zoned R-1 Through R-4 and RP-1 Through RP-4.**

(A) It is unlawful for the owner or person in possession of any motor vehicle to park or place the vehicle upon a street, driveway, lot, plot, or tract within any district zoned R-1 through R-4 and RP-1 through RP-4 (except in an enclosed structure) while the vehicle is in an inoperable condition. The provisions of this article shall not apply to owners who have temporarily placed their motor vehicles in a inoperable condition while working on the vehicles on their premises. In no event shall an owner or person in possession maintain a motor vehicle on his or her premises in an inoperable condition for a period in excess of forty eight (48) hours unless such vehicle is placed in an enclosed structure.

(B) Prior to issuing a citation the code official or a police officer of the city shall make a reasonable attempt to notify and inform the owner or person in possession of the vehicle of the ordinance violation. The notification shall state the date and time which it is issued and shall notify the owner or person in possession of the vehicle that in the event the same is not placed in an operating condition, removed from the premises, or placed in an enclosed structure within forty eight (48) hours of the issuance of the notice, a citation will be filed against the owner or person in possession in municipal court. In no event shall the temporary moving of such vehicle by the owner or person in possession of the same operate as a defense to a citation alleging violation of this section.

**302.8.13 Parking and Storage of Inoperable Vehicles in Districts Zoned C-O Through C-2 and CP-O Through CP-2.**

(A) It is unlawful for the owner or person in possession of any motor vehicle to park or place the vehicle upon a street, driveway, lot, plot or tract within any district zoned C-O through C-2 and CP-O through CP-2 (except in an enclosed structure) while the vehicle is in an inoperable condition. Provided however, that section 302.8.14 shall apply to filling stations (or gasoline service stations) operating as special uses or nonconforming uses.

(B) Prior to issuing a citation, the code official or a police officer of the city shall make a reasonable attempt to notify and inform the owner or person in possession of the vehicle of the ordinance violation. The notification shall state the date and time at which it is issued and shall notify the owner or person in possession of the vehicle that in the event the same is not removed from the premises, or placed in an enclosed structure within forty eight (48) hours of the issuance of the notice, a citation will be filed against the owner or person in possession in municipal court. In no event will the temporary moving of such vehicle by the owner or person in possession operate as a defense to a citation alleging violation of this section.

**302.8.14 Parking and Storage of Motor Vehicles Accepted for Repair by Filling Stations (Or Gasoline Service Stations) Operating as Special Uses or Nonconforming Uses.**

(A) The regulations set forth in this section shall apply to the parking or storing of motor vehicles accepted for repair by filling stations (or gasoline service stations) operating as special or nonconforming uses anywhere in the city.

(B) All such vehicles may be stored or parked only in an enclosed structure or in parking spaces located on the premises of such filling station. Such vehicles shall not be parked on the street.

(C) No more than twelve (12) such vehicles shall be stored or parked on the premises of such filling station (other than in an enclosed structure) at any one time.

(D) No such vehicles shall be parked or stored on the premises (other than in an enclosed structure) for a period in excess of fourteen (14) consecutive days.

Section 304.7 of the 2012 IPMC is hereby amended to read as follows:

**304.7 Roofs and Drainage.** The roof and flashing shall be sound, not missing shingles or any other roofing component, not have holes, or other obvious visible damage or deterioration, nor have any other defects that admit rain. Roof drainage shall be adequate to prevent dampness or deterioration in the walls or interior portion of the structure. Roof drains, gutters and downspouts shall be maintained in good repair and free from obstructions. Roof water shall not be discharged in a manner that creates a public nuisance or discharges the water directly onto adjacent property.

Section 302.10 of the 2012 IPMC is hereby added to read as follows:

**302.10 Animal sanitation.** No excessive accumulation of animal waste shall be permitted on any property. Animal waste shall not be disposed of in an open ditch or storm drain. All carcasses of animals shall not remain exposed after death.

Section 302.11 of the 2012 IPMC is hereby added to read as follows:

**302.11 Pools of water.** Ponds, reservoirs, swimming pools or any other receptacles of water shall be maintained free of trash, debris, garbage or other effluvia and shall not serve as a breeding ground for insects or other vermin.

Section 304.14 of the 2012 IPMC is hereby amended to read as follow:

**304.14 Insect screens.** During the period from May 15 to October 15, every door, window and other outside opening required for ventilation of habitable rooms, food preparation areas, food service areas, or any areas where products to be included or utilized in food for human consumption are processed, manufactured, packaged or stored, shall be supplied with approved tightly fitting screens of not less than 16 mesh per inch, and every screened door used for insect control shall have a self-closing device in good working condition. **Exception:** Screen doors shall not be required where other approved means, such as air curtains or insect repellent fans, are employed.

Section 304.19 of the 2012 IPMC is hereby amended to read as follows:

**304.19 Gates and fences.**

Gates. All exterior gates, gate assemblies, operator systems if provided, and hardware shall be maintained in good condition. Latches at all entrances shall tightly secure the gates.

Fences. All fencing shall be maintained in good condition free of damage, breaks, or missing structural members. Areas that are leaning, buckling, sagging, or deteriorating shall be repaired or replaced with material compatible with the undamaged portions of the fence and be in compliance with the zoning regulations. Where fences have been painted, all peeling, flaking and chipped paint shall be eliminated and surfaces repainted.

Section 308.1.1 of the 2012 IPMC is hereby added to read as follows:

**308.1.1 Trash and Refuse.** The throwing, leaving, depositing or allowing the accumulation of any worn out, broken, or worthless item, waste, garbage, trash, debris or refuse on any property, drainage course or other land is prohibited. Such items include those that impeded mowing of weeds or tall grass, are food products or food containers attracting insects, rodents or animals, or are useless as evidenced by their broken, deteriorated or dismantled condition.

Section 310 of the 2012 IPMC is hereby added to read as follows:

**Section 310  
Storage of Useful Items**

**310.1 Storage of Useful Items.**

(A) Residential Property. No person shall place, construct, install affix, store or allow to remain, any item, object or structure on any property zoned or used for single family or duplex purposes except as specifically and explicitly permitted by this section.

- (B) Permitted Items. The following items, objects or structures are permitted as specified in subsection (a):
1. Any item, object or structure permitted under the applicable provisions of the zoning ordinance, in full compliance with the authorizing provision. The intent of this subsection is to permit only those items specifically permitted under the applicable zoning district regulations or permitted accessory uses.
  2. Authorized trash containers.
  3. Firewood, neatly stacked and free of insects and vermin, behind the front building line extended and behind the front and side platted building lines.
  4. Swing sets and other similar recreational equipment.
- (C) All other Items. Any item, object or structure not specifically authorized in subsection (b) must be located within a fully enclosed structure, or within the back yard and fully screened from view from any adjacent property by a wall, fence or landscaping installed with materials of quality compatible with the immediate neighborhood as determined by the code official. Such screening shall be constructed and maintained in accordance with applicable city codes and shall be adequate to prevent substantial viewing of the enclosed objects from any place within the adjacent property or any structure located on that property.
- (D) All Other property. With respect to all property other than that covered by subsection (a), no person shall place, construct, install, affix or store or allow to remain, any item, object or structure except those specified in subsection (b) (1).
- (E) Notwithstanding any other applicable provision, permitted items, objects or structures shall occupy no more than 20 percent of the allowable outside storage area. With respect to matters governed by subsection (c) above, in measuring the area occupied by such items, objects or structures to determine if the permitted 20 percent is exceeded, a rectangle shall be constructed to include all points where any such item, object or structure is located and the area shall be calculated to include all that area within the rectangle. This method of calculating area shall not apply to those items specifically authorized in subsections (b)(1), (b)(2), and (b)(3) above.

Section 602.3 of the 2012 IPMC is hereby amended to read as follows:

**602.3 Heat supply.** Every owner and operator of any building who rents, leases or lets one or more dwelling units, or sleeping units on terms either expressed or implied, to furnish heat to the occupants thereof shall supply heat during the period from October 15 to May 15 to maintain a minimum temperature of not less than 68°F (20°C) in all habitable rooms, bathrooms and toilet rooms.

**Exceptions:**

1. When the outdoor temperature is below the winter outdoor design temperature for the locality, maintenance of the minimum room temperature shall not be required provided that the heating system is operating at its full design capacity. The winter outdoor design temperature for the locality shall be as indicated in Appendix D of the 2012 International plumbing Code.
2. In areas where the average monthly temperature is above 30°F (-1°C) a minimum temperature of 65°F (18°C) shall be maintained.

Section 602.4 of the IPMC is hereby amended to read as follows:

**602.4 Occupiable work spaces.** Indoor occupiable work spaces shall be supplied with heat during the period from October 15 to May 15 to maintain a temperature of not less than 65°F (18°C) during the period the spaces are occupied.

**Exceptions:**

1. Processing, storage and operation areas that require cooling or special temperature conditions.
  2. Areas in which persons are primarily engaged in vigorous physical activities.
- (Ord. 1994; Sec. 1; Ord. 2289, Sec. 1, 2013)

### ARTICLE 3. OPEN OCCUPANCY REGULATION

#### 8-301. DEFINITIONS. As used in this article:

- A. Chairperson -- Chairperson of the open occupancy committee or in the event of his or her absence from the city, the vice chairperson of the committee;
- B. Discriminatory Housing Practice -- An act that is unlawful under section 8-303: 8-306.
- C. Dwelling -- Any building, structure, or portion thereof which is occupied as or designed or intended for occupancy, as a residence by one or more families, and any vacant land which is offered for sale or lease for the construction or location thereon of any such building, structure or portion thereof;
- D. Family -- Is defined to include a single individual;
- E. Person -- One or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries;
- F. Real Estate Broker -- Any person who, for a fee or other valuable consideration, sells, purchases, exchanges or rents, or negotiates or offers or attempts to negotiate the sale, purchase, exchange or rental of real property of another or holds himself or herself out as engaged in the business of selling, purchasing, exchanging or renting the real property of another, or collects rental for the use of the real property of another;
- G. To Rent -- To lease, to sublease, to let and otherwise to grant for a consideration the right to occupy premises not owned by the occupant.

(Code 1973; 10.12.020; Ord. 2289, Sec. 1, 2013)

#### 8-302. EFFECTIVE DATES OF CERTAIN PROHIBITIONS.

- A. Subject to the provisions of subsection (b) of this section and section 8-306, the prohibitions against discrimination in the sale or rental of housing set forth in section 8-303 shall apply to:
  - (1) Dwellings owned or operated by the federal government;
  - (2) Dwellings provided in whole or in part with the aid of loans, advance, grants or contributions made by the federal government, under agreements entered into after November 20, 1962, unless payment due thereon has been made in full prior to the date of the enactment of this article;
  - (3) Dwellings provided in whole or in part by loans insured, guaranteed, or otherwise secured by the credit of the federal government, under agreements entered into after November 20, 1962, unless payment thereon has been made in full prior to the date of the enactment of this article; provided, that nothing contained in subdivisions (b) and (c) of this subsection shall be applicable to dwellings solely by virtue of the fact that they are subject to mortgages held by an F.D.I.C. or F.S.L.I.C. institution; and,
  - (4) Dwellings provided by the development or redevelopment of real property purchased, rented, or otherwise obtained from a state or local public agency receiving federal financial assistance for slum clearance or urban renewal with respect to such property under loan or grant contracts entered into after November 20, 1962.
- B. Nothing in section 8-303 (other than subsection (c)) shall apply to:



- (1) Any single family house sold or rented by an owner; provided, that such private individual owner does not own more than three such single family houses at any one time; provided further, that in the case of the sale of any such single family house by a private individual owner not residing in such house at the time of such sale or who was not the most recent resident of such house prior to such sale, the exemption granted by this subsection shall apply only with respect to one such sale within any 24 month period; provided further, that such bona fide private individual owner does not own any interest in, nor is there owned or reserved on his or her behalf, under any express or voluntary agreement, title to, or any right to all or a portion of the proceeds from the sale or rental of, more than three such single family houses at any one time; provided further, that after December 31, 1969, the sale or rental of any such single family house shall be excepted from the application of this title only if such house is sold or rented:
    - (a) Without the use in any manner of the sales or rental facilities or the sales or rental services of any real estate broker, agent or salesperson, or of such facilities or services of any person in the business of selling or renting dwellings, or of any employee or agent of any such broker, agent, salesperson, or person; and,
    - (b) Without the publication, posting, or mailing after notice, of any advertisement or written notice in violation of subsection (c) of section 8-603 but nothing in this provision shall prohibit the use of attorneys, escrow agents, abstractors, title companies, and any other such professional assistance as necessary to perfect or transfer the title; or
  - (2) Rooms or units in dwellings containing living quarters occupied or intended to be occupied by no more than four families living independently of each other, if the owner actually maintains and occupies one of such living quarters as his or her residence.
- C. For the purpose of subsection (b), a person shall be deemed to be in the business of selling or renting dwellings if:
- (1) He or she has, within the preceding 12 months, participated as principal in three or more transactions involving the sale or rental of any dwelling or any interest therein; or
  - (2) He or she has, within the preceding 12 months, participated as agent, other than in the sale of his or her own personal residence in providing sales or rental facilities or sales or rental services in two or more transactions involving the sale, or rental of any dwelling or any interest therein; or,
  - (3) He or she is the owner of any dwelling designed or intended for occupancy by, or occupied by, five or more families. (Code 1973, 10.12.030; Ord. 2289, Sec. 1, 2013)

**8-303. DISCRIMINATION IN THE SALE OR RENTAL OF HOUSING.** As made applicable by section 8-302 and except as exempted by subsection (b) of 8-302 and section 8-306 it is unlawful:

- (a) To refuse to sell or rent after the making of a bona fide offer, or to refuse to negotiate for the sale or rental of, or otherwise make unavailable or deny, a dwelling to any person because of race, color, religion, or national origin;
- (b) To discriminate against any person in the terms, conditions or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection therewith, because of race, color, religion, or national origin;

- (c) To make, print, or publish, or cause to be made printed or published any notice, statement, or advertisement, with respect to the sale or rental of a dwelling that indicates any preference, limitation, or discrimination based on race, color, religion, or national origin, or an intention to make any such preference, limitation, or discrimination;
- (d) To represent to any person because of race, color, religion, or national origin that any dwelling is not available for inspection, sale, or rental, when such dwelling is, in fact, so available;
- (e) For profit, to induce or attempt to induce any person to sell or rent any dwelling by representations regarding the entry or prospective entry into the neighborhood of a person or persons of a particular race, color, religion, or national origin. (Code 1973, 10.12.040; Ord. 2289, Sec. 1, 2013)

**8-304. DISCRIMINATION IN THE FINANCING OF HOUSING.** It is unlawful for any bank, building and loan association, insurance company, or other corporation, association, firm or enterprise, whose business consists in whole or in part in making of commercial real estate loans, to deny a loan or other financial assistance to a person applying therefore, for the purpose of purchasing, constructing, improving, repairing, or maintaining a dwelling, or to discriminate against him or her in the fixing of the amount, interest rate, duration, or other terms or conditions of such loan or other financial assistance, because of the race, color, religion, or national origin of such person or of any person associated with him or her in connection with such loan or other financial assistance or the purposes of such loan or other financial assistance, or of the present or prospective owners, lessees, tenants, or occupants of the dwelling or dwellings in relation to which such loan or other financial assistance is to be made or given; provided, that nothing contained in this section shall impair the scope or effectiveness of the exception contained in subsection (b) of section 8-302. (Code 1973, 10.12.050; Ord. 2289, Sec. 1, 2013)

**8-305. DISCRIMINATION IN THE PROVISION OF BROKERAGE SERVICES.** It is unlawful to deny any person access to or membership or participation in any multiple-listing service, real estate brokers' organization or other service, organization, or facility relating to the business of selling or renting dwellings, or to discriminate against him or her in the terms or conditions of such access, membership, or participation, on account of race, color, religion, or national origin. (Code 1973, 10.12.060; Ord. 2289, Sec. 1, 2013)

**8-306. EXEMPTION.** Nothing in this article shall prohibit a religious organization, association, or society, or any nonprofit institution, or organization, operated, supervised or controlled by or in conjunction with a religious organization, association, or society, from limiting the sale, rental or occupancy of dwellings which it owns or operates for other than a commercial purpose to persons of the same religion, or from giving preference to such persons, unless membership in such religion is restricted on account of race, color, or national origin; nor shall anything in this article prohibit a private club not, in fact, open to the public which as an incident to its primary purpose, or purposes provides lodgings which it owns or operates for other than a

commercial purpose, from limiting the rental or occupancy of such lodgings to its members or from giving preference to its members. (Code 1973, 10.12.070; Ord. 2289, Sec. 1, 2013)

**8-307. PREVENTION OF INTIMIDATION IN OPEN OCCUPANCY CASES.** It is unlawful for any persons, whether or not acting under color of law, by force, or threat of force, to willfully injure, intimidate or interfere with, coerce or threaten, or attempt to injure, intimidate or interfere with, coerce, or threaten:

- (a) Any person because of his or her race, color, religion or national origin and because he or she is or has been selling, purchasing, renting, financing, occupying, or contracting or negotiating for the sale purchase, rental, financing or occupation of any dwelling, or applying for or participating in any service, organization, or facility relating to the business of selling or renting dwellings;
- (b) Any person because he or she is, or has been, or in order to intimidate such person, or any other person, or any class of persons from participating, without discrimination on account of race, color, or religion or national origin in any of the activities, services, organizations or facilities described in subsection (a) of this section;
- (c) Any person because he or she is or has been or in order to discourage such citizen, or any other citizen, from lawfully aiding or encouraging other persons to participate, without discrimination on account of race, color, religion, or national origin, in any of the activities, services, organizations or facilities described in subsection (a) of this section or participating lawfully in speech or peaceful assembly opposing any denial of opportunity to so participate. (Code 1973, 10.12.080; Ord. 2289, Sec. 1, 2013)

**8-308. INITIAL PROCEDURE TO FACILITATE VOLUNTARY COMPLIANCE.** To secure within a reasonable time, bona fide accomplishment of this article in individual cases, the following procedure to facilitate discontinuance of violations without imposition of penal sanctions shall be employed:

- (a) Any person claiming to be aggrieved by a violation, as defined herein, may on a standardized form, file with the city clerk a written, verified complaint, identifying the person alleged to have committed the violation and setting forth the particulars thereof. The city clerk is directed to adopt and furnish, without charge, official complaint forms, and is empowered to administer oaths to complainants, and he or she and his or her staff may assist in the clerical preparation of such complaints. Such complaints shall be filed within 180 days after the date on which the violation allegedly occurred;
- (b) Upon the filing of a complaint, as herewith provided, the city clerk shall refer the complaint to the then designated chairperson of the open occupancy committee, or, in his or her absence from the city, the vice chairperson of the committee. The chairperson shall cause an immediate investigation of the matter stated in the complaint and shall attempt to effect an adjustment or conciliation by conference and negotiation.
- (c) After the investigation and attempted adjustment or conciliation by the chairperson or vice chairperson but within 30 days of the filing of the complaint, if in the judgment of the chairperson to whom the complaint has been referred the complaint is substantial and the adjustment or conciliation has not occurred,

the chairperson shall refer the complaint, together with a full report of his or her activities in connection therewith, to the open occupancy committee. If the chairperson finds the complaint is frivolous or not in good faith, he or she shall submit his or her findings, together with all the evidence he or she has gathered, to the open occupancy committee who may adopt the finding as a final disposition of the complaint, or upon motion of two members of the open occupancy committee act upon the finding in the same manner as if the chairperson had found the complaint to be substantial and adjustment or conciliation had not occurred;

- (d) There is hereby established an open occupancy committee of five members of the city council to be appointed by the mayor, one of whom shall be designated as chairperson and another as vice chairperson for a term of one year. A quorum of three members of the committee may perform its duty and may keep minutes and execute its reports in the name of the committee;
- (e) Upon reference of a complaint from the chairperson, the open occupancy committee shall promptly set a date for hearing of the matters alleged in such complaint and subsequent occurring related matters. Such hearing shall occur in the city hall not more than 30 days after the date on which the chairperson shall have so referred such complaint, but only after giving at least five days prior written notice to the complainant and to the person alleged to have committed the violation. For purposes of such hearing the open occupancy committee shall have the power to administer oaths and at the request of the complainant, or the person alleged to have committed the violation, or upon its own motion to issue process and to compel the attendance of any person or witness, together with books, papers and other documents. Such process shall be executed by the chief of police and shall be enforced as in all cases of city ordinance violations. Such hearings shall be enforced as in all cases of city ordinance violations. Such hearings shall be conducted in a fair and impartial manner according to rules adopted by the open occupancy committee. The proof of the matters contained within the complaint may be presented by the city prosecutor at the hearing upon request of the open occupancy committee. The complaint and the person alleged to have committed the violation may appear with legal counsel and shall have the right to present proof and cross-examine witnesses in all matters relating to the complaint and subsequent related occurrences;
- (f) After such hearing, if a majority of the open occupancy committee is convinced by the evidence upon the hearing that the complaint is well founded, the open occupancy committee shall by persuasion, education and entreaty, diligently attempt to secure within a reasonable time, voluntary discontinuance of the violation complained of;
- (g) The open occupancy committee shall conduct the hearing and adjustment or conciliation discussions in private;
- (h) If the complainant or the person alleged to have committed the violation request and post reasonable security for the costs thereof, the open occupancy committee shall secure the attendance of a proceedings reporter for the purpose of recording the proceedings at the hearing. (Code 1973, 10.12.090; Ord. 2289, Sec. 1, 2013)

- A. Certification by Open Occupancy Committee. The open occupancy committee, in the event of failure to secure voluntary compliance with the requirements of this article may direct the chairperson thereof to certify in writing to the city prosecutor that all reasonable efforts of the committee to secure conciliation are concluded in the matter and the committee shall, with such certification, transmit the committee file, the transcript of the hearing, if any, and in all other respects cooperate with the city prosecutor.
- B. City Prosecutor Shall Prosecute Violations. Upon certification by the open occupancy committee, the city prosecutor shall initiate a charge against the alleged violator and prosecute the same to final conclusion. No prosecution shall be brought under sections 8-301:305 except upon certification to the city prosecutor, as provided for in section 8-309.  
(Code 1973, 10.12.100;110; Ord. 2289, Sec. 1, 2013)

**8-310. PUNISHMENT OF VIOLATORS.** Any person who violates any one or more of the provision of this article shall, upon conviction thereof, be punished for each such violation by a fine not exceeding \$100 or imprisonment for not more than 30 days for each such violation, or by both such fine and imprisonment. (Code 1973, 10.12.120; Ord. 2289, Sec. 1, 2013)

**8-311. PENALTY FOR WILFULLY DISOBEYING OR INTERFERING WITH PROCESSES OF THE OPEN OCCUPANCY COMMITTEE.** Any person who willfully disobeys or interferes with the processes of the open occupancy committee without lawful justification therefore is guilty of a violation and upon conviction thereof shall be punished by a fine not exceeding \$100 or by imprisonment for not more than 30 days for each such violation, or by both such fine and imprisonment. (Code 1973, 10.12.130; Ord. 2289, Sec. 1, 2013)

**8-312. FALSE STATEMENTS A MISDEMEANOR.** Any person making false, malicious or unfounded accusations against any person or persons complained of is guilty of a violation and upon conviction thereof shall be punished by a fine of \$100 for each such violation. (Code 1973, 10.12.140; Ord. 2289, Sec. 1, 2013)

#### ARTICLE 4. AIR POLLUTION CONTROL

**8-401. DEFINITIONS.** The terms as used in this article shall have the following meanings:

- (a) Air Contaminant -- Any particulate matter, gas or vapor (exclusive of water vapor), including but not limited to smoke, charred paper, dust, soot, grime, carbon or any other particular matter, or irritating odorous matter, fumes or gases, or any combination thereof;
- (b) Air Contaminant Source -- Any source of emission of an air contaminant whether privately or publicly owned or operated;
- (c) Air Pollution -- The presence in the ambient air of one or more air contaminants in quantities, of characteristics and of a duration which directly and proximately cause or contribute to injury to human, animal or plant life or health, or to property, or which unreasonably interfere with the enjoyment of life or use of property;
- (d) Air Pollution Control Device -- Any method, process or equipment which removes, reduces or renders less obnoxious air contaminants emitted into the ambient air;
- (e) Ambient Air -- All space outside of buildings, stacks or exterior ducts;
- (f) ASME -- The American Society of Mechanical Engineers;
- (g) ASTM -- The American Society for Testing Materials;
- (h) Board -- The zoning board of appeals;
- (i) BTU -- British thermal unit(s);
- (j) City -- The City of Prairie Village, Kansas;
- (k) Director -- The superintendent of public works or his or her duly authorized representative;
- (l) Existing -- As applied to any equipment, machine, device, article, contrivance, or installation means in being, installed or under construction on January 1, 1970; except that if any equipment, machine, device, article, contrivance or installation is subsequently altered, repaired or rebuilt at a cost of 30 percent or more of its replacement cost exclusive of routine maintenance, it shall no longer be existing but shall be considered new as defined in this section. The cost of installing equipment designed principally for the purpose of air pollution control is not to be considered a cost of altering, repairing or rebuilding existing equipment for the purpose of this definition;
- (m) Fuel Burning Equipment For Indirect Heating -- A device where the combustion of fuels to produce usable heat is transferred through a heat-conducting materials barrier or by a heat storage medium to a material to be heated so that the material being heated is not contacted by, and adds no substance to, the products of combustion;
- (n) Incinerator -- Any article, machine, equipment, contrivance, structure, or part of a structure used to burn refuse or to process refuse material by burning other than by open burning as defined in subsection (q) of this section;
- (o) Multiple Chamber Incinerator -- Any article, machine, equipment, contrivance, structure or part of a structure, used to dispose of combustible refuse by burning, consisting of three or more refractory lined combustion furnaces in series, physically separated by refractory walls, interconnected by gas passage ports

or ducts and employing adequate design parameters necessary for maximum combustion of the material to be burned. The refractories shall have a prometric cone equivalent of at least 31, tested according to the method described in the American Society for Testing Materials, Method C-24-56;

- (p) New -- Applies to any equipment, machine, device, article or contrivance of installation, means not existing as defined in subsection (l) of this section;
- (q) Open Burning -- The burning of any materials wherein air contaminants resulting from combustion are emitted directly into the ambient air without passing through a stack or chimney from an enclosed chamber. For the purposes of this definition, a chamber shall be regarded as enclosed, when during the time combustion takes place, only such apertures, ducts, stacks, flues or chimneys as are necessary to provide combustion air and to permit the escape of exhaust gases are open;
- (r) Particulate Matter -- Any material, except uncombined water, that exists in a finely divided form as a liquid or solid at standard conditions;
- (s) Person -- Any individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision, or any federal or state governmental agency, board, department or bureau, or any other legal entity whatever which is recognized by law as the subject of rights and duties;
- (t) Premises -- Land, improvements and the ambient air above such land or improvements;
- (u) Process -- Any reaction, operation, or treatment, the equipment used in connection therewith, and all methods or forms of manufacturing or processing that may emit any air contaminant;
- (v) Refuse -- Garbage, rubbish, trade wastes, leaves, salvageable material, agricultural wastes, or other wastes;
- (w) Residual Fuel Oil -- Fuel oil, also known as Bunker C PS 400 and Number 6 as defined in ASTM D 396 487 (1959);
- (x) Ringelmann Charter -- Ringelmann's Scale for Grading the Density of Smoke as published in U.S. Bureau of Mines Information Circular 8333;
- (y) Salvage Operation -- Any business, trade, industry or other activity conducted in whole or in part for the purpose of salvaging or reclaiming any product or material;
- (z) Source Gas Volume -- The volume of gas arising from a process or other source operation;
- (aa) Source Operation -- The last operation preceding the emission of an air contaminant, which operation:
  - (1) Results in the separation of the air contaminant from the process materials or in the conversion of the process materials into air contaminants, as in the case of combustion fuel; and,
  - (2) Is not principally an air pollution abatement operation.
- (bb) Standard Conditions -- A gas temperature of 30 degrees Fahrenheit and a gas pressure of 14.7 pounds per square inch absolute;
- (cc) Trade Wastes -- Solid, liquids, or gaseous material resulting from the construction of the prosecution of any business, trade, industry or demolition operation, including but not limited to, wood, plastics, cartons, grease, oil, chemicals and cinders.

(Code 1973, 7.04.020; Ord. 2289, Sec. 1, 2013)

**8-402. ADMINISTRATION.** The director shall administer the provisions of this article. (Code 1973, 7.04.030; Ord. 2289, Sec. 1, 2013)

**8-403. VIOLATION; HEARING.** If, in the opinion of the director, any investigation under this article indicates that a violation of this article may exist, he or she may order a hearing. In such event, the director shall issue and cause to be served upon the person alleged to be in violation, a written receipt notice of complaint, which shall specify the provision of this article, including any regulation hereunder, which such person is alleged to be in violation of, and a statement of the manner, and the extent to which such person is alleged to be in violation of this article. Such notice shall require such person to answer the complaint at a formal hearing before the director at a time not less than 15 days after the date of such notice. After such formal hearing the director may issue such order as he or she deems appropriate to eliminate any violation found by the director and compel compliance with the regulation or other provision of this article which such person shall have been found by the director to have violated. (Code 1973, 7.04.040; Ord. 2289, Sec. 1, 2013)

**8-404. APPEALS.** Any order issued by the director shall become final and binding unless the person against whom such order is issued shall within 15 days after the date of issuance of such order request the director, in writing, to refer such order to the board as hereinafter provided. Such appeal shall stay enforcement of such order issued by the director. (Code 1973, 7.04.050; Ord. 2289, Sec. 1, 2013)

**8-405. INSPECTIONS.** The director, may, upon reasonable notice, subject to the provisions of section 1-116 of this code, enter and inspect any facilities constituting any air contaminant source located on any premises, at any reasonable time for the purpose of ascertaining the state of compliance with the regulations made part of this article and making tests and samples as provided for in sections 8-406:408. No person shall refuse entry or access to the director, or his or her representative, upon presentation of appropriate identification and authority; nor shall any person obstruct, hamper or interfere with any such inspection or unreasonably interfere with such tests or sampling. Upon request, the owner or operator of the premises shall receive a report setting forth all facts found which relate to compliance status as a result of such tests and sampling. (Code 1973, 7.04.020; Ord. 2289, Sec. 1, 2013)

**8-406. SAMPLING AND TESTING; GENERALLY.** The director is authorized to conduct or cause to be conducted any test or sampling of the operation of any equipment which, in his or her opinion, may result in emissions in violation of any regulation in effect under this article. Any test or sampling may be conducted by any method, other than the particular method as may be specified in any regulation hereunder; provided such substitute method is technically equivalent and mutually agreed to in writing by the director and the operator of the air contaminant source involved. All tests shall be conducted by reputable, qualified personnel. Upon



request of the director, the person responsible for the source to be tested shall provide necessary test ports in stacks or ducts and such other safe and proper facilities, exclusive of instruments and sensing devices as may be necessary for proper determination of the emission of air contaminants, and shall cooperate with the director as to permit such tests to be made; provided that such tests shall not unreasonably interfere with normal operations of the plant. Both the director and the operator of the equipment tested may be present at the test and each shall be entitled to a copy of the test results, in writing, and signed by the person responsible for the tests. If the results of the test or sample show that the equipment is violating any of the provisions of this article, the cost and expenses of the test shall be paid by the operator of such equipment. If no violations are disclosed, the city shall pay such costs and expenses. (Code 1973, 7.04.070; Ord. 2289, Sec. 1, 2013)

**8-407. TESTING; BY OPERATOR.** Upon notification by the director to the operator of any air contaminant source that emission tests are considered necessary, such person may elect to conduct such tests and sampling, in which event such person shall notify the director of such election and of the time and date such person proposes to conduct such tests and sampling, in which case such person shall pay all costs and expenses incurred in making such test or taking such sample. In any such test conducted by such person, the director may require that his or her duly authorized representative be present during the conduct of such tests and the taking of such samples. (Code 1973, 7.04.080; Ord. 2289, Sec. 1, 2013)

**8-408. SAME; BY DIRECTOR.** Tests or samplings made by the operator shall not prohibit the director, if the director so elects, from making independent tests or sampling, the cost and expenses thereof to be paid by the city. In either event, the director and the person who is the operator of such equipment shall be entitled to a complete detailed report of all tests and sampling. (Code 1973, 7.04.090; Ord. 2289, Sec. 1, 2013)

**8-409. EMISSION INVENTORY.** The director may require persons owning or responsible for the operation of any air contaminant source to file reports and information relating to the rate, period of emission, and composition of effluent from any air contaminant source including the location of such source, size and height of air contaminant outlets, processes employed, fuels used, and the nature and time periods and duration of emissions, and such other relevant information as is available to such person or reasonably capable of being assembled from the normal operating records of such person. Such information shall be used to maintain an emission inventory. (Code 1973, 7.04.100; Ord. 2289, Sec. 1, 2013)

**8-410. SCHEDULE OF COMPLIANCE.** Any person owning or responsible for the operation of any existing installation not in compliance with this article shall submit to the director in a form and manner satisfactory to him or her, a program and schedule for achieving compliance, such program and schedule to contain a date on or before which full compliance will be attained, and such other information as the director may require. If approved by the director, such date will be the date on which the person shall comply. (Code 1973, 7.04.110; Ord. 2289, Sec. 1, 2013)

- 8-411. ABATEMENT; ORDER.** Whenever the director determines that the terms or conditions of this article have been violated, he or she may order that the violation be abated within a reasonable time to be prescribed by him or her, such order to be served by registered mail. (Code 1973, 7.04.120; Ord. 2289, Sec. 1, 2013)
- 8-412. EXTENSIONS FOR COMPLIANCE.** In the event the director should determine that: (1) the person is taking all reasonable actions available to him or her to comply with the time limitations, but such compliance is not possible; (2) the delay is caused by conditions beyond the jurisdiction and control of such person; or (3) the imposition of the time limitation will cause an undue hardship; then the director may grant such additional extensions of time as are necessary under the criterion set forth above. (Code 1973, 7.04.130; Ord. 2289, Sec. 1, 2013)
- 8-413. PROSECUTION IN MUNICIPAL COURTS.** In the event that a violation of this article occurs, the director may request the city prosecutor to file a prosecution in the municipal court. (Code 1973, 7.04.140; Ord. 2289, Sec. 1, 2013)
- 8-414. PROCEEDINGS IN DISTRICT COURT.** In the event that it becomes necessary and is legally proper, the city attorney is empowered to institute proceedings in the district court in the name of the city in order to enforce the terms and conditions of this article. (Code 1973, 7.04.150; Ord. 2289, Sec. 1, 2013)
- 8-415. STOP ORDERS.** Upon notice of the director that work on the installation of a machine, contrivance, equipment, device, process or operation that may cause the emission of air contaminants is being prosecuted without a permit where such permit is required or without having been registered where such registration is required or not in accordance with plans or specifications or data submitted with the application for such permit or such registrant or contrary to any final order of the board, such work shall be immediately stopped. The stop-work order shall be in writing and shall be served upon the person responsible for the premises on which the work is occurring or upon the person doing the work and shall state the conditions under which the work may be resumed. (Code 1973, 7.04.160; Ord. 2289, Sec. 1, 2013)
- 8-416. VIOLATION OF STOP ORDER.** Any person who continues any work in or about such machine, contrivance, equipment, device, process or operation after having been served with a stop-order, except such work as he or she is directed to perform to remove a violation or unsafe condition, is punishable as provided in section 1-106.4 of this code. (Code 1973, 7.04.170; Ord. 2289, Sec. 1, 2013)
- 8-417. OPEN BURNING; REFUSE.** No person shall dispose of refuse by open burning, or cause, allow or permit open burning of refuse. (Code 1973, 7.04.180)
- 8-418. SAME; SALVAGE OPERATION.** No person shall cause, allow or permit the conduct of a salvage operator by open burning. (Code 1973, 7.04.190; Ord. 2289, Sec. 1, 2013)

**8-419. SAME; TRADE WASTES; PROHIBITED.** No person shall cause, allow or permit the disposal of trade wastes by open burning except as provided in sections 8-419:422. (Code 1973, 7.04.200; Ord. 2289, Sec. 1, 2013)

**8-420. SAME; EXCEPTIONS.** The open burning of trade wastes may be permitted when it can be shown that such open burning is necessary and in the public interest. Any person intending to engage in open burning of trade wastes shall file a written request to do so with the director. The application shall state the following:

- (a) The name, address and telephone number of the person submitting the application;
- (b) The type of business or activity involved;
- (c) A description of the proposed equipment and operating practices, the type, quantity and composition of trade wastes to be burned, and the expected composition and amount of air contaminants to be released to the atmosphere;
- (d) The schedule of burning operations;
- (e) The exact location where open burning will be used for disposal of trade wastes;
- (f) Reasons why open burning is the only feasible method of disposal of trade waste and why disposal is in the public interest.

(Code 1973, 7.04.210; Ord. 2289, Sec. 1, 2013)

**8-421. SAME; ISSUANCE.** Upon written approval of the application by the director, the applicant may be issued a permit to open burn trade wastes by the chief inspector of fire district. (Code 1973, 7.04.220; Ord. 2289, Sec. 1, 2013)

**8-422. SAME; REVOCATION.** Any violation of the provisions relating to open burning of trade waste shall be grounds for revocation of the trade waste burning permit by the director or the chief inspector of fire district. (Code 1973, 7.04.230; Ord. 2289, Sec. 1, 2013)

**8-423. INDUSTRIAL PROCESSES; PARTICULATE MATTER EMISSION GENERALLY.**

- A. Sections 8-423:424 apply to any operation, process or activity except the burning of fuel for indirect heating in which the products of combustion do not come into direct contact with process materials and except the burning of refuse and except the processing of salvageable material by burning.
- B. Process weight means the total weight of all materials introduced into a source operation, including solid fuels, but excluding liquids and gases used solely as fuels, and excluding air introduced for the purpose of combustion. Process weight rate means a rate established as follows:
  - (1) For continuous or long-run steady-state source operations, the total process weight for the entire period of continuous operation or for a typical portion thereof, divided by the number of hours of such period or portion thereof;
  - (2) For cyclical or batch source operations, the total process weight for a period which covers a complete operation or an integral number of cycles, divided by the hours of actual process operation during such period. Where the nature of any process or operation or the design of any equipment is such as to permit more than one interpretation of sections 8-423:424, that

interpretation which results in the minimum value for allowable emission shall apply.

- C. Emission tests relating to this regulation shall be made following the standards in American Society of Mechanical Engineers Power Test Codes PTC-27 entitled Determining Dust Concentration in a Gas Stream.

Any other method which is in accordance with good professional practice may be used by mutual consent of the source operator and the director.

(Code 1973, 7.04.280; Ord. 2289, Sec. 1, 2013)

**8-424. SAME; EMISSION LIMITATIONS.**

- A. Except as provided for in subsection (b) of this section, no person shall cause, suffer, allow or permit the emission of particulate matter in any one hour from any source in excess of the amount shown in Table 1 (section 8-425) for the process weight allocated to such source.
- B. The limitations established by subsection (a) of this section shall not require the reduction of particulate matter concentration, based on the source gas volume, below the concentration specified in Table 2 (section 8-426) for such volume; provided that, for the purposes of this subsection the person responsible for the emission may elect to substitute a volume determined according to the provisions of subsection (c) of this section; and provided further that the burden of showing the source gas volume or other volume substitute therefore, including all the factors which determine such volume and the methods of determining the computing such volume, shall be on the person seeking to come within the provisions of this subsection.
- C. Any volume of gases passing through and leaving an air pollution abatement operation may be substitute for the source gas volume of the course operation served by such air pollution abatement operation, for the purposes of subsection (b) of this section; provided such air pollution abatement operation emits no more than 40 percent of the weight of particulate matter entering thereto; and provided further, that such substitute volume shall be corrected to standard conditions and to a moisture standard conditions and to a moisture content no greater than that of any gas stream entering such air pollution abatement operation.
- D. Notwithstanding the provisions of subsections (a) and (b) of this section, no person may cause, allow or permit the emission of particulate matter from any source in a concentration in excess of three-tenths grain per standard cubic foot of exhaust gas. (Code 1973, 7.04.240; Ord. 2289, Sec. 1, 2013)

**8-425. TABLE 1; PARTICULATE MATTER EMISSION RATE.**

Process Wgt. Rate		Rate of Emission	Process Wgt. Rate		Rate of Emission
<u>Lb./Hr.</u>	<u>Tons/Hr.</u>	<u>Lb./Hr.</u>	<u>Lb./Hr.</u>	<u>Tons/Hr.</u>	<u>Lb./Hr.</u>
100	0.05	0.551	16,000	8.00	16.5
200	0.10	0.877	18,000	9.00	17.9
400	0.20	1.40	20,000	10.	19.2
600	0.30	1.83	30,000	15.	25.2
800	0.40	2.22	40,000	20.	30.5
1,000	0.50	2.58	50,000	25.	35.4

1,500	0.75	3.38	60,000	30.	40.0
2,000	1.00	4.10	70,000	35.	41.3
2,500	1.25	4.76	80,000	40.	42.5
3,000	1.50	5.38	90,000	45.	43.6
3,500	1.75	5.96	100,000	50.	44.6
4,000	2.00	6.52	120,000	60.	46.3
5,000	2.50	7.58	140,000	70.	47.8
6,000	3.00	8.56	160,000	80.	49.0
7,000	3.50	9.49	200,000	100.	51.2
8,000	4.00	10.4	1,000,000	500.	69.0
9,000	4.50	11.2	2,000,000	1,000.	77.6
10,000	5.00	12.0	6,000,000	3,000	92.7
12,000	6.00	13.6			

Interpolation of the data in this table for process weight rates up to 60,000 lb./hr. shall be accomplished by use of the equation  $E=4.10p^{0.67}$ , and interpolation and extrapolation of the data for process weight rates in excess of 60,000 lb./hr. shall be accomplished by use of the equation:

$$E = 55.0 p^{0.11 - 40}, \text{ where } E = \text{rate of emission in lb./hr. and}$$

$$P = \text{process weight rate in tons/hr. (Code 1973, 7.04.260; Ord. 2289, Sec. 1, 2013)}$$

**8-426. TABLE 2; PARTICULATE MATTER CONCENTRATION.**

Source Gas Volume <u>SCFM(a)</u>	Concentration <u>GR/SCF(b)</u>	Source Gas Volume, <u>SCFM</u>	Concentration <u>GR/SCF</u>
7,000	0.100	140,000	0.038
or less		160,000	0.036
8,000	0.096	180,000	0.035
9,000	0.092	200,000	0.034
10,000	0.089	300,000	0.030
20,000	0.071	400,000	0.027
30,000	0.062	500,000	0.025
40,000	0.057	600,000	0.024
50,000	0.053	800,000	0.021
60,000	0.050	1,000,000	0.020
80,000	0.045	or more	
100,000	0.042		
120,000	0.040		

(a) Standard cubic foot per minute

(b) Grain per standard cubic foot.

(Code 1973, 7.04.270; Ord. 2289, Sec. 1, 2013)

**8-427. INDIRECT HEATING EQUIPMENT; PARTICULATE MATTER EMISSION GENERALLY.**

A. Sections 8-427:431 apply to installations in which fuel is burned for the primary purpose of producing steam, hot water, or hot air or other indirect heating of liquids, gases, or solids and, in the course of doing so, the products of combustion do not

come into direct contact with process materials, but do not include refuse. When any products or by-products of a manufacturing process are burned for the same purpose or in conjunction with any fuel, the same maximum emission limitations shall apply.

- B. The heat content of oil shall be determined according to ASTM Method D-240-64 Heat of Combustion of Liquid Hydrocarbons by Bomb Calorimeter. The three publications cited in this subsection are made part of this section by reference.
- C. For purposes of sections 8-427:431, the heat input shall be the aggregate heat content of all fuels whose products of combustion pass through a stack or stacks. The heat input value used shall be the equipment manufacturer's or designer's guaranteed maximum input, whichever is greater. The total heat input of all fuel burning units at a plant or on a premises shall be used for determining the maximum allowable amount of particulate matter which may be emitted.
- D. The amount of particulate matter emitted shall be measured according to the American Society of Mechanical Engineers Power Test Codes, PTC-27 and entitled Determining Dust Concentration in a Gas Stream, which publication is made a part of this section by reference. Any other method which is in accordance with good professional practice may be used by mutual consent of the source operator and the director. (Code 1973, 7.04.280; Ord. 2289, Sec. 1, 2013)

**8-428. SAME; EMISSION LIMITATIONS.** No person may cause, allow or permit the emission of particulate matter in excess of that specified in the following schedule (see Graph 1 (section 8-429) which is included for illustrative purposes only):

Six-tenths pounds for each million BTU per hour input if the equipment as a capacity rating of 10 million or less. If the capacity rating of the fuel burning equipment is more than 10 million, the amount of particulate matter which may be emitted for each million BTU input shall decrease as the capacity rating of the fuel burning equipment increases, as follows:

- (a) No more than 41 hundredths pounds for each million BTU input from equipment having a capacity rating of 50 million;
- (b) No more than 35 hundredths pounds for each million BTU input from equipment having a capacity rating of 100 million;
- (c) No more than 24 hundredths pounds for each million BTU input from equipment having a capacity rating of 500 million;
- (d) No more than 21 hundredths pounds for each million BTU input from equipment having a capacity rating of 1,000 million;
- (e) No more than 17 hundredths pounds for each million BTU input from equipment having a capacity rating of 2,000 million;
- (f) No more than 14 hundredths pounds for each million BTU input from equipment having a capacity rating of 5,000 million;
- (g) No more than 13 hundredths pounds for each million BTU input from equipment having a capacity rating of 7,500 million;
- (h) No more than 12 hundredths pounds for each million BTU input from equipment having a capacity rating of 10,000 million or more. The amount of particulate matter which may be emitted from fuel burning equipment having an intermediate capacity rating shall be determined either by linear interpolation, or by use of the following equation:  $\log Y = 0.2330 \log X - 2.0111$ .

(Code 1973, 7.04.290; Ord. 2289, Sec. 1, 2013)

- 8-429. SAME; PARTICULATE MATTER EMISSION GRAPH.**  
Maximum Allowable Particulate Emission  
Pounds Particulate Per Million BTU Heat Input  
(Code 1973, 7.04.300; Ord. 2289, Sec. 1, 2013)
- 8-430. SAME; EXCEPTIONS.** Compliance with the provisions of sections 8-427:431 shall not be determined during periods when a new fire is being built; during start up, change of load, fuel or other operating conditions; during an operational breakdown or other emergency conditions; while air pollution control equipment is shut down for maintenance; or during sootblowing; but shall be determined during steady-state conditions. (Code 1973, 7.04.310; Ord. 2289, Sec. 1, 2013)
- 8-431. SAME; OPTION ON EQUIPMENT.** The operator of equipment used for indirect heating in any plant may, at his or her option, elect to eliminate, for the purpose of determining compliance with the provisions of sections 8-427:431, any fuel burning units normally scheduled to operate less than 1,500 hours per year; provided such units are equipped with air pollution control equipment having a collection efficiency of not less than 85 percent, in which case such units shall be deemed to comply with the provisions of sections 8-427:431 and in any multiple unit plant shall be treated as a separate installation from other units in such plant. The director may require such operator to submit proposed operating schedules of such units in advance and reports of actual operating schedules for any year. (Code 1973, 7.04.320; Ord. 2289, Sec. 1, 2013)
- 8-432. MATERIAL HANDLING, TRANSPORTATION AND STORAGE.** No person may cause or permit the handling, or transporting or storage of any material in a manner which may allow particulate matter to become airborne in such quantities and concentrations that it remains visible in the ambient air beyond the premises where it originates. (Code 1973, 7.04.330; Ord. 2289, Sec. 1, 2013)
- 8-433. CONSTRUCTION, USE, REPAIR AND DEMOLITION RESTRICTIONS.** No person may cause or permit a building or its appurtenances or a road, or a driveway, or an open area to be constructed, used, repaired or demolished without applying all such reasonable measures as may be required to prevent particulate matter from becoming airborne so that it remains visible beyond the premises where it originates. The director may require such reasonable measures as may be necessary to prevent particulate matter from becoming airborne, or if the particulates become airborne, to control such particulates. The director may suspend work or operation of the project until measures satisfactory to the director have been made. (Code 1973, 7.04.340; Ord. 2289, Sec. 1, 2013)
- 8-434. VISIBLE AIR CONTAMINANT EMISSION RESTRICTIONS; EXISTING INSTALLATIONS.** No person may discharge into the ambient air from any single existing source of emission whatsoever any air contaminant:  
(a) Of a shade or density equal to or darker than that designated as No. 2 on the Ringelmann Chart; or

- (b) Of such opacity as to obscure an observer's view to a degree equal to or greater than that designated as No. 1 on the Ringelmann Chart.  
(Code 1973, 7.04.350; Ord. 2289, Sec. 1, 2013)

**8-435. SAME; NEW INSTALLATIONS.** No person may discharge into the ambient air from any single new source of emission whatsoever any air contaminant:

- (a) Of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart; or
- (b) Of such opacity as to obscure an observer's view to a degree equal to or greater than that designated as No. 1 on the Ringelmann Chart.  
(Code 1973, 7.04.360; Ord. 2289, Sec. 1, 2013)

**8-436. SAME; EXCEPTIONS.**

- A. A person may discharge into the ambient air from any single source of emission for a period or periods aggregating not more than six minutes in any 60 minutes air contaminants:
  - (1) Of a shade or density not equal to nor darker than that designated as No. 3 on the Ringelmann Chart; or
  - (2) Of such opacity as to obscure an observer's view to a degree not equal to nor greater than that designated as No. 3 on the Ringelmann Chart.
- B. For the purposes of this section, the director may, for a specific source and for special conditions, approve any other schedule.  
(Code 1973, 7.04.370; Ord. 2289, Sec. 1, 2013)

**8-437. SAME; PRESENCE OF UNCOMBINED WATER.** Where the presence of uncombined water is the only reason for failure of an emission to meet the requirements of sections 8-434 and 8-435, such sections shall not apply. (Code 1973, 7.04.380; Ord. 2289, Sec. 1, 2013)

**8-438. SAME; MISCELLANEOUS EXCEPTIONS.** Sections 8-434:440 shall not apply to the following:

- (a) Internal combustion engines, including jet aircraft engines except as provided in section 8-444;
- (b) Woodburning stoves or fireplaces in dwellings;
- (c) Fires used for recreational purposes or fires used for the noncommercial preparation of food by barbecuing;
- (d) Fires used solely for the purpose of training firefighters;
- (e) Smoke generators used for training air pollution control inspectors.  
(Code 1973, 7.04.390; Ord. 2289, Sec. 1, 2013)

**8-439. SAME; INCINERATORS EXCEPTED.** Sections 8-434:440 shall not apply to incinerators. Code 1973, 7.04.400; Ord. 2289, Sec. 1, 2013)

**8-440. SAME; METHOD OF MEASURE.** The Ringelmann Chart shall be the standard in grading the shade or opacity of visible air contaminant emissions. The director may, with the consent of the source operator, employ any other means of measurement which give comparable results or results of greater accuracy. Code 1973, 7.04.410; Ord. 2289, Sec. 1, 2013)



- 8-441. ODOR EMISSION; PROHIBITED.** No person shall cause or permit odorous emissions so as to cause air pollution. (Code 1973, 7.04.420; Ord. 2289, Sec. 1, 2013)
- 8-442. SAME; VIOLATION.** An odor occurrence is a violation when a complaint from one person, or more, is received and substantiated within two hours by observations of the director. The director shall deem the complaint valid only if he or she finds the occurrence of sufficient duration of frequency so that he or she can make two measurements of centimeter No. 2 odor strength within a period of one hour, these measurements being separated by at least 15 minutes. (Code 1973, 7.04.430; Ord. 2289, Sec. 1, 2013)
- 8-443. ODOR EMISSION; MEASUREMENT.** Odor measurement shall be made with a centimeter as manufactured by Barnebey-Cheny Company or any other instrument, device, or technique designated by the director as producing equivalent results. (Code 1973, 7.04.440; Ord. 2289, Sec. 1, 2013)
- 8-444. INTERNAL COMBUSTION ENGINES; EMISSION LIMITATIONS.**
- A. No person may cause or permit the emission of visible air contaminants in excess of the amounts specified in section 8-434 from the internal combustion engine of:
    - (1) Portable or stationary equipment for longer than 10 consecutive seconds;
    - (2) A motor vehicle while the vehicle is stationary for longer than 10 seconds; or
    - (3) A motor vehicle after the vehicle has moved more than 100 yards from a place where the vehicle was stationary.
  - B. This section shall not apply when the presence of uncombined water is the only reason for the failure of an emission to meet the requirements of this section. (Code 1973, 7.04.450; Ord. 2289, Sec. 1, 2013)
- 8-445. INCINERATORS; APPLICABILITY.** Sections 8-445:461 shall apply to all incinerators. (Code 1973, 7.04.460; Ord. 2289, Sec. 1, 2013)
- 8-446. SAME; DESIGN REQUIREMENTS.** No incinerator shall be used for the burning of refuse unless such incinerator is a multiple chamber incinerator. Existing incinerators which are not multiple chamber incinerators may be altered, modified or rebuilt as may be necessary to meet the requirement of sections 8-445:461. The director may approve any other alteration or modification to an existing incinerator if such is found by him or her to be equally effective for the purpose of air pollution control as a modification or alteration which would result in multiple chamber incinerator. All new incinerators shall be multiple chamber incinerators; provided that the director may approve any other kind of incinerator if he or she finds in advance of construction or installation that such other kind of incinerator is equally effective for purposes of air pollution control as an approved multiple chamber incinerator. (Code 1973, 7.04.470; Ord. 2289, Sec. 1, 2013)
- 8-447. SAME; TEST SCHEDULE.** Within 30 days after the date on which installation or construction of an incinerator is completed, the installer shall file a request with the

director to schedule the performance tests provided in sections 8-451:454. If the results of the performance tests indicated that the incinerator is not operating in compliance with sections 8-549:550, no person may cause or permit further operation of the incinerator, except for additional tests as outlined in sections 8-451:454, until approval is received from the director. Code 1973, 7.04.480; Ord. 2289, Sec. 1, 2013)

**8-448. SAME; CAPACITY.** The burning capacity of an incinerator shall be the manufacturer's or designer's guaranteed maximum rate or such other rate as may be determined by the director in accordance with good engineering practice. In case of conflict, the findings of the director shall govern. (Code 1973, 7.04.490; Ord. 2289, Sec. 1, 2013)

**8-449. SAME; EMISSION LIMITATIONS.** No person shall cause or permit the emission of particulate matter from the chimney, stack or vent of any incinerator:

- (a) In excess of two-tenths grams per standard dry cubic foot of exhaust gas;
- (b) Greater than 60 microns in diameters; or
- (c) Of a shade or density equal to or darker than that designated as No. 1 on the Ringelmann Chart, or of such opacity as to obscure an observer's view to a degree equal to or greater than that designated as No. 1 on the Ringelmann Chart.

(Code 1973, 7.04.500; Ord. 2289, Sec. 1, 2013)

**8-450. ODOR CONTROL.** All incinerators shall be designed and operated so that all gases, vapors and entrained effluents shall, while passing through the final combustion chamber, be maintained at a temperature adequate to prevent the emission of objectionable odors; provided, however, that the director shall approve any other method of odor control which he or she determines is equally effective. (Code 1973, 7.04.500; Ord. 2289, Sec. 1, 2013)

**8-451. INCINERATORS; PERFORMANCE TEST; REPRESENTATIVE SAMPLE.** Refuse burning in conjunction with the performance tests specified in section 8-445:461 shall be representative sample of the refuse normally generated by the operation which the incinerator is intended to serve. (Code 1973, 7.04.510; Ord. 2289, Sec. 1, 2013)

**8-452. SAME; PROCEDURE.** The amount of particulate matter emitted from an incinerator shall be determined according to the American Society of Mechanical Engineers Power Test Codes, PTC-26 and entitled Determining Dust Concentration in a Gas Stream. This publication is made a part of sections 8-442:461 by reference. Any other method which is in accordance with good professional practice may be used by mutual consent of the source operator and the director. In calculating the amount of particulate matter in stack gas, the loading shall be adjusted to 12 percent carbon dioxide in the stack gas. The carbon dioxide produced by burning of the liquid gaseous fuel in the incinerator shall be excluded from the calculation to 12 percent carbon dioxide. Emission shall be measured when the incinerator is operating at the burning capacity or at any greater operating rate requested by the source operator. (Code 1973, 7.04.530; Ord. 2289, Sec. 1, 2013)

**8-453. SAME; COMPLIANCE.** A performance test to determine compliance with the Ringelmann requirements specified in subsection (c) of section 8-449 shall be

performed by the director on each new incinerator, and each existing incinerator modified or rebuilt according to the schedule outlined in section 8-455. (Code 1973, 7.04.540; Ord. 2289, Sec. 1, 2013)

**8-454. SAME; WHEN REQUIRED.** The performance test specified in section 8-449 may be required on any incinerator, and shall be required for each new incinerator having a burning capacity of 1,000 pounds per hour or greater. The initial performance tests shall be performed at the expense of the vendor or operator by an independent testing organization or by any other qualified person subject to the approval of the director. The performance test may be observed by the director. (Code 1973, 7.04.550; Ord. 2289, Sec. 1, 2013)

**8-455. COMPLIANCE SCHEDULE FOR EXISTING INCINERATORS.** Existing incinerators which are not multiple chamber incinerators and do not otherwise meet the requirements of sections 8-449:450 shall be modified or rebuilt in compliance with the sections in accordance with the following schedule:

Rated Capacity	Latest Date for Compliance
1,000 lbs./hr. or above	March 1, 1970
999 lbs./hr. or less	July 1, 1970

(Code 1973, 7.04.560; Ord. 2289, Sec. 1, 2013)

**8-456. INCINERATORS; OPERATION HOURS; DESIGNATED.** No person shall operate, cause or permit the operation of any incinerator at any time other than between the hours of 10:00 a.m. and 4:00 p.m. (Code 1973, 7.04.570; Ord. 2289, Sec. 1, 2013)

**8-457. SAME; EXCEPTIONS.** The provisions of section 8-456 shall not apply to the following:

- (a) New incinerators constructed or installed in compliance with sections 8-449 through 8-454 and 8-458 through 8-461;
- (b) Existing incinerators which have demonstrated compliance with sections 8-449:454.

(Code 1973, 7.04.580; Ord. 2289, Sec. 1, 2013)

**8-458. INCINERATOR PERMIT; REQUIRED.** No person shall erect, construct, alter or install any incinerator in any building or other structure or on any premises until a permit has been secured from the director pursuant to a written application therefore, upon forms furnished by the director. (Code 1973, 7.04.590; Ord. 2289, Sec. 1, 2013)

**8-459. SAME; PLANS AND SPECIFICATIONS REQUIRED.** Each application for a permit shall be accompanied by two sets of such drawings, specifications and data as are required to verify that the proposed work will conform to the provisions of this article. One set of drawings, specifications and data shall remain on file in the office of the director. (Code 1973, 7.04.600; Ord. 2289, Sec. 1, 2013)

**8-460. SAME; REVOCATION.** Any incinerator erected, construed, altered or installed contrary to the plans or specifications submitted at the time of permit application shall cause the installation permit to become void. (Code 1973, 7.04.610; Ord. 2289, Sec. 1, 2013)

**8-461. SAME; VIOLATION A MISDEMEANOR.** Any person starting work for which a permit is required by this article prior to obtaining a permit is guilty of a misdemeanor. (Code 1973, 7.04.620; Ord. 2289, Sec. 1, 2013)

**8-462. PLANNED INSTALLATION; APPROVAL REQUIRED.** The director of public works shall not issue a permit for the erection, construction, reconstruction, alteration or certificate of occupancy of any building or structure when the plans and specifications for such structure or occupancy include any fuel burning or refuse burning device, until such plans and specifications have been submitted to the director and approved by him or her as making adequate provisions for meeting the requirements of this article. (Code 1973, 7.04.630; Ord. 2289, Sec. 1, 2013)

**8-463. SAME; EXCEPTIONS.** The filing of plans and specifications with the director shall not be required for any of the following:

- (a) Oil-fired burning equipment burning No. 1 or No. 2 fuel oil exclusively;
- (b) Gas-fired fuel burning equipment;
- (c) Solid fuel and residual fuel oil-fired fuel burning equipment when the maximum heat input from such fuel will not exceed 350,000 BTU per hour.

(Code 1973, 7.04.640; Ord. 2289, Sec. 1, 2013)

**8-464. HEARING PROCEDURE.**

- A. The board shall set all hearings at a time not less than 30 days after request by the director of any person adversely affected or otherwise aggrieved by any other issued by the director. The board shall hear and determine appeals from actions and orders of the director and all petitions for variance. Fifty dollars shall accompany the notice of appeal or the petition for variance.
- B. Subject to the provisions of section 8-472, all hearings held by the board shall be open to the public, and all testimony taken, before the board shall be under oath and recorded stenographically; except that the board may require the submission of voluminous or detailed or technical testimony in writing under oath. A transcript of the testimony so recorded shall be made available to any member of the public or to any participant in such hearing upon payment of reasonable charges for transcription thereof.
- C. All hearings shall be had before one or more members of the board which shall designate one of the members to act as a hearing officer. The member designated by the board to act as hearing officer may issue, in the name of the board, notices of the hearing and subpoenas requiring attendance and testimony of witnesses and production of evidence relevant to any mater involved in such proceedings and administer the oath and affirmations and examine witnesses.
- D. Each part to the proceeding may file written arguments and may appear at the hearing in person or by counsel and may make oral arguments, offer testimony or cross examine witnesses or take any combination of such actions. Any person aggrieved or who would be aggrieved by the emissions from the alleged air contaminant source shall be entitled to appear to testify with respect to such matter, subject to such restrictions and procedures as the board may establish, but shall not be a party to such proceeding. In all proceedings before the board involving variances, and in all appeals from any order issued by the director, the

applicant for a variance or the person or person to whom such order is directed and the director shall be the parties in interest.

- E. In each such proceeding, each member of the board who renders or joins in rendering an order of the board shall, prior to taking action thereon, either hear all the evidence, read the record in full including all the evidence, or personally consider the portions of the record cited or referred to in the arguments or briefs. The parties may, by written stipulation, or by oral stipulation in the record, at the hearing, waive compliance with the provisions of this section.
- F. The board shall by its order sustain, reverse or modify any order issued by the director, and shall deny or grant variances upon terms and conditions, as the board deems appropriate; provided that in making its order and determinations the board shall exercise full discretion in weighing the equities involved and the advantages and disadvantages to the owner or operator of the air contaminant source involved and to the public. Every order by the board shall be in writing approved by at least three members and shall be accompanied by findings of fact and conclusions of law, which shall be stated separately, on which the board bases its order.
- G. The board shall issue its order and immediately notify each party to the proceedings, in writing, by certified mail. In cases in which any party is found to have violated any provision of this article the order of the board shall fix a reasonable time for such person or persons to take such measures as may be necessary to prevent subsequent violation.

(Code 1973, 7.04.650; Ord. 2289, Sec. 1, 2013)

**8-465. VARIANCE; PETITION; CONTENTS.** Any person who owns or is in control, or proposes to be in control of any air contaminant source may submit a petition to the director for a variance from any section of this article governing the quality, nature, duration or extent of the discharges of air pollutants from such source.

The petition shall be accompanied by the fee provided in section 8-464(a) and shall include the following information:

- (a) The name, address and telephone number of the petitioner, or other person authorized to receive service of notice;
- (b) The type of business or activity involved in the application and the street address at which it is conducted;
- (c) A brief description of the article, machine, equipment or other contrivance or process involved in the application and the emission occurring therefrom;
- (d) Each petition shall be signed by the petitioner or by some person on his or her behalf, and where the person signing is not the petitioner, it shall set forth his or her authority to sign;
- (e) The section of this article from which the variance is sought;
- (f) Such other information and data with respect to such air contaminant source as may be required by the director of the board.

(Code 1973, 7.04.660; Ord. 2289, Sec. 1, 2013 )

**8-466. SAME; INVESTIGATION.** The director shall promptly investigate the petition provided for in section 8-465 and submit it with a recommendation to the board as to the disposition thereof. (Code 1973, 7.04.670; Ord. 2289, Sec. 1, 2013)

- 8-467. SAME; GRANT.** The board may grant such variance if it finds that:
- A. The emissions occurring or proposed to occur would not endanger human health or safety; and
  - B. Compliance with the regulations from which the variance is sought would produce serious hardship without equal or greater benefits to the public.
- (Code 1973, 7.04.680; Ord. 2289, Sec. 1, 2013)
- 8-468. SAME; NOTICE.** No variance shall be granted pursuant to sections 8-465:471 except after publication of notice of the filing of such petition and until the board has considered the relative interests of the petitioner, other owners of property likely to be affected by the discharges and the general public. (Code 1973, 7.04.690; Ord. 2289, Sec. 1, 2013)
- 8-469. SAME; RENEWAL.** Variances may be granted for such periods of time and under such terms and conditions as shall be specified by the board. Variances may be renewed by the board upon application made at last 60 days prior to the expiration of the term. Renewal application shall be considered in the same manner as the initial petition for variance was considered by the board. (Code 1973, 7.04.700; Ord. 2289, Sec. 1, 2013)
- 8-470. SAME; CONDITIONS.** Such a variance may require a decrease of the emission during the variance period and the making of periodic reports of an improvement program and on compliance with the terms and conditions attached to the variance. A variance may be revoked or modified for failure to comply with the terms thereof or for failure to make a periodic report, if such is required. (Code 1973, 7.04.710; Ord. 2289, Sec. 1, 2013)
- 8-471. SAME; APPLICATION OF EMERGENCY PROVISIONS.** Nothing in sections 8-465:471, and no variance or renewal granted pursuant hereto, shall be construed to prevent or limit the application of the emergency provisions and procedures of this article. (Code 1973, 7.04.720; Ord. 2289, Sec. 1, 2013)
- 8-472. CONFIDENTIALITY OF RECORDS.** No records or information relating to secret processes or trade secrets affecting methods or results of manufacture shall be disclosed to the public, if so requested by the owner or operator thereof, and all such records or information shall be kept confidential. At any public hearing any such confidential information shall, if requested by the owner or operator thereof, be received in camera and kept under seal. Nothing in this section shall be construed to prevent the use of records or information by the director in compiling or publishing any analysis or summaries relating to the general condition of the ambient atmosphere. (Code 1973, 7.04.730; Ord. 2289, Sec. 1, 2013)
- 8-473. CIRCUMVENTION.** No person shall willfully cause or permit the installation or use of any device or use any means which cancels or dilutes an emission of an air contaminant which would otherwise violate any section of this article without actually reducing the amount of air contaminant emitted. This section shall not apply when the only violation involved is a violation of a regulation based on the concentration or presence of one or more air contaminants at locations beyond the premise on which

such air contaminant source or courses are located. (Code 1973, 7.04.740; Ord. 2289, Sec. 1, 2013)

**8-474. UNCONTROLLABLE FORCE.** No emission which would otherwise be a violation of any sections under this article is a violation, and no liabilities therefore shall be imposed or enforced, if such emission is the result of any act of God, war, labor disturbance, riot, catastrophe, or other cause beyond the control of such person. (Code 1973, 7.04.750; Ord. 2289, Sec. 1, 2013)

**8-475. UPSET CONDITIONS.** Emission exceeding any of the limits established by this article as a direct result of unavoidable upset conditions in the nature of the process, operational breakdown, or unavoidable and unforeseeable breakdown of any air pollution control equipment or related operating equipment or as a direct result of shutdown of such equipment for necessary scheduled maintenance, is not in violation of this article, provided the following requirements are met:

- (a) Such occurrence in the case of unavoidable upset in or breakdown of equipment shall have been reported to the director as soon as reasonably possible but not later than the next business day after the occurrence;
- (b) In the case of shutdown for necessary scheduled maintenance, the intent to shut down shall be reported to the director at least 24 hours prior to the shutdown and the exception provided by this section shall only apply in those cases where the maximum reasonable effort has been made to accomplish such maintenance during period of nonoperation of any related source operation and that it would be unreasonable or impossible to shut down the source operation during the maintenance period;
- (c) The person responsible for such emission shall, upon request of the director, submit a full report of such occurrence, including a statement as to the amount of and chemical composition of the emissions, causes of and the scheduling and nature of the actions to be taken to minimize or eliminate future occurrences including, but not limited to action to correct the condition causing such emission to exceed the limits, to reduce the frequency of occurrence of such conditions, to minimize the amount by which the limits are exceeded and to reduce the length of time the limits are exceeded.

(Code 1973, 7.04.760; Ord. 2289, Sec. 1, 2013)

**)8-476. JUDICIAL REVIEW OF ORDERS OF THE BOARD.** Orders of the board shall without the necessity for a motion for rehearing, be subject to judicial review pursuant to the provisions of law. (Code 1973, 7.04.770; Ord. 2289, Sec. 1, 2013)

**8-477. EMERGENCY CONDITION; CONTROL.** Notwithstanding other provisions of this article, if the director, after investigation, finds or has cause to believe that a generalized or specific condition of air pollution exists in any area of the city and that, in his or her opinion, such condition creates an emergency requiring immediate action to protect human health or safety in such areas, the director may, with the written approval of the mayor or mayor pro tem, issue such order or orders to persons causing or contributing to such condition of air pollution to reduce or discontinue immediately the emission of such air contaminants into the ambient air. Upon receipt of any such order, the person

to whom it is directed shall immediately comply with such order. (Code 1973, 7.04.780; Ord. 2289, Sec. 1, 2013)

**8-478. SAME; BOARD ACTION.** Upon issuance of any such emergency order by the director, he or she shall refer the matter to the board immediately which shall fix a time and place for hearing to be held before the board not later than 48 hours after the issuance of the emergency order or such longer time as the persons to whom the order is directed may designate, to investigate and determine the factors causing or contributing to such emergency condition. All persons whose interest are prejudiced or affected in any manner by such order shall have the right to appear in person or by counsel at the hearing and to present evidence relative to the facts giving rise to such emergency order. Within 24 hours after completion of the hearing, the board shall affirm, modify or set aside the director's emergency order or make such other emergency order or orders as the board deems appropriate. Thereupon, the board shall notify all parties appearing in person or by counsel of its determination, in writing, by certified mail. (Code 1973, 7.04.790; Ord. 2289, Sec. 1, 2013)

**8-479. NUISANCE PROHIBITED.** The emission into the ambient air of air contaminants resulting in air pollution, in violation of this article, constitutes a public nuisance, and it is unlawful for any person to cause, permit or maintain any such public nuisance. (Code 1973, 7.04.800; Ord. 2289, Sec. 1, 2013)

**8-480. ACTIONABLE RIGHTS.** Persons other than the city shall not acquire actionable rights by virtue of this article, including the sections hereunder. A determination by the director or the board that air pollution or air contamination exist, or that this article or any section hereunder is being violated, whether or not a proceeding or action is brought by the director, board or city, shall not create by reason thereof, any presumption of law or finding of fact which shall insure to or be for the benefit of any person other than the city. (Code 1973, 7.04.810; Ord. 2289, Sec. 1, 2013)

**8-481 SAME; CONFIDENTIAL INFORMATION DISCLOSURE.** Each willful disclosure of confidential information or conspiracy to disclose such information to any person other than the one entitled to such information in pursuance of his or her duties under this article is a misdemeanor, and shall be subject to such civil remedies and criminal penalties for such wrongful action as may be available against him or her. (Code 1973, 7.04.830; Ord. 2289, Sec. 1, 2013)



## ARTICLE 5. NOISE AND VIBRATION CONTROL

**8-501. DEFINITIONS.** For the purpose of this article, whenever any of the following words, terms or definitions are used herein, they shall have the meaning ascribed to them in this section. All acoustical terminology shall be that contained in ANSI S1-1 Acoustical Terminology:

- (a) ANSI -- The American National Standards Institute or its successor bodies.
- (b) ARI -- The Air Conditioning and Refrigeration Institute or its successor bodies.
- (c) ASHRAE -- The American Society of Heating, Refrigeration and Air Conditioning Engineers or its successors bodies.
- (d) ASTM -- The American Society for Testing Materials or its successor bodies.
- (e) Decibel -- A unit for measuring the volume of a sound, equal to the logarithm of the ratio of the intensity of the sound to the intensity of an arbitrarily chosen standard sound, abbreviated dB.
- (f) Discrete Tone -- A soundwave whose instantaneous sound pressure varies essentially as a simple sinusoidal function of the time.
- (g) Fluctuating Noise -- A noise whose sound pressure level rises significantly but does not equal the ambient environmental level more than once during the period of observation.
- (h) Impulsive Noise -- Characterized by brief excursions of sound pressure (acoustic impulses) which significantly exceed the ambient environmental sound pressure. The duration of a single impulse is usually less than one second.
- (i) Intermittent Noise -- A noise whose sound pressure level equals the ambient environmental level two or more times during the period of observation. The period of time during which the level of the noise remains at an essentially constant value different from that of the ambient is on the order of one second or more.
- (j) IEC -- The International Electrotechnical Commission or its successor bodies.
- (k) ISO -- The International Organization for Standardization or its successor bodies.
- (l) Motor Vehicle -- Any passenger vehicle, truck, truck-trailer or semitrailer propelled or drawn by mechanical power.
- (m) Nonsteady Noise -- A noise whose level shifts significantly during the period of observation.
- (n) Period of Observation -- The time interval during which acoustical data are obtained. The period of observation is determined by the characteristics of the noise being measured and should also be at least 10 times as long as the response time of the instrumentation. The greater the variance in indicated sound level, the longer must be the observation time for a given expected accuracy of the measurement.
- (o) SAE -- The Society of Automotive Engineers or its successor bodies.
- (p) Sound Level (Noise Level). -- For airborne sound, sound level (noise level) is a weighted sound pressure level, obtained by the use of metering characteristics and the A-weighting as specified in the reference standards. When the A-weighting is employed, it must be indicated.
- (q) The sound pressure level, in decibels, of a sound is 20 times the logarithm to the base 10 of the ratio of the pressure of the sound to the reference sound pressure. Unless otherwise specified, the effective (rms) pressure is to be understood. The reference sound pressure is 20  $\mu\text{N}/\text{m}^2$ .

- (r) Steady Noise -- A noise whose level remains essentially constant (i.e., fluctuations are negligibly small) during the period of observation.
- (s) Zoning District -- Those districts established by Title 19 of this code.  
(Code 1973, 7.08.020; Ord. 2289, Sec. 1, 2013)

**8-502. MUSICAL DEVICE PROHIBITIONS.** No person shall use or perform any hand organ or other musical instrument or device, for pay or in expectation of payment, in any expectation of payment, in any public way or public place of the city before 9:00 a.m. or after 9:00 p.m. of any day. (Code 1973, 7.08.030; Ord. 2289, Sec. 1, 2013)

**8-503. STEAM WHISTLE PROHIBITIONS.** No person shall blow or cause to be blown, within the city the steam whistle of any stationary steam plant as a signal for commencing or suspending work or for any other purpose.  
This section shall not be construed as forbidding the use of steam whistles as alarm signals in case of fire, collision or other imminent danger. (Code 1973, 7.08.040; Ord. 2289, Sec. 1, 2013)

**8-504. BUILDING USE DISTURBING PEACE PROHIBITED.** No person owning or in possession or control of any building or premises shall use the same, permit the use of the same or rent the same to be used for any business or employment or residential nature, disturb or destroy the peace of the neighborhood in which such building or premises is situated or be dangerous or detrimental to health.  
(a) 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 multi-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.)  
(Code 1973, 7.08.050; Ord. 2289, Sec. 1, 2013)

**8-505. MECHANICAL APPARTUS USE RESTRICTIONS.** It is unlawful for any person to use any pile driver, shovel, hammer derrick, hoist tractor, roller or any other equipment or vehicles operated by fuel or electric power in building or construction operations, to start before or continue after the following hours:  
Weekdays: 7:00 a.m. until 10:00p.m.  
Weekends: 8:00 a.m. until 10:00 p.m.  
Exemptions:  
(a) Emergency vehicles;  
(b) Public safety vehicles;  
(c) Emergency activities of the fire or police departments;  
(d) Emergency activities of any utility company;  
(e) Emergency activities of any municipal maintenance vehicles and equipment.  
(Code 1973, 7.08.060; Ord. 2289, Sec. 1, 2013)

- 8-506. MOTOR VEHICLES; MOTOR OPERATION RESTRICTIONS.** It is unlawful for any person to operate any motor of a motor vehicle of a weight in excess of four tons (8,000 pounds) for a consecutive period longer than two minutes while such vehicle is standing on private property and located within 150 feet of property zoned and used for residential purposes except where such vehicle is standing within a completely enclosed structure.  
This section shall not apply to buses operated for the transportation of passengers while standing in established bus turnarounds, bus terminals, bus parking lots and bus storage yards. (Code 1973, 7.08.070; Ord. 2289, Sec. 1, 2013)
- 8-507. SAME; MUFFLER.** No person shall modify or change the exhaust muffler, intake muffler or any other noise abatement device of a motor vehicle in a manner such that the noise emitted by the motor vehicle is increased above that emitted by the motor vehicle as originally manufactured. Procedures used to establish compliance with this section shall be those used to establish compliance of a new motor vehicle with the requirements of this article. (Code 1973, 7.08.100; Ord. 2289, Sec. 1, 2013)
- 8-508. RESIDENTIAL DISTRICTS; GENERAL REGULATION.** Any property use established in a zoning district as defined and designated under the provisions of Ch. 19 shall be so operated as to comply with the performance standards governing noise set forth hereinafter for the district in which such use shall be located. (Code 1973, 7.08.120; Ord. 2289, Sec. 1, 2013)
- 8-509. SAME; C-O, C-1, C-2, C-3 AND C-P DISTRICTS.** In C-O, C-1, C-2, C-3 and C-P zoning districts, the performance standards governing vibration in business and commercial zoning districts shall apply. (Code 1973, 7.08.150; Ord. 2289, Sec. 1, 2013)
- 8-510. HORN AND SIGNAL USE RESTRICTIONS.** No person shall sound any horn or audible signal device of any kind while not in motion, nor shall such horn or signal device be sounded under any circumstances except as required by law, nor shall it be sounded for any unnecessary or unreasonable period of time.  
(Code 1973, 7.08.160; Ord. 2289, Sec. 1, 2013)
- 8-511. NOISE LEVEL; NUISANCE.** Any emission of noise or earth-shaking vibration from any source in excess of the limitations established in or pursuant to this article is a public nuisance and may be subject to summary abatement procedures. Such abatement may be in addition to the administrative proceedings, fines and penalties provided in this article. The city attorney is empowered to secure the institution of legal proceedings for the abatement or prosecution of emissions of noise and earth-shaking vibrations which cause injury, detriment, nuisance or annoyance to the public or endanger the health, comfort, safety or welfare of the public or cause or have a natural tendency to cause injury or damage to public or property. Such legal proceedings may be in addition to the administrative proceedings, fines and penalties provided in this article. (Code 1973, 7.08.230; Ord. 2289, Sec. 1, 2013)
- 8-512. VIOLATION; CIVIL REMEDY.** Nothing in this article shall be construed to impair any cause of action, or legal remedy, of any person or the public for injury or damage arising from the emission or release into the atmosphere or ground from any source

whatever or noise or earth-shaking vibration in such place or manner, or at such levels, so as to constitute a common law nuisance.

## CHAPTER IX. MUNICIPAL COURT

- Article 1. General Provisions
- Article 2. Court Procedure

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### ARTICLE 1. GENERAL PROVISIONS

- 9-101. MUNICIPAL COURT ESTABLISHED. There is hereby established a municipal court for the City of Prairie Village, Kansas. The municipal court shall have jurisdiction to hear and determine cases involving violations of the ordinances of the city. (Code 1973, 2.28.020; Code 2003)
- 9-102. SAME; PRACTICE AND PROCEDURE. The Kansas code of procedure for municipal courts, as set forth in K. S.A. 12-4101 et seq. and all acts amendatory or supplemental thereto shall govern the practice and procedure in all cases in the municipal court. (Code 2003)
- 9-103. TIME AND PLACE OF SESSIONS. Municipal court shall be held in the municipal courtroom in the city hall building on such days and at such hours as the municipal judge designates. (Code 1973, 2.28.200; Code 2003)
- 9-104. MUNICIPAL JUDGE; APPOINTMENT. The municipal court shall be presided over by a municipal judge. The mayor, subject to the approval of the city council, shall appoint the judge of the municipal court. (Code 2003)
- 9-105. SAME; ABSENCE; VACANCY; PRO TEM. In case of the absence of the judge of the municipal court from the city his or her interests in any cause or inability to perform his or her duties, it shall be the duty of the judge of the municipal court to designate as judge during such absence or disability a judge of the municipal court, who shall be an attorney admitted to practice in the courts of this state, who shall act as judge and in the event the judge of the municipal court fails to appoint a pro tempore judge, the mayor shall make such appointment. The pro tempore judge shall receive such compensation as shall be provided by ordinance.  
In the event a vacancy shall occur in the office of municipal judge, a successor shall be appointed to fill the unexpired term in the same manner as the municipal judge was appointed. (K.S.A. 12-4107; Code 1973, 2.28.120; Code 2003)
- 9-106. SAME; POWERS AND DUTIES. The municipal judge shall have such powers and duties as set forth in the Kansas code of procedure for municipal courts (K.S.A. 12-4101 et seq.) and all acts amendatory or supplemental thereto. (Code 2003)
- 9-107. SAME; SALARY. The municipal judge shall receive a salary as shall be fixed by ordinance. (Code 1973, 2.28.010; Code 2003)
- 9-108. COURT CLERK. There is hereby established the office of the clerk of the municipal court of the City of Prairie Village, Kansas, which office shall be filled by appointment by the municipal judge of the municipal court. The duties of the office shall

be those prescribed by the Code for Municipal Courts set forth in Chapter 12, Article 41 of the Kansas Statutes, and shall include the following duties:

(a) The clerk shall issue all process of the court, administer oaths, file and preserve all papers, docket cases and set same for trial and shall perform such further acts as may be necessary to carry out the duties and responsibilities of the court. The clerk shall receive, account for and pay to the city treasurer monthly all fines and forfeited bonds paid into the court. The clerk shall make reports to the judicial administrator and furnish the information when requested by him, her or a departmental justice on such forms furnished by the judicial administrator, and approved by the supreme court.

(b) The clerk of the municipal court shall within 10 days after selection and before entering upon the duties of office, execute to the city such bond as the governing body may require, which shall be approved by the governing body, and file in the office of the city clerk, conditioned for the faithful performance of the duties required of him or her by law, and for the faithful application and payment of all moneys that may come into his or her hands in the execution of the duties of the office. The city shall pay the cost of such bond.

(c) The monthly salary of the clerk shall be fixed by ordinance.

(d) A majority of all members of the council may remove the clerk appointed under the authority of this article, or for good cause the mayor may temporarily suspend any such appointed clerk.

(K.S.A. Supp. 12-4108; Code 1973, 2.28.260; Code 2003)

9-109. PAYMENT OF FINE. Where a municipal court judgment against any person results in a fine and/or court costs only, the same shall be satisfied by paying the amount of such fine and/or court costs to the municipal court immediately on the rendition of judgment, or at such time as the municipal judge shall determine. (Code 2003)

9-110. SAME; FAILURE TO PAY SEPARATE VIOLATION. It shall be unlawful for any person to willfully fail to pay any lawfully imposed fine for a violation of any law of the city within the time authorized by the court and without lawful excuse having been presented to the court on or before the date the fine is due. Such conduct constitutes a violation of this article, regardless of the full payment of the fine after such time. (Code 2003)

9-111. FAILURE TO APPEAR. (a) It shall be unlawful for any person charged with violation of any law of the city to fail to appear before the municipal court when so scheduled to appear, unless lawful excuse for absence is presented to the court on or before the time and date scheduled for appearance.

(b) For the purpose of subsection (a), failure to appear shall include willfully incurring a forfeiture of an appearance bond and failure to surrender oneself within 30 days following the date of such forfeiture by one who is charged with a violation of the laws of the city and has been released on bond for appearance before the municipal court for trial or other proceeding prior to conviction, or willfully incurring a forfeiture of an appearance bond and failing to surrender oneself within 30 days after his or her conviction of a violation of the laws of the city has become final by one who has been released on an appearance bond by any court of this state.

(c) Any person who is released upon his or her own recognizance, without surety, or who fails to appear in response to a summons, notice to appear, or traffic

citation duly served upon him or her personally shall be deemed a person released on bond for appearance within the meaning of subsection (b) of this section.

(d) Failure to appear, upon conviction thereof, shall be punishable by incarceration for up to 30 days and/or a fine of up to \$250. (Code 2003)

9-112. JUDGE OR POLICE OFFICER ALLOWED NO FEES. No fees of any kind shall be allowed the judge or any police officer while attending court. (Code 1973, 2.28.180)

9-113. REMISSIONS OF FINES; REPRIEVES AND PARDONS. The mayor shall have the power to remit fines and forfeitures, to grant reprieves and pardons for all offenses arising under the ordinances of the city, by and with the consent of the council and not otherwise. (Code 1973, 2.28.250)

9-114. SUPPLIES FOR JUDGE; INSPECTION OF RECORDS. The governing body shall provide suitable records, blanks, etc., for the use of the judge in carrying out these provisions. Such records shall be kept open at all times for the inspection of all persons interested therein. The judge shall deliver the docket and all books and papers pertaining to the office to his or her successor. (Code 1973, 2.28.030, 2.28.240)

9-115. VIOLATION BUREAU. There is created a violation bureau for the office of the court clerks. Court clerks shall be appointed by the municipal judge and perform duties for the court as directed in section 9-107. The day to day operation of the violation bureau and the line supervision of the court clerks shall be the responsibility of the city administrator. (Code 1973, 2.28.270)

9-116. COURT COSTS. All persons shall be assessed costs for the administration of justice in any municipal court case, except for those cases in which the accused party is found not guilty or in which the charges filed against the accused party are dismissed. If the accused person is unable to pay the costs assessed, the costs shall be and remain a judgment against him or her which may be enforced as judgments for payment of money in civil cases. It shall be the duty of the clerk of the court to issue execution for unpaid fines and costs at least one each year. (C.O. No. 18, Secs. 1:2)

**ARTICLE 2. COURT PROCEDURE**

9-201. STYLE OF CASES; DOCKET ENTRIES; FORM OF COMPLAINT; EVIDENCE; PLEA OF GUILTY. All prosecutions in the municipal court shall be entitled "The City of Prairie Village against \_\_\_\_\_" (naming the person charged), and the judge shall state in docket the name of the complainant, the nature or character of the offense, the date of the trial, the names of all witnesses sworn and examined, the finding of the court, the judgment or fine and cost, the date of payment, the date of issuing commitment. If any, and every other fact necessary to show the full proceedings in such case. The complaint, when made by a ny police officer against any person arrested without process and in the custody, need not be in writing; but when the accused is not in custody, the complaint shall be in writing, and sworn to,

- before a warrant is issued for his or her arrest. In no case shall a judgment of conviction be rendered except upon sufficient legal testimony, given on a public trial or upon plea of guilty made in open court. (Code 1973, 2.28.050)
- 9-202.       WARRANT; BAIL. When a complaint is filed alleging that an offense has been committed over which the municipal court has jurisdiction, the judge shall issue a warrant for the offender, which shall be served by any police officer or the sheriff of the county or some person specially appointed by the judge for that purpose. Such warrant may be executed in any part of the state. The municipal judge, at the time of issuing such warrant, shall fix the amount in which the person or persons named in the warrant are to be held to bail and at such time shall endorse the amount of bail to be required on the warrant. (Code 1973, 2.28.060)
- 9-203.       HEARING OF CASES. When any person is brought before the court upon such warrant, it shall be the duty of the court to hear and determine the complaint alleged against the defendant. (Code 1973, 2.28.070)
- 9-204.       CONTINUANCE; RECOGNIZANCE. Upon good cause shown, the court may postpone the trial of the case to a day certain, not exceeding 10 days at a time, without the consent of the accused, in which case the court shall require the defendant to enter into a recognizance, with sufficient security, conditioned that he or she will appear at the time and place appointed, then and there to answer the complaint against him or her. (Code 1973, 2.28.080)
- 9-205.       WITNESSES; FEES. It shall be the duty of the judge to issue subpoena for all persons whose testimony may be deemed material as witnesses at the trial and to enforce their attendance by attachment if necessary. All process issued to secure the attendance of witness may be served in any part of the county in which the city is located. When a trial is continued, the court may verbally notify such witnesses as may be present at the continuance to attend before him or her to testify in the case set for trial and such verbal notice shall be valid as a subpoena. Witnesses shall receive, for each day's attendance at court, such fee as may be fixed by ordinance, which shall be taxed as costs in the case, the same as in state cases. (Code 1973, 2.28.090)
- 9-206.       JUDGMENT ON CONVICTION; PUNISHMENT IMPOSED. If the defendant is found guilty, the court shall declare the punishment, including all witnesses' fees and render judgment accordingly. It shall be part of the judgment that the defendant stand committed until the judgment is complied with. Any person convicted in the municipal court of an offense shall be punished by a fine or imprisonment or both, as may be prescribed by ordinance. (Code 1973, 2.28.100)
- 9-207.       APPEAL BY DEFENDANT; RECOGNIZANCE. In all cases before the municipal court, an appeal may be taken by the defendant to the district court in and for the county in which the city is situated; but no appeal shall be allowed unless such defendant shall, within 10 days after such conviction, enter into a recognizance, with sufficient security, to be approved by the court, conditioned for his or her appearance at the district court of the county at the next term thereof to answer the complaint against him or her. (Code 1973, 2.28.110)



- 9-208. MALICIOUS PROSECUTION; WHEN COMPLAINANT TO PAY COSTS. If upon any trial it appears to the satisfaction of the court that the complaint was made without probable cause or from malicious motives, the court shall state the name of the complainant in the finding and shall impose the costs of the prosecution on him, her or them and judgment shall be rendered against such complainant he, she or they pay such costs and stand committed until the same are paid. (Code 1973, 2.28.120)
- 9-209. CONTEMPT. The court shall have power to enforce due obedience to all orders, rules, judgments and decisions made by it, and may fine or imprison for contempt committed in court, or of process issued by it, in the same manner and the same extent as the district court. (Code 1973, 2.28.130)
- 9-210. PROCEDURE; GENERALLY; NO JURY; RECORD. In all cases not specifically provided for in this article, the process and proceedings shall be governed by the laws regulating proceedings in justices' courts in criminal cases, except that no jury shall be allowed. It shall be the duty of the court to keep a complete record of all proceedings in each case, in like manner as justices of the peace in criminal cases. (Code 1973, 2.28.140)
- 9-211. ENFORCEMENT OF RECOGNIZANCE; FORFEITURE OF CASH DEPOSIT. When any recognizance is declared forfeited, the city attorney shall cause the same to be prosecuted against the principal and surety, or the surety alone. Such actions shall be in the name of the city and may be prosecuted in the district court on the transcription the proceedings before the municipal judge and a copy of such recognizance, certified by the municipal judge. If money has been deposited by the defendant as bail and without sufficient excuse he or she neglects to appear for trial or judgment, or upon any other occasion when his or her presence in court may be lawfully required according to the conditions of his or her deposit, the municipal judge shall enter such fact upon his or her docket and the money deposited as bail shall thereupon be forfeited. All money so forfeited and all moneys recovered in any such action as above provided for shall be paid to the city treasurer, to the credit of the general revenue fund of the city. (Code 1973, 2.28.150)
- 9-212. REPORT OF JUDGE DISPOSITION OF MONEY PAID TO HIM OR HER. The judge of the municipal court shall, within the first three days of each month, make out a list of all the cases heard or tried during the preceding month, giving in each case the name of the defendant, the fine imposed, if any, the amount of costs, the names of defendants committed, the causes appealed to the district court and the amounts collected as fines and costs, separately. The judge shall verify such list and statement by affidavit and file the same with the city clerk, who shall present it to the city council at the first session thereafter. The judge shall, within 24 hours after the same is collected pay over to the city treasurer the full amount of all fines and costs collected during the preceding day. He or she shall take from the city treasurer duplicate receipts for the same, one of which he or she shall file with the city clerk. If the judge shall thereafter collect any fines or costs previously assessed, and unpaid when the report was filed, he or she shall state such fact and the amount thereof in his or her next daily and monthly report and pay the same to the city treasurer, taking and filing receipts therefore as aforesaid. (Code 1973, 2.28.160)

- 9-213.           PROCEDURE WHEN OFFENDER IS A MINOR. When a child under the age of 18 years is arrested with or without a warrant for an offense under this code, such child shall, instead of being taken before the municipal court, be delivered into the custody of the probation officer or be taken before the juvenile court of Johnson County; provided, that if a child has been taken before the municipal court, it shall be the duty of the municipal judge to dismiss the charge or complaint and refer the case to such juvenile court and it shall be the duty of the officer having the child in charge to take such child before the juvenile court; provided further, that no traffic action, charge or complaint against a child who has attained the age of 16 years shall be so dismissed and referred unless it is ascertained that he or she was under 16 years of age at the time of committing the alleged offense. (Code 1973, 2.28.210)
- 9-214.           PAROLE POWER. The municipal judge shall have power to parole persons convicted of a violation of the ordinances of the city as provided by statute. (Code 1973, 2.28.220)
- 9-215.           UNLAWFUL RELEASE; PENALTY. It is unlawful for any officer or other person to release from custody any person who has been convicted of a violation of a city ordinance unless such person has been paroled, as in this article provided, or pardoned by the mayor, until he or she has paid his or her fine or has served the time he or she was adjudged to serve and any officer or person violating any of the provisions of this section is guilty of a code violation and shall be punished by a fine of not less than \$50 nor more than \$300, and in addition thereto shall be imprisoned in the city jail for a period not less than 10 nor more than 60 days at the discretion of the municipal judge. (Code 1973, 2.28.230)

**CHAPTER X. POLICE**

- Article 1. Police Department  
Article 2. Property in Police Custody
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**ARTICLE 1. POLICE DEPARTMENT**

- 10-101. POLICE DEPARTMENT. The police department of the city shall consist of the Chief of Police, Major and such number of Captains, Lieutenants, Sergeants, Corporals and Police Officers as the chief of police may recommend when approved by the mayor and council. An acting chief may act as chief as hereafter provided. Such personnel shall be police officers and shall do and perform the acts necessary for the protection of life or property regardless of time or place. They shall be appointed as provided by law. (Ord. 2081, Sec. 2)
- 10-102. ACTING CHIEF OF POLICE; APPOINTMENT. In the event of death, resignation or incapacity of the chief of police, the mayor may appoint an acting chief of police, who shall have all the powers of the chief of police and who shall serve in the capacity of chief of police until the vacancy of the chief of police is regularly filled. (Code 1973, 2.52.020)
- 10-103. SAME; CIVIL SERVICE STATUS. In the event the acting chief of police shall have attained a civil service tenure within the police department of the city, he or she shall retain that tenure and status while acting chief of police without any penalties whatsoever. (Code 1973, 2.52.030)
- 10-104. SAME; COMPENSATION. The compensation of the acting chief of police shall be fixed by resolution of the governing body; provided, however, that in the event the acting chief of police maintains a status under civil service of the police department of the city, his or her compensation shall be the salary to which he or she is otherwise entitled by virtue of his or her rank and tenure in the police department of the city, plus \$500 per month. (Code 1973, 2.52.040)
- 10-105. CIVILIAN PERSONNEL. There shall be such civilian records and information specialist, clerks and other non-patrol personnel as the chief of police may deem necessary when approved by the mayor and council. They shall do records work and assist regular police officers in research and intelligence, assist in processing reports and traffic citations, communications, clerical work and perform such other duties as they may be assigned. They shall be subject to the orders of the chief of police, but shall not be police officers for the performance of acts necessary for the protection of life or property, nor participate in nor contribute to the police department pension fund. (Code 1973, 2.52.050)
- 10-106. CHIEF OF POLICE; DUTIES. The chief of police shall have and exercise the following responsibilities of office:  
(a) The chief of police shall be responsible for development and implementation of law enforcement programs to prevent and reduce criminal activity and ensure the

safety of the city residents and other persons who may be in city for legitimate reason and to prevent willful harm to public and private property;

- (b) The chief of police shall administer the direction and control of police department and functions defined by policies established by the governing body;
- (c) General enforcement of the city's ordinances pertaining to crime, safety, traffic and property;
- (d) Planning, organizing and supervising the activities of the police department through direction, personal communication and establishment of procedures and work methods;
- (e) Review of activity reports, preparation of reports concerning department activities as required, preparation of the departmental budget and recommendations for departmental and personnel policy changes;
- (f) Review of work assignments and schedules, training programs and performance evaluations of personnel;
- (g) Planning and implementation of traffic and other citizen safety programs;
- (h) Conducting staff meetings, attendance at city council and committee meetings as required; representation of the city at various professional or public meetings as may be required or requested by the mayor
- (i) Direct participation in nonroutine police matters or cases and enforcement of federal and state laws and city ordinances;
- (j) Cooperation with other law enforcement agencies and organizations and resolution of citizen complaints not solved by subordinates;
- (k) Review and approval of applications of security and liquor license applications;
- (l) The performance of other duties as may be required by the mayor and/or governing body.

(Code 1973, 2.52.060)

10-107. SAME; QUALIFICATIONS. The chief of police shall have comprehensive knowledge of modern law enforcement principles, concepts, methods and procedures, good knowledge of federal and state laws and city ordinances, shall possess the ability to plan, organize and supervise the work of others and the ability to communicate clearly and effectively both orally and in writing. Completion of high school, graduation from a college or university, and supplemented by formal law enforcement training programs, including law enforcement management programs, shall constitute the minimum educational requirements. Eight years of law enforcement experience, four of which must have been in a supervisory position, shall be required. (Code 1973, 2.52.065)

10-108. POWERS OF POLICE; BAIL; DEPOSIT; COMPLAINT. The chief or any other police officer shall at all times have power to make or order an arrest upon view of any offense being committed, with or without process, for any offense against the laws of the state or ordinances of the city and bring the offender, if the offense is against an ordinance, before the municipal court for trial, if the court is in session. If the municipal court is not in session, the chief or other officer making the arrest for an offense against the ordinances, with or without process, shall immediately take the person arrested to the city jail, and the chief or jailer or any other officer in charge of the city jail shall, if the defendant is arrested under a warrant issued by the municipal judge, in or upon which warrant it appears that the person arrested is to be admitted to bail in a specified sum, take the bail and discharge the defendant from actual custody. If any person is arrested for any offense against the ordinances without a

warrant, the chief of police shall, in the absence of the municipal judge, fix the amount in which the person arrested may give bail for his or her appearance before the municipal court for trial at the next session thereof after the arrest, and the chief or jailer or other officer in charge of the city jail shall take the bail and discharge the person from custody. The defendant may, in the place of giving bail as hereinbefore provided, deposit with the chief or jailer or other officer in charge of the city prison or with the municipal judge, the sum of money fixed as his or her bail, and be discharged from custody. If the offense for which the person is arrested is against a state law, the defendant shall be immediately turned over to the sheriff of the county; provided, that any person arrested for any offense without process shall be entitled, on demand before trial, to have a complaint filed on oath in writing and such person shall not at the time be tried for any other offense than that for which he or she was arrested and for which the complaint is filed. If money has been deposited instead of bail and the defendant at any time before the forfeiture thereof gives sufficient bail or bond, or surrenders himself or herself in open court or to the chief of police or is in any manner legally discharged, the municipal judge shall order a return of the deposited and the chief, jailer or other person taking the deposit shall immediately return the same to the person making such deposit and take a receipt therefore. (Code 1973, 2.52.070)

- 10-109. CONTROL OF POLICE BY CHIEF OF POLICE; SUSPENSION; DEMOTIONS; TERMINATIONS. The Chief of Police, in the discharge of his or her duties, shall be responsible for all police policy and procedure.
- (a) All new commissioned police officers shall be hired under a one-year probationary period, and the period of probation may be removed by the Chief of Police after one year, and upon recommendation of the Chief of Police, the civil service status shall apply, and removal shall be as provided by the rules and regulations set forth in the Civil Service Commission Standard Operations Procedure Manual and Personnel Policy Manual adopted by the City Council.
- (b) All promotions to police rank position shall be upon the recommendation of the Civil Service Commission to the Chief of Police with final decision by the Chief of Police.
- (c) A police department supervisor may place a commissioned police officer on a temporary administrative suspension when he or she has a reasonable cause to believe:
- (1) The officer's continued performance of his or her duties poses a threat to the health, safety and general welfare of the public, the department or the officer; or
  - (2) The officer has killed, wounded or physically injured another, either in the line of duty or otherwise.
- The Chief of Police must review the temporary suspension within 24 hours of its issue. If after his or her review, the Chief has reasonable cause to believe that conduct falling within either subsections (1) or (2) above has occurred, he or she may issue an administrative suspension. Such suspension will be with pay and may be issued for up to seven calendar days commencing with the date of issuance of the administrative suspension by the Chief. There shall be no right to appeal an administrative suspension with pay issued pursuant to section 10-109(c). The purpose of such an administrative suspension shall be to afford the Chief of Police an opportunity to investigate the conduct and circumstances giving rise to the administrative suspension in order to determine whether remedial action or discipline is appropriate. During such period, the Chief may order the officer to undergo

- physical and/or mental examinations as provided in the Standard Operations Procedure Manual. Refusal to submit to said examination may result in disciplinary action or discipline as provided in the Standard Operations Procedure Manual. At the conclusion of the investigation, the Chief shall promptly notify the suspended officer of his or her determination in accordance with Standard Operations Procedure Manual. If the above-described investigation results in a suspension without pay, demotion or termination, the affected officer shall have an immediate right to appeal the suspension without pay, demotion or termination pursuant to the appeals procedure set forth in section 1-808(5) of the Prairie Village Municipal Code. (Ord. 2081, Sec. 2; Ord. 2156, Sec. 1)
- 10-110.       ARREST; CUSTODY; BAIL. The chief or other police officer or police officer of the city shall have power to arrest all offenders against the laws of the state or city by day or by night and keep them in the city jail or other place to prevent their escape until a trial can be had before the proper court; provided that no person shall be imprisoned or held in custody after giving bail or making a cash deposit in lieu thereof, as provided in this article. (Code 1973, 2.52.090)
- 10-111.       CONTINUOUS OPERATION. The police department shall operate on a continuous around the clock basis. (Code 1973, 2.52.100)
- 10-112.       UNIFORM AND SUPPLIES. (a) Officers and civilian employees of the department, upon initial appointment by the department, shall be supplied, without cost, a complete uniform to consist of items approved by the chief of police. After issuance of initial uniform, replacement garments may be issued to the officer on an exchange basis. In the event of discharge or resignation, all items of the uniform will be returned to the department.  
(b) Weapons and other equipment declared by the chief of police to be accouterments, shall be supplied by the city and issued to officers and civilian employees who must acknowledge by signed receipt. Individuals will be accountable at all times for such property and the event of loss or damage, to be relieved of accountability or held pecuniary liable by the chief of police.  
(Code 2003)
- 10-113   OFFICE OF POLICE MAJOR – QUALIFICATIONS  
The person appointed to the office of Police Major shall have considerable knowledge of federal and state laws and City ordinances, extensive knowledge and experience in law enforcement principles, concepts, methods, and procedures, and ability to communicate clearly and effectively both orally and in writing. Completion of high school or equivalent, supplemented by law enforcement training, including law enforcement supervision and management training programs shall constitute the minimum educational requirements. Seven years of increasingly responsible law enforcement experience, three of which shall have been in a supervisory position, and service in the rank of Division Commander, or equivalent responsibility for two or more years, shall be required. The Police Major shall meet Civil Service Commission requirements. (Ord. 2081, Sec. 2)
- 10-114   OFFICE OF POLICE MAJOR, DUTIES & RESPONSIBILITIES

The Police Major shall have and exercise, under the specific administrative direction of the Chief of Police, duties and responsibilities of the office as may be assigned by the Chief of Police. Specifically, he/she

- (a) Shall make immediate and necessary Departmental/unit operational administrative decisions as directed or in the absence of the Chief of Police, referring all unusual situations to the Chief of Police, and
- (b) Shall represent the Police Department or the City as directed, and perform such other duties as may be from time to time required or assigned. (Ord. 2081, Sec. 2.)

- 10-115. PENSION PLAN; TRUST AGREEMENT. There is incorporated by reference for the purpose of establishing a pension plan for commissioned officers of the police department of Prairie Village, The Prairie Village, Kansas Police Department Revised Retirement Trust Agreement and Revised Retirement Plan. (Code 1973, 2.52.170)
- 10-116. SAME; DISABILITY INSURANCE. There is hereby incorporated by reference of the purpose of providing disability insurance for personnel under the pension plan referred to in section 10-113, that certain Insurance Policy of which not less than three copies of the Insurance Policy shall be marked or stamped, Official Copy and filed with the city clerk to be open to inspection and available to the public at all reasonable hours. The policy shall provide for the payment of long-term disability benefits, but not beyond the age of 65 years, providing a waiting period for accidental and sickness benefits of 90 days, all to supplement the provisions of the Trust Indenture as provided herein, shall be purchased and maintained in compliance therewith for the benefit of personnel therein defined and their dependents. (Code 1973, 2.52.171; Ord. 2298, Sec. 1, 2013)
- 10-117. SAME; TRUSTEES. The mayor shall appoint three trustees as provided for in the trust indenture. Two of such trustees shall be selected by the governing body and the third trustee shall be selected by majority vote of participating members of the police department of the city. (Code 1973, 2.52.172)
- 10-118. PENSION PLAN; TAX LEVY. The governing body may, in order to maintain and pay for pension and disability requirements as provided in the Trust Indenture, levy and in addition to other taxes authorized or limited, a tax upon all of the taxable tangible property in the city in an amount not exceeding the limits provided for by the laws of the State of Kansas. (Code 2003)

**ARTICLE 2. PROPERTY IN POLICE CUSTODY**

- 10-201.       REGULATIONS. The police department is required to establish regulations detailing the collection, storage, and inventory of property which may come under its control by any manner. (Code 2003)
- 10-202.       DISPOSITION. Any property which has been acquired or turned over to the police department and has been classified in accordance with procedures existing in the police department as unclaimed or for which the proper owner cannot be ascertained shall be kept for a minimum of 180 days. After satisfying the minimum 180 day requirement, such property, except as provided in Section 10-203, shall be sold at auction through a private vendor as a means of disposal. The proceeds from the auction, after expenses shall be paid to the police pension fund. (K.S.A. 13-14a02) (Code 2003; Ord. 2165, Sec. 2, 2008)
- 10-203.       SAME; EXEMPT PROPERTY. The following classes of property shall be considered exceptions to section 10-202 and shall be dealt with in the following manner:
- (a) Firearms which are available for disposition may be dealt with in the following manner:
    - (1) If compatible with law enforcement usage, they may be turned over to the police department inventory.
    - (2) They may be sold to a firearms dealer who maintains the appropriate federal firearms license.
    - (3) They may be destroyed.
    - (4) In no case shall firearms be sold at public auction.
  - (5) In accordance with a judicial order.
    - (b) Other weapons such as knives, etc., which are deemed to have a legitimate value may be sold at auction, however, all weapons may be destroyed.
    - (c) Any items determined to be contraband such as explosives, narcotics, etc., shall be destroyed.
    - (d) Items of a pharmaceutical nature, which, while not contraband when properly dispensed, or which are of an over-the-counter-variety, shall be destroyed.
    - (e) Alcohol products such as beer, wine, whiskey, etc., shall be destroyed.
- (Code 2003)
- 10-204.       CLAIMING PROPERTY. The police department shall be required to make reasonable attempts to locate the owner of any property in storage. However, the responsibility for claiming and identifying any such property shall rest solely with the owner. (Code 2003)



- 10-205.           PROOF OF OWNERSHIP. Claimants to any property in police storage shall be required to present reasonable proof of ownership and no property shall be released unless such reasonable proof is presented. (Code 2003)
- 10-206.           AUCTION. At such time as it has been determined that an auction is necessary to dispose of unclaimed property, an inventory listing of all property to be disposed of shall be prepared and kept on file in the police department. The Chief of Police or anyone designated by him/her shall be responsible for coordinating the sale and/or auction. This may be done through an outside vendor. (Code 2003; Ord. 2165, Sec. 3, 2008)

## CHAPTER XI. PUBLIC OFFENSES & TRAFFIC

- Article 1. Uniform Offense Code
  - Article 2. Local Regulations
  - Article 3. Reserved for Future Use
  - Article 4. Smoking
  - Article 5. Reserved for Future Use
  - Article 6. Standard Traffic Ordinance
  - Article 7. Local Traffic Regulations
  - Article 8. Towing Regulations
  - Article 9. Hazardous Materials
  - Article 10. Parades
  - Article 11. Street Race Contests
  - Article 12. Temporary Parking of Construction Equipment Vehicles
  - Article 13. Restricted Residential Parking
  - Article 14. Neighborhood Special Event Permit
  - Article 15. Recreational Vehicles and Equipment – Parking and Storage
  - Article 16. Unmanned Aerial Vehicles
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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 2019, 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. 2069, Sec. 1, 2004; Ord. 2085, Sec. 1, 2004; Ord. 2102, Sec. 1, 2005; Ord. 2136, Sec. 1, 2006; Ord. 2158, Sec. 1, 2007; Ord. 2177, Sec. 1, 2008; Ord. 2210, Sec. 1, 2009; Ord. 2232, Sec. 1, 2010; Ord. 2240, Sec. 1, 2011; Ord. 2263, Sec. 1, 2012; Ord. 2296, Sec. 1, 2013; Ord. 2315, Sec. 1, 2014; Ord. 2339, Sec. 1, 2015; Ord. 2356, Sec. 1, 2016; Ord. 2369, Sec. 1, 2017; Ord. 2393, Sec. 1, 2018; Ord. 2410, Sec. 1, 2019)

11-102. UNIFORM PUBLIC OFFENSE CODE; ADDITIONS. Article 5 of the Uniform Public Offense Code, edition of 2019 is hereby amended by deleting existing Sections 5.6 and 5.7 and 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)

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 with a parent or legal guardian and/or may require completion of a tobacco education program. (Ord. 2069, Sec. 2, 2004; Ord. 2102, Sec. 2, 2005; Ord. 2136, Sec. 2, 2006; Ord. 2158, Sec. 2, 2007; Ord. 2177, Sec. 2, 2008; Ord. 2210, Sec. 2, 2009; Ord. 2232, Sec. 2, 2010; Ord. 2240, Sec. 2, 2011; Ord. 2263, Sec. 2, 2012; Ord. 2315, Sec. 2, 2014; Ord. 2339, Sec. 2, 2015; Ord. 2346, Sec. 1, 2016; Ord. 2356, Sec. 2, 2016; Ord. 2369, Sec. 2, 2017; Ord. 2393, Sec. 2, 2018; Ord. 2410, Sec. 2, 2019)

### **Section 5.7 Selling, Giving or Furnishing Cigarettes or Tobacco Products to a Minor**

- (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.

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. 2346, Sec. 1, 2016; Ord. 2356, Sec. 2, 2016; Ord. 2369, Sec. 2, 2017; Ord. 2393, Sec. 2, 2018)

### **11-103 RESERVED FOR FUTURE USE.**

11-104 Article 6 of the Uniform Public Offense Code, edition of 2019, is hereby supplemented to add the following provisions.

#### **Section 6.30 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. 2069, Sec. 3, 2004; Ord. 2085, Sec. 3, 2004; Ord. 2102, Sec. 4, 2005; Ord. 2136, Sec. 4, 2006; Ord. 2158, Sec. 4, 2007; Ord. 2177, Sec. 4, 2008; Ord. 2210, Sec. 4, 2009; Ord. 2232, Sec. 4, 2010; Ord. 2240, Sec. 4, 2011; Ord. 2263, Sec. 3, 2012; Ord. 2315, Sec. 4, 2014; Ord. 2339, Sec. 3, 2015; Ord. 2356, Sec. 3, 2016; Ord. 2369, Sec. 3, 2017; Ord. 2393, Sec. 3, 2018; Ord. 2410, Sec. 3, 2019)

**Section 6.31 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. 2069, Sec. 3, 2004; Ord. 2085, Sec. 3, 2004; Ord. 2102, Sec. 4, 2005; Ord. 2136, Sec. 4, 2006; Ord. 2158, Sec. 4, 2007; Ord. 2177, Sec. 4, 2008; Ord. 2210, Sec. 4, 2009; Ord. 2232, Sec. 4, 2010; Ord. 2240, Sec. 4, 2011; Ord. 2263, Sec. 3, 2012; Ord. 2315, Sec. 4, 2014; Ord. 2339, Sec. 3, 2015; Ord. 2356, Sec. 3, 2016; Ord. 2369, Sec.3, 2017; Ord. 2393, Sec. 3, 2018; Ord. 2410, Sec. 3, 2019)

**Section 6.32 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. 2069, Sec. 3, 2004; Ord. 2085, Sec. 3, 2004, Ord. 2136, Sec. 4, 2006; Ord. 2158, Sec. 4, 2007; Ord. 2177, Sec. 4, 2008; Ord. 2210, Sec. 4, 2009; Ord. 2232, Sec. 4, 2010; Ord. 2240, Sec. 4, 2011; Ord. 2263, Sec. 3, 2012; Ord. 2315, Sec. 4, 2014; Ord. 2339, Sec. 3, 2015; Ord. 2356, Sec. 3, 2016; Ord. 2369, Sec. 3, 2017; Ord. 2393, Sec. 3, 2018; Ord. 2410, Sec. 3, 2019)

11-105 Article 9 of the Uniform Public Offense Code, edition of 2019, 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. 2069, Sec. 4, 2004; Ord. 2085, Sec. 4, 2004; Ord. 2102, Sec. 5, 2005; Ord. 2136, Sec. 5, 2006; Ord. 2158, Sec. 5, 2007; Ord. 2177, Sec. 5, 2008; Ord. 2210, Sec. 6, 2009; Ord. 2232, Sec. 6, 2010; Ord. 2240, Sec. 6, 2011; Ord. 2263, Sec. 4, 2012; Ord. 2315, Sec. 5, 2014; Ord. 2339, Sec. 4, 2015; Ord. 2356, Sec. 4, 2016; Ord. 2369, Sec. 4, 2017; Ord. 2393, Sec. 4, 2018; Ord. 2410, Sec. 4, 2019)

**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. 2069, Sec. 4, 2004; Ord. 2102, Sec. 5, 2005; Ord. 2136, Sec. 5, 2006; Ord. 2158, Sec. 5, 2007; Ord. 2177, Sec. 5, 2008; Ord. 2210, Sec. 6, 2009; Ord. 2232, Sec. 6, 2010; Ord. 2240, Sec. 6, 2011; Ord. 2263, Sec. 4, 2012; Ord. 2315, Sec. 5, 2014; Ord. 2339, Sec. 4, 2015; Ord. 2356, Sec. 4, 2016; Ord. 2369, Sec. 4, 2017; Ord. 2393, Sec. 4, 2018; Ord. 2410, Sec. 4, 2019)

**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. 2069, Sec. 4, 2004; Ord. 2085, Sec. 4, 2004; Ord. 2102, Sec. 5, 2005; Ord. 2110, Sec. 1, 2005; Ord. 2136, Sec. 5, 2006; Ord. 2158, Sec. 5, 2007; Ord. 2177, Sec. 5, 2008; Ord. 2210, Sec. 6, 2009; Ord. 2232, Sec. 6, 2010; Ord. 2240, Sec. 6, 2011; Ord. 2263, Sec. 4, 2012; Ord. 2315, Sec. 5, 2014; Ord. 2339, Sec. 4, 2015; Ord. 2356, Sec. 4, 2016; Ord. 2369, Sec. 4, 2017; Ord. 2393, Sec. 4, 2018; Ord. 2410, Sec. 4, 2019)

11-106. Repealed and reserved for future use (Ord. 2410, Sec. 5, 2019)

11-107 Article 10 of the Uniform Public Offense Code, edition 2019 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. 2315, Sec. 7, 2014; Ord. 2339, Sec. 7, 2015; Ord. 2356, Sec. 6, 2016; Ord. 2369, Sec.6, 2017; Ord. 2393, Sec. 6, 2018; Ord. 2410, Sec. 6, 2019)

- 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, 10.26, Smoking Prohibited-Penalties, and 10.28, Endangering the Food Supply and revised by adding the following provisions:

**Section 10.28 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. 2069, Sec. 7, 2004; Ord. 2102, Sec. 7, 2005; Ord. 2136, Sec. 7, 2006; Ord. 2158, Sec. 7, 2007; Ord. 2177, Sec. 7, 2008; Ord. 2210, Sec. 8, 2009; Ord. 2232, Sec. 8, 2010; Ord. 2240, Sec. 8, 2011; Ord. 2263, Sec. 6, 2012; Ord. 2315, Sec. 8, 2014; Ord. 2339, Sec. 7, 2015; Ord. 2356, Sec. 7, 2016; Ord. 2369, Sec. 7, 2017; Ord. 2393, Sec. 7, 2018 Ord. 2410, Sec. 7, 2019)

**Section 10.29 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. 2069; Sec. 7, 2004; Ord. 2102, Sec 7, 2005; Ord. 2136, Sec. 7, 2006; Ord. 2158, Sec. 7, 2007; Ord. 2177, Sec. 7, 2008; Ord. 2210, Sec. 8, 2009; Ord. 2232, Sec. 8, 2010; Ord. 2240, Sec. 8, 2011; Ord. 2263, Sec. 6, 2012; Ord. 2315, Sec. 8, 2014; Ord. 2339, Sec. 7, 2015; Ord. 2356, Sec. 7, 2016; Ord. 2369, Sec. 7, 2017; Ord. 2393, Sec. 7, 2018)

**Section 10.30 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. 2069, Sec. 7, 2004; Ord. 2102, Sec. 7, 2005; Ord. 2136, Sec. 7, 2006; Ord. 2158, Sec. 7, 2007; Ord. 2177, Sec. 7, 2008; Ord. 2210, Sec. 8, 2009; Ord. 2232, Sec. 8, 2010; Ord. 2240, Sec. 8, 2011; Ord. 2263, Sec. 6, 2012; Ord. 2315, Sec. 8, 2014; Ord. 2339, Sec. 7, 2015; Ord. 2356, Sec. 7, 2016; Ord. 2393, Sec. 7, 2018)

**Section 10.31 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. 2069, Sec. 7, 2004; Ord. 2102, Sec. 7, 2005; Ord. 2136, Sec. 7, 2006; Ord. 2158, Sec. 7, 2007; Ord. 2177, Sec. 7, 2008; Ord. 2210, Sec. 8, 2009; Ord. 2232, Sec. 8, 2010; Ord. 2240, Sec. 8, 2011; Ord. 2263, Sec. 6, 2012; Ord. 2315, Sec. 8, 2014; Ord. 2339, Sec. 7, 2015; Ord. 2356, Sec. 7, 2016; Ord. 2369, Sec. 7, 2017; Ord. 2393, Sec. 7, 2018)

**Section 10.32 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. 2069, Sec. 7, 2004; Ord. 2102, Sec. 7, 2005; Ord. 2136, Sec. 7, 2006; Ord. 2158, Sec. 7, 2007; Ord. 2177, Sec. 7, 2008; Ord. 2210, Sec. 8, 2009; Ord. 2232, Sec. 8, 2010; Ord. 2240, Sec. 8, 2011; Ord. 2263, Sec. 6, 2012; Ord. 2315, Sec. 8, 2014; Ord. 2339, Sec. 7, 2015; Ord. 2356, Sec. 7, 2016; Ord. 2369, Sec. 7, 2017; Ord. 2393, Sec. 7, 2018)

**Section 10.33 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. 2069, Sec. 7, 2004; Ord. 2102, Sec. 7, 2005; Ord. 2136, Sec. 7, 2006; Ord. 2158, Sec. 7, 2007; Ord. 2177, Sec. 7, 2008; Ord. 2210, Sec. 8, 2009; Ord. 2232, Sec. 8, 2010; Ord. 2240, Sec. 8, 2011; Ord. 2263, Sec. 6, 2012; Ord. 2315, Sec. 8, 2014; Ord. 2339, Sec. 7, 2015; Ord. 2356, Sec. 7, 2016; Ord. 2369, Sec. 7, 2017; Ord. 2393, Sec. 7, 2018)

**Section 10.34 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; or the depiction of covered male genitals in a discernible state of sexual arousal.

Violation of this section is a Class A violation.

(Ord. 2069, Sec. 7, 2004; Ord. 2085, Sec. 7, 2004; Ord. 2102, Sec. 7, 2005; Ord.



(1) 2136, Sec. 7, 2006; Ord. 2158, Sec. 7, 2007; Ord. 2177, Sec. 7, 2008; Ord. 2210, Sec. 8, 2009; Ord. 2232, Sec. 8, 2010; Ord. 2240, Sec. 8, 2011; Ord. 2263, Sec. 6, 2012; Ord. 2315, Sec. 8, 2014; Ord. 2339, Sec. 7, 2015; Ord. 2356, Sec. 7, 2016; Ord. 2369, Sec. 7, 2017; Ord. 2393, Sec. 7, 2018; Ord. 2410, Sec. 7, 2019)

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

**Section 11.20 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. 2069, Sec. 8, 2004; Ord. 2085, Sec. 8, 2004; Ord. 2102, Sec. 8, 2005; Ord. 2136, Sec. 8, 2006; Ord. 2158, Sec. 8, 2007; Ord. 2177, Sec. 8, 2008; Ord. 2210, Sec. 9, 2009; Ord. 2232, Sec. 9, 2010; Ord. 2240, Sec. 9, 2011; Ord. 2263, Sec. 7, 2012; Ord. 2315, Sec. 8, 2014; Ord. 2339, Sec. 7, 2015; Ord. 2356, Sec. 8, 2016; Ord. 2369, Sec. 8, 2017; Ord. 2393, Sec. 8, 2018; Ord. 2410, Sec. 8, 2019)

## 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 INSIDE VEHICLES. It shall be unlawful for any person to drink or consume any cereal malt beverage or alcoholic beverage inside vehicles while on public streets, alleys, roads or highways. (K.S.A. 41-719,; Code 2003; Ord. 2410, Sec. 9, 2019)

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.**

- 11-301. Repealed and reserved for future use. (Ord. 2410, Sec. 10, 2019)
- 11-302. Repealed and reserved for future use. (Ord. 2410, Sec. 10, 2019)
- 11-303. Repealed and reserved for future use. (Ord. 2410, Sec. 10, 2019)
- 11-304. Repealed and reserved for future use. (Ord. 2410, Sec. 10, 2019)



## 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.**

- 11-501. Repealed and reserved for future use. (Ord. 2410, Sec. 11, 2019)
- 11-502. Repealed and reserved for future use. (Ord. 2410, Sec. 11, 2019)
- 11-503. Repealed and reserved for future use. (Ord. 2410, Sec. 11, 2019)
- 11-504. Repealed and reserved for future use. (Ord. 2410, Sec. 11, 2019)

## ARTICLE 6. STANDARD TRAFFIC ORDINANCE

### 11-601. INCORPORATING STANDARD TRAFFIC ORDINANCE AND ADDING A SUBSECTION TO THE DEFINITION OF PEDESTRIAN

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 2019, 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. 2102, Sec. 11; Ord. 2136, Sec. 11, 2006; Ord. 2158, Sec. 12, 2007; Ord. 2169, Sec. 2, 2008; Ord. 2178, Sec. 1, 2008; Ord. 2211, Sec. 1, 2009; Ord. 2233, Sec. 1, 2010; Ord. 2241, Sec. 1, 2011; Ord. 2264, Sec. 1, 2012; Ord. 2296, Sec. 1, 2013; Ord. 2316, Sec. 1, 2014; Ord. 2340, Sec. 1, 2015; Ord. 2357, Sec. 1, 2016; Ord. 2370, Sec. 1, 2017; Ord. 2394, Sec. 1, 2018; Ord. 2411, Sec. 1, 2019)

B. Article 1, Section 1, DEFINITIONS, "Pedestrian", Standard Traffic Ordinance for Kansas Cities, edition 2019, is hereby amended by adding the following subsection (d) to the definition of "Pedestrian":

(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. 2070, Sec 1, 2004; Ord. 2086, Sec. 1, 2004; Ord. 2102, Sec. 12, 2005; Ord. 2136, Sec. 12, 2006; Ord. 2158, Sec. 13, 2007; Ord. 2169, Sec. 2, 2008; Ord. 2178, Sec. 2, 2008; Ord. 2211, Sec. 2, 2009; Ord. 2233, Sec. 2, 2010; Ord. 2241, Sec. 2, 2011; Ord. 2264, Sec. 2, 2012; Ord. 2296, Sec. 2, 2013; Ord. 2316, Sec. 1, 2014; Ord. 2340, Sec. 1, 2015; Ord. 2357, Sec. 1, 2016; Ord. 2370, Sec. 1, 2017; Ord. 2394, Sec. 1, 2018; Ord. 2411, Sec. 1, 2019)

### 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.

(Code 2003; Ord. 2070, Sec. 1, 2004; Ord. 2102, Sec. 13, 2005; Ord. 2136, Sec. 13, 2006; Ord. 2158, Sec. 14, 2007; Ord. 2169, Sec. 2, 2008; Ord. 2178, Sec. 3, 2008; Ord. 2211, Sec. 3, 2009; Ord. 2233, Sec. 3, 2010; Ord. 2241, Sec. 3, 2011; Ord. 2264, Sec. 3, 2012; Ord. 2296, Sec. 3, 2013; Ord. 2316, Sec. 2, 2014; Ord. 2340, Sec. 2, 2015; Ord. 2357, Sec. 2, 2016; Ord. 2370, Sec. 2, 2017; Ord. 2393, Sec. 2, 2018; Ord. 2411, Sec. 2, 2019)

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. 2070, Sec. 1, 2004; Ord. 2086, Sec. 1, 2004; Ord. 2102, Sec. 14, 2005; Ord. 2136, Sec. 14, 2006; Ord. 2158, Sec. 15, 2007; Ord. 2169, Sec. 2, 2008; Ord. 2178, Sec. 4, 2008; Ord. 2211, Sec. 4, 2009; Ord. 2233, Sec. 4, 2010; Ord. 2241, Sec. 4, 2011; Ord. 2264, Sec. 4, 2012; Ord. 2296, Sec. 4, 2013; Ord. 2316, Sec. 3, 2014; Ord. 2340, Sec. 3, 2015; Ord. 2357, Sec. 3, 2016; Ord. 2370, Sec. 3, 2017; Ord. 2393, Sec. 3, 2018; Ord. 2411, Sec. 3, 2019)
- (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. 21-6710). (Ord. 2233, Sec. 4, 2010; Ord. 2241, Sec. 4, 2011; Ord. 2264, Sec. 4, 2012; Ord. 2296, Sec. 4, 2013; Ord. 2316, Sec. 3, 2014; Ord. 2340, Sec. 3, 2015; Ord. 2357, Sec. 3, 2016; Ord. 2370, Sec. 3, 2017; Ord. 2393, Sec. 3, 2018; Ord. 2411, Sec. 3, 2019)

11-604. TRAFFIC CONTROL SIGNAL PREEMPTION DEVICES. Article Four, Section 13.1, subsection (c) of the Standard Traffic Ordinance for Kansas Cities, edition of 2019, is hereby amended by deleting and replacing subsection (c) 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. 2102, Sec. 15, 2005; Ord. 2136, Sec. 15, 2006; Ord. 2158, Sec. 16, 2007; Ord. 2169, Sec. 2, 2008; Ord. 2178, Sec. 5, 2008; Ord. 2211, Sec. 5, 2009; Ord. 2233, Sec. 5, 2010; Ord. 2241, Sec. 5, 2011; Ord. 2264, Sec. 5, 2012; Ord. 2296, Sec. 5, 2013; Ord. 2316, Sec. 3, 2014; Ord. 2340, Sec. 3, 2015; Ord. 2357, Sec. 4, 2016; Ord. 2370, Sec. 4, 2017; Ord. 2394, Sec. 4, 2018; Ord. 2411, Sec. 4, 2019)

11-605. UNATTENDED MOTOR VEHICLE. Article 13, Section 107 of the Standard Traffic Ordinance for Kansas Cities, edition of 2019 is hereby amended 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. 2158, Sec. 17, 2007; Ord. 2169, Sec. 2, 2008; Ord. 2178, Sec. 6, 2008; Ord. 2211, Sec. 6, 2009; Ord. 2233, Sec. 6, 2010; Ord. 2241, Sec. 6, 2011; Ord. 2264, Sec. 6, 2012; Ord. 2296, Sec. 6, 2013; Ord. 2316, Sec. 5, 2014; Ord. 2340, Sec. 5, 2015; Ord. 2357, Sec. 5, 2016; Ord. 2370, Sec. 5, 2017; Ord. 2394, Sec. 5, 2018; Ord. 2411, Sec. 5, 2019)

11-606. USE OF WIRELESS COMMUNICATION DEVICES. Article 14, Sec. 126.2 of the Standard Traffic Ordinance for Kansas Cities, edition of 2019, is hereby amended by deleting and replacing subsection (a) with the following:

**“Article 14, Sec. 126.2**

(a) Except as provided in subsections (b) and (c), no person shall operate a motor vehicle on a public road or highway while using a wireless communications device to either write, send or read a written communication, and/or watch, record, video chat or sent a video and/or pictures. (Ord. 2394, Sec. 5, 2018; Ord. 2411, Sec. 6, 2019)

11-607. DRIVER’S LICENSE NOTICE OF CHANGE OF ADDRESS OF NAME. Article 19, Sec. 193 of the Standard Traffic Ordinance for Kansas Cities, edition of 2019, 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. 2264, Sec. 7, 2012; Ord. 2296, Sec. 7, 2013; Ord. 2016, Sec. 6, 2014; Ord. 2340, Sec. 6, 2015; Ord. 2357, Sec. 6, 2016; Ord. 2370, Sec. 5, 2017; Ord. 2394, Sec. 5, 2018; Ord. 2411, Sec. 7, 2019)

## 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 75<sup>th</sup> Street -- 30 miles per hour.
  - (4) Nall Avenue from 63<sup>rd</sup> Street to 95<sup>th</sup> Street -- 35 miles per hour.
  - (5) Roe Avenue from northern City limit to 95<sup>th</sup> 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 75<sup>th</sup> 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) 79<sup>th</sup> Street from State Line Road to Mission Road -- 25 miles per hour.
  - (13) 79<sup>th</sup> Street from Mission Road to Lamar Avenue -- 30 miles per hour.
  - (14) Tomahawk Road between Mission Road and Roe Avenue -- 30 miles per hour.
  - (15) Tomahawk Road between Roe Avenue and 83<sup>rd</sup> Street -- 25 miles per hour.
  - (16) 71<sup>st</sup> Street between State Line Road and Reeds Drive -- 30 miles per hour.

- (17) 63<sup>rd</sup> 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 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. 94<sup>th</sup> Street & Mission Road (Cure of Ars School)
- b. 83<sup>rd</sup> Street & Mission Road (Corinth Elementary School)
- c. 73<sup>rd</sup> Street & Mission Road (St. Ann's School)
- d. 67<sup>th</sup> Street & Mission Road (Prairie Elementary School)
- e. 63<sup>rd</sup> Street & Mission Road (Indian Hills Middle School)
- f. 95<sup>th</sup> Street & Roe Avenue (Trailwood Elementary 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; Ord. 2389, Sec. 1, 2018; Ord. 2402, Sec. 1, 2019)

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; Ord. 2389, Sec. 1, 2018)
- 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 and/or drug 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, drugs, or both 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, drugs, or both. 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, drugs, or both. (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 for 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 31<sup>st</sup> 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)



## ARTICLE 16. UNMANNED AERIAL VEHICLES

### 11-1601 DEFINITIONS

For purposes of this Article, the following terms and phrases shall have the meaning set forth below:

- A. "City airspace" means the airspace above the land and waterways within the jurisdiction of the City.
- B. "Recreational purposes" means any purposes governed or regulated pursuant to 49 U.S.C. 44809 (Section 349) of the FAA Reauthorization Act of 2018. "Recreational purposes" may include, but are not limited to, enjoyment, educational, or hobby purposes not otherwise governed or regulated as provided in Section 11-1603 of this Article.
- C. "Operate" means to pilot, steer, direct, fly or manage a UAV through the air. The term "operate" includes managing or initiating a computer system that pilots, steers, directs, flies or manages a UAV.
- D. "Surveillance" means the gathering, without permission and in a manner that is offensive to a reasonable expectation of privacy, of visual images, physical impressions, sound recordings, data, or other information involving the private, personal, business, or familial activities of another person, business or entity, or that otherwise intrudes upon the privacy, solitude, or seclusion of another person, business or entity, regardless of whether a physical trespass on to real property owned, leased, or otherwise lawfully occupied by such other person, business or entity, or into the city airspace above real property owned, leased, or otherwise lawfully occupied by such other person, business or entity occurs in connection with such surveillance.
- E. "Unmanned aerial vehicle" or "UAV" means an aircraft that (1) is operated without the possibility of direct human intervention from within or on the aircraft, and (2) weighs less than 55 pounds at the time of operation, including the weight of any payload or fuel.
- F. "Weapon" means any instrument, article or substance that, under the circumstances in which it is used, attempted to be used or threatened to be used, is readily capable of causing death or serious physical injury. (Ord. 2406, Sec. 1, 2019)

### 11-1602 OPERATING REGULATIONS.

All UAVs shall be operated in accordance with the Academy of Model Aeronautics Safety Code or such other community-based safety guidelines as the City may approve from time to time. Except as otherwise provided in Section 11-1603, and unless any of the following prohibitions are superseded by applicable state or Federal law, no person shall operate any UAV for recreational purposes in city airspace:

- A. intentionally or negligently, and in such proximity to any person who is not involved in the operation of the UAV that is offensive to a reasonable expectation of safety from bodily harm, without such person's consent;
- B. intentionally or negligently, over an individual or over an open-air event venue wherein more than one hundred (100) individuals are gathered for such event,

without the consent of both the venue owner or operator and the event sponsor or organizer;

- C. intentionally or negligently, over property that the operator does not own, without the consent of the property owner or such other person lawfully occupying the property; and subject to any restrictions that may be placed on the operation by the property owner or such other person lawfully occupying the property; provided, that the foregoing shall not prohibit operation of a UAV for recreational or hobby purposes in a city-owned park so long as the operator and UAV comply with all other requirements and restrictions of this Article;
- D. for the purposes of conducting surveillance;
- E. while under the influence of alcohol, or other drug or drugs, that renders the operator incapable of operating the UAV;
- F. that is equipped with a firearm or other weapon; or
- G. otherwise in a reckless or careless manner. (Ord. 2406, Sec. 1, 2019)

11-1603 LIMITATIONS ON OPERATING REGULATIONS.

- A. Commercial operations Authorized by the FAA. Notwithstanding the provisions of Section 11-1602, nothing in this Article shall be construed to prohibit, limit or otherwise restrict any person who is authorized to fly a UAV as a commercial pilot pursuant to 14 CFR Part 107 (drones under 55 pounds) or under the Special Authority for Certain Unmanned Aircraft Systems at 49 USC § 44807 (drones over 55 pounds) by or other Federal Aviation Administration grant of authority for a specific flight operation(s), from conducting such operations(s) in accordance with authority granted by the Federal Aviation Administration.
- B. Operations Prohibited by FAA—Clarification. Nothing in this Article shall be construed to authorize the operation of UAVs in city airspace in violation of any Federal statute or rules promulgated thereunder, including, but not limited to, any temporary flight restrictions or notices to airmen issued by the Federal Aviation Administration.
- C. Operations by City for Law Enforcement Purposes. Notwithstanding the provisions of Section 11-1602, nothing in this Article shall be construed to prohibit or restrict the use of a UAV by a law enforcement agency or for emergency response operations in accordance with applicable law. (Ord. 2406, Sec. 1, 2019)

11-1604 SEVERABILITY. Severability is intended throughout and within the provisions of this Article. If any section, subsection, sentence, clause, phrase, or portion of this Article is held to be invalid, illegal, or unconstitutional by any court of competent jurisdiction, then that decision shall not affect the validity of the remaining portions of this Article. (Ord. 2406, Sec. 1, 2019)

11-1605 PENALTY. Violation of this article is a Class C misdemeanor. (Ord. 2406, Sec. 1, 2019)

## CHAPTER XII. PUBLIC PROPERTY

- Article 1. City Parks
- Article 2. Municipal Swimming Pool
- Article 3. Tennis Program

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### ARTICLE 1. CITY PARKS

- 12-101. CITY LAWS EXTENDED TO PARK. The laws of the city shall extend to and cover all city parks. (Code 2003)
- 12-102. POLICE JURISDICTION OVER PARKS. The city shall have police regulations governing any public parks belonging to the city and the chief of police and law enforcement officers of the city shall have full power to enforce city laws governing city parks and shall maintain order therein. (Code 2003)
- 12-103. DAMAGING PARK PROPERTY. It shall be unlawful for any person, except duly authorized city employees, to willfully or wantonly remove, injure, tarnish, deface or destroy any building, walk, bench, tree or improvement or property of any kind belonging to any park owned by the city. (Code 2003)
- 12-104. REPEALED (Ord. 2311, Sec. 2. 2014)
- 12-105. VEHICLE REGULATIONS.
- A. Motor vehicles, including any vehicle licensed to operate on public streets, roads and highways shall be operated on paved areas in a safe and prudent manner at all times in park areas.
  - B. Except as provided in subsection (d), it shall be unlawful for any person to park any motor vehicle in any area not designated for such purpose.
  - C. Except as provided in subsection (d), it shall be unlawful for any person to operate any motor vehicle within any city park except upon roads, drives and parking areas established by the city.
  - D. Subsections (b) and (c) above shall not apply to authorized city employees while engaged in the maintenance and care of the park.
  - E. It shall be unlawful to operate any such vehicle in any park area at a speed in excess of 20 m.p.h.
- (Code 2003; Ord. 2127, Sec. II, 2006)
- 12-106. HUNTING. It shall be unlawful for any person to pursue, catch, trap, maim, kill, shoot or take any wildlife, either bird or animal, in any manner at any time while in any city park. (Code 2003)
- 12-107. FIRES. It shall be unlawful for any person to build or kindle any fire in any city park except in the ovens, stoves, or grills provided for that purpose by the city, and

- such fire must be extinguished by the person, persons or parties starting such fire, immediately after use thereof. (Code 2003)
- 12-108. REPEALED. (Ord. 2185, Sec. 1, 2009; See 11-220)
- 12-109. SANITATION. All waste material, paper, trash, rubbish, tin cans, bottles, containers, garbage and refuse of any kind whatsoever shall be deposited in disposal containers provided for such purposes. No such waste or contaminating material shall be discarded otherwise. No sticks, stones, trash or other objects shall be thrown or discarded in or on any park lands, fountains, pools, drinking fountains, sanitary facilities, or other improvements. (Code 2003)
- 12-110. PROHIBITION AGAINST ALCOHOLIC BEVERAGES AND CEREAL MALT BEVERAGES. It is unlawful for any person to drink or consume alcoholic liquor or cereal malt beverages in or upon any city park or park ground subject to the following exemptions:
- (a) Alcoholic liquor and cereal malt beverages may be sold and consumed on the property commonly known as Harmon Park, the title of which is vested in the city; provided that the beverage has been purchased through an approved city function.
  - (b) An approved city function is any function sponsored by the city that has obtained (1) prior approval from the governing body to sell alcoholic beverages and cereal malt beverages in Harmon Park, and (2) any necessary permit required by the State of Kansas.
  - (c) In determining whether or not to approve the sale and consumption of alcoholic liquor and cereal malt beverage in Harmon Park, the governing body shall consider and make findings of fact relating to the following issues:
    - (1) Does the applicant have a permit from the State of Kansas to sell alcoholic liquor and/or cereal malt beverages?
    - (2) Has the applicant taken appropriate measures to provide security to insure the health and safety of the users of Harmon Park during the time of the proposed event?
    - (3) Has the applicant given assurances that it has the capacity to and will comply with all city ordinances and state statutes relating to the sale and consumption of alcoholic liquor and cereal malt beverages?

The approval will specifically describe that area in Harmon Park where the sale and consumption can take place. The sale and consumption shall be limited to the area of Harmon Park as defined by the governing body at the time it approves the event. (Ord. 2011, Sec. 1)
- 12-111. PRESERVATION OF NATURAL STATE. It shall be unlawful for any person, except duly authorized city employees, to take, injure, or disturb any live or dead tree, plant, shrub, or flower, or otherwise interfere with the natural state of city parks. (Code 2003)
- 12-112. PARK HOURS. All city parks shall be opened to the public every day during the year from sunrise to 11:00 p.m. or during such other hours as the governing body may from time to time fix by resolution. At all other times the city parks shall be deemed closed to the public and all persons, other than law enforcement officers

and personnel, firefighters and authorized city employees and authorized personnel, shall remain off of the public parks of the city during the time the city parks shall be closed. (Code 1973, 12.12.010)

## ARTICLE 2. MUNICIPAL SWIMMING POOL

- 12-201.       MANAGER AND EMPLOYEES; APPOINTMENT. The manager of the swimming pool shall have general police supervision over the swimming pool and over all people attending the swimming pool and the park area in which the swimming pool is located. It shall be his or her duty to preserve order, to enforce all provisions of this article and the rules and regulations of the city and the Kansas State Board of Health and the manager may exclude any person or persons from the pool and its grounds for the violations of this article, such rules and regulations as may be made by the city or the Kansas State Board of Health or when the manager deems such exclusion to be in the best interest of the orderly and peaceable operation and management of the pool. (Code 1973, 12.04.010)
- 12-202.       SAME; ADDITIONAL DUTIES AND AUTHORITY. It shall be the duty of the manager and/or the assistant manager of the city's swimming pools or any police officer of this city to maintain order and keep the public peace within the city parks and swimming pools of the city. (Code 1973, 12.04.020)
- 12-203.       RULES AND REGULATIONS; POSTING. The pool manager, by and with the consent of the governing body, is authorized to make and enforce such additional rules and regulations as may be necessary for the management and operation of the swimming pool. Copies of all rules shall be posted in conspicuous places about the swimming pool as may be determined by the manager. (Code 1973, 12.04.030)
- 12-204.       POOL OPEN; RULES AND REGULATIONS. The municipal swimming pool of the city shall be opened to the public as herein limited at all proper and seasonable times subject to such rules and regulations herein contained and as the governing body of the city may from time to time adopt or authorize and as provided by the rules and regulations of the Kansas State Board of Health. The city council may from time to time by resolution restrict the use of the municipal pool by nonresidents. (Code 1973, 12.08.010)
- 12-205.       CONTAGIOUS DISEASES; CERTIFICATE OF HEALTH REQUIRED; WHEN. It is unlawful and a violation of this article for any person or persons at any time to enter the water of the swimming pool who are afflicted with a venereal, infectious or contagious disease. The manager of the pool appointed herein, is authorized, directed and empowered within his or her discretion to require from any person requesting permission to enter the swimming pool a certificate of health from a physician licensed to practice medicine in the State of Kansas, dated within three days of the date admission is sought, stating that the person applying for admission to the pool is free from any infectious or contagious disease which might endanger the health of other occupants of the pool. (Code 1973, 12.08.020)

- 12-206. WHEN ADMITTANCE MAY BE REFUSED. The manager appointed as provided for in section 12-201 is authorized, directed and empowered to refuse admission to any person applying for admission to the pool who is known to be not of good moral character, intoxicated or under the influence of drugs or opiates or any person having a skin disease, open sores or cuts. The manager may, when he or she deems the same to be in the best interest of orderly operation and management of the pool, refuse admission to any person or persons whatsoever. (Code 1973, 12.08.030)
- 12-207. POLLUTION AND CONTAMINATION PROHIBITED. It is unlawful for any person or persons to throw or place in the waters of the pool any stones, debris, refuse or discarded substances. It is further unlawful for any person in any manner willfully to pollute the waters of the pool. (Code 1973, 12.08.040)
- 12-208. ANIMALS PROHIBITED. It is unlawful at all times for any person or persons to place in the waters of the swimming pool or cause or to suffer any dogs or any animals of any kind to enter to be therein. (Code 1973, 12.08.050)
- 12-209. POOL HOURS; UNLAWFUL ENTRANCE. The hours during which the swimming pool shall be open for use shall be determined by the city governing body and the pool manager and it is unlawful for any person or persons to enter the waters of the pool except when the manager or a lifeguard is in charge of the swimming pool and on duty. (Code 1973, 12.08.060)
- 12-210. CHARGES TO BE FIXED BY GOVERNING BODY. The charges of public use of the swimming pool shall be fixed by the city governing body. (Code 1973, 12.08.020)
- 12-211. GUESTS; LIMITATION OF NUMBER. The pool manager of the city swimming pool shall have the authority to limit admittance of guests into the city swimming pool whenever, in his or her opinion, the pool is so crowded as to make it unsafe for the safety of the people to permit them. The manager shall, in addition, have authority to designate pool areas which guests and/or residents may use. (Code 1973, 12.08.100)
- 12-212. REVOCATION OF SWIMMING PRIVILEGES. It is unlawful for any person or persons to violate the lawful orders of the swimming pool manager and/ or the assistant swimming pool manager within the swimming pool area of the city park, and any person or persons who violate such order or orders shall forfeit their right to the swimming privileges of the pool. (Code 1973, 12.08.110; Code 2003)

**ARTICLE 3. TENNIS PROGRAM**

- 12-301.        **RULES AND REGULATIONS; POSTING.** The park and recreation committee and the governing body of the city may from time to time adopt rules and regulations which may be necessary for the management and operation of the tennis facilities including hours of operation. The police officers of the city and tennis court supervisors are authorized and directed to enforce such rules and regulations as may be necessary for the management and operation of the tennis facilities. Copies of all rules and regulations shall be posted in conspicuous places about the tennis facilities. (Ord. 1914, Sec. 2; Ord. 2179, Sec. 2, 2008)
- 12-302.        **CHARGES FOR USE TO BE FIXED BY GOVERNING BODY.** The Governing Body of the City may from time to time establish a fee that will be paid by users of the tennis facilities. Registration for the use of the tennis facilities shall be determined and carried out by the office of the City Clerk. (Ord. 1914, Sec. 2; Ord. 2179, Sec. 2, 2008)
- 12-303.        **VIOLATION; PENALTY.** Any person or persons who violates any provision of this article, including the violation of any rule or regulations adopted by the Governing Body pertaining to the operation and management of the tennis facility of the City may be prosecuted in municipal court of violation of the provisions of this chapter. Upon conviction thereof, the person or person 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. 1914, Sec. 2; Ord. 2179, Sec. 2, 2008)

## CHAPTER XIII. STREETS AND SIDEWALKS

- Article 1. Sidewalks
- Article 2. Streets
- Article 2A. Street Intersection Sight Line Obstruction
- Article 3. City Tree Board
- Article 4. Snow and Ice
- Article 5. Use and Occupancy of Public Right-of-Way
- Article 6. Curb Cuts and Cutbacks
- Article 7. Manual of Infrastructure Standards
- Article 8. Vegetation in the Right-of-Way

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### ARTICLE 1. SIDEWALKS

- 13-101. PERMIT REQUIRED. It shall be unlawful to construct any sidewalk within the City until the plans first have been approved by the Governing Body and a permit issued for such work by the Director of Public Works. (Code 1973, 13.08.010; Code 2003; Ord. 2118, Sec. 2, 2006)
- 13-102. CONSTRUCTION BY ABUTTING OWNER. No thing in this article shall be construed to prohibit the owner of property abutting a proposed sidewalk from constructing a sidewalk at no cost to the City. Such person shall obtain a permit in accordance with Section 13-101 of this article. ( Code 1973, 13.08.040; Ord. 1876, Sec. 1; Ord. 2118, Sec. 2, 2006)
- 13-103. CONSTRUCTION BY SUBDIVISION DEVELOPER. In subdivisions, sidewalks shall be constructed at the developer's expense on both sides of all streets. Such contractor shall obtain a permit in accordance with Section 13-101 of this article. (Code 1973, 13.08.050; Ord. 1876, Sec. 1; Ord. 2118, Sec. 2, 2006)
- 13-104. SIDEWALK GRADE. All sidewalks constructed in the City shall be constructed on the grade established by the Director of Works. (K.S.A. 12-1801, 12-1807; Code 2003; Ord. 2118, Sec. 2, 2006)
- 13-105. SAME; SPECIFICATIONS. All sidewalks shall be constructed in accordance with standard plans and specifications hereby adopted by reference and filed in the office of the City Clerk as provided by K.S.A. 12-1802. (Code 1973, 13.08.020; Code 2003; Ord. 2118, Sec. 2, 2006)
- 13-107. OBSTRUCTING SIDEWALKS. It shall be unlawful for any person to build or construct any step or other obstruction, whether temporary or permanent, or to store, leave or allow to be left any implements, tools, merchandise, goods, containers, benches, display or showcases, on any sidewalks or other public ways in the City or to obstruct the same longer than is necessary for loading or unloading any such article or object. (Code 2003)



13-108. SAME; EXCEPTION. The Director of Public Works may authorize the granting of temporary permits in connection with a building or moving permit for limited times only to the owner of property abutting on any sidewalk to use or encumber such sidewalk or public way of the City during the construction of any building or improvement thereon. No permits shall be issued for such purpose until plans for warning and safeguarding the public during such use of sidewalks shall have been submitted by the owner or his or her contractor and approved by the Governing Body. (Code 2003)

13-109 DAMAGE BY OTHERS. Any person(s) who damages or causes there to be damages to any City sidewalk shall repair or replace the damaged sections as directed by the Director of Public Works. (Ord. 2118, Sec. 2, 2006)

13-110 REMOVAL OF SNOW, DEBRIS, LITTER AND WEEDS. The property owner abutting a City sidewalk, at their cost, will be responsible for maintaining the sidewalk as to:

- A. Snow removal as defined in City Municipal Code Chapter 13 Article 4 *Snow and Ice*
- B. Removal of any debris and/or litter that may have fallen on the sidewalk.
- C. Removal of any weeds and/or grass that is on the sidewalk.

(Ord. 2118, Sec. 2, 2006)

## ARTICLE 2. STREETS

- 13-201. PURPOSE OF STREET SYSTEM. This chapter is adopted for the purpose of:
- A. Providing and maintaining a major street system to safely and adequately move traffic without causing social and economic deterioration to the residential environment.
  - B. Developing an overall system of bikeways and walkways to provide convenient and safe movement of non-motorized traffic within the City.
  - C. Integrating the major street system with the overall City development pattern to enhance the City's environment, social and aesthetic values.
  - D. Maintaining the City streets and related improvements.
- (Code 1973, 13.03.010)
- 13-202. DEFINITIONS.
- A. Arterial -- A street which primarily serves as the principal network for through vehicular traffic between major centers of activity and as pass-through of urbanized areas.
  - B. Collector -- A street intended to move traffic from local streets to arterial streets and typically provides service and traffic circulation within residential neighborhoods and commercial areas, collects traffic from local streets in residential neighborhoods and channels them into the arterial system.
  - C. Local -- A street intended to provide access from individual properties to collector streets and in some cases to arterial streets, but is not intended to carry through traffic. (Code 2003)
- 13-203. STREET DESIGNATIONS.
- A. Arterial  
Mission Road, Nall Avenue, 75th Street, 95th Street, State Line
  - B. Collector  
Roe Avenue, 63rd Street, 1st Street, Tomahawk Road (Mission Road to Nall), 79th Street (Mission Road to Lamar), 83rd Street, Somerset Drive, Lamar Avenue
  - C. Local  
67th Street, 69th Street, Cherokee Drive, Colonial Drive, Tomahawk Road (Nall to 79th Street), Booth Drive, Belinder Avenue, 87th Street (Nall to Somerset), Cambridge (State Line to Somerset), Windsor (Cherokee to 75th), 79th Street (State Line to Mission Road)
- (Code 1973, 13.03.030)
- 13-204. SAME; UNLAWFUL ACTS. It shall be unlawful for any person, except those having authority from the city or any officer thereof to throw down, interfere with or remove any barriers, barricades, or lights placed in any street to guard and warn the traveling public of any construction work thereon or adjacent thereto. (Code 2003)

- 13-205. ALTERING DRAINAGE. No person shall change or alter any gutter, storm sewer, drain or drainage structure which has been constructed, or is being lawfully maintained or controlled by the city unless such change or alteration has been authorized or directed by the director of public works. (Code 2003)
- 13-206. UNFINISHED PAVEMENT. No person shall walk upon, drive or ride over or across any pavement, sidewalk or incomplete grading which has not been opened for traffic. (Code 2003)
- 13-207. USING STREET RIGHTS-OF-WAY.
- A. No person shall occupy any portion of any street right-of-way, alley or sidewalk for the purpose of temporarily storing building materials without first obtaining a permit for such temporary use from the governing body.
  - B. No person may use any portion of any sidewalk or street right-of-way for the purpose of displaying or offering for sale wares, goods, merchandise or other items. Nothing in this article, however, shall be construed as prohibiting the city governing body from temporarily waiving the prohibition of this subsection in connection with community promotions or community-wide celebrations when such waiver is considered to be in the best interest of the city.
- (Code 2003)
- 13-208. DANGEROUS OBJECTS IN. It shall be unlawful for any person to place, throw or cause to be placed or thrown in or on any street right-of-way, alley, sidewalk or other public grounds of the City, any glass, tacks, nails, bottles, wire or other dangerous objects that might wound any person or animal, or cut or puncture any pneumatic tire while passing over the same. (Code 2003)
- 13-209. PETROLEUM PRODUCTS IN STREETS. It shall be unlawful for any person, firm or corporation to deposit or throw any waste oil, fuel oil, kerosene, gasoline or other products of petroleum or any acids into or upon any street or public grounds of the City, or willfully to permit the same to be spilled, dripped or otherwise to come into contact with the surface of any street, alley, or sidewalk within the City. (Code 2003)
- 13-210. DISCHARGING WATER ON STREETS. It shall be unlawful for any person, firm or corporation to throw or discharge water into any ditch, street, avenue or alley in the City or to cause any water to stand or form pools or to flow in a stream thereon. This section shall not apply to persons cleaning or flushing such streets, avenues or alleys under the authority of the Director of Public Works, nor to members of the fire department. (Code 2003)
- 13-211. BURNING IN STREETS. It shall be unlawful for any person to make or cause to be made, any fire upon any of the paved street rights-of-way, alleys, or street intersections within the City. (Code 2003)
- 13-212. THROWING IN STREETS. It shall be unlawful to throw or bat any ball, stone, or other hard substance into, on or across any street right-of-way or alley or at or against any building or vehicle. (Code 2003)

13-213. HAULING LOOSE MATERIAL. It shall be unlawful to haul over the street rights-of-way or alleys of this City any loose material of any kind except in a vehicle so constructed or maintained as to prevent the splashing or spilling of any of the substances therein contained upon the streets or alleys. (Code 2003)

**ARTICLE 2A. STREET INTERSECTION  
SIGHT LINE OBSTRUCTION**

13-2A01.       PURPOSE. The City believes that it is in the best interest of the residents for the city to prevent obstructions of height greater than 3.5 feet from being placed in a street sight line at an intersection not controlled by all-way stop signs or traffic signals. (Ord. 2059, Sec. 1)

13-2A02.       AUTHORITY. The City Public Works Director, or authorized designee, shall be responsible for the investigation of reported violations. If the violation is not removed in due process, the City Code Enforcement Officer will issue a municipal court summons for the violation. (Ord. 2059, Sec. 1)

13-2A03.       STREET INTERSECTION SIGHT LINE OBSTRUCTION. All land at an intersection shall provide departure sight line distance triangles to reduce hazards of oncoming vehicular traffic. Such triangles shall be measured at the back of the curb or at the edge of roadway where no curb exists and the street, by state statute, is entitled to be right-of-way. The short leg of the triangle shall be not less than 20 feet along the street where a vehicle will enter another street. The long leg shall either be 390 feet for a street with a 35 mph speed limit, 335 feet for a street with a 30 mph speed limit, or 280 feet for a street with a 25 mph speed limit. No obstruction extending higher than 3.5 feet or having the potential to extend higher than 3.5 feet above the adjacent roadway surface shall be permitted.

Architectural structures (i.e., statues, decorative columns, walls), existing trees having diameter at breast height of greater than 36 inches, private utility boxes, and City traffic signs will be exempted from this provision. At such time as any area in the triangle is to be modified by construction activities, the location in the triangle of any utility poles, architectural structures, existing trees having diameter at breast height of greater than 36 inches, and City traffic signs will be reviewed and approved by the public safety department for traffic hazard conditions and by public works compliance with City standards. (Ord. 2059, Sec. 1)

### ARTICLE 3. CITY TREE BOARD

13-301.

#### TREE BOARD; MEMBERSHIP, DUTIES AND MEETINGS.

- A. Establishment. There is hereby established the tree board for the City, which shall consist of nine members plus two student members. One of the members shall be a member of the Governing Body. The Mayor shall appoint all of the members with the approval of the Governing Body. The eight members who are not also members of the governing body shall each be appointed for a three year term. The member who is also a member of the Governing Body and the two student members shall serve at the pleasure of the Mayor and until their successor is appointed. Members of the tree board shall serve without compensation. The governing body may designate or employ, with or without compensation, such advisors to the tree board as the governing body shall hereinafter determine to be necessary and advisable to accomplish the purposes of this article.
- B. Duties and Responsibilities. It shall be the duty and responsibility of the tree board to study, investigate, assess, counsel and to recommend to the governing body on policy relating to trees, shrubs, and other plantings upon City-owned property; to promote and preserve the beautification of the City; to provide the protection of the public health and safety; and to protect and encourage the preservation of trees, shrubs, and plantings. The board shall provide to the governing body:
1. A written plan providing guidance for the proper development and maintenance of the trees, shrubs, and other plantings on City-owned property;
  2. A program to educate the city residents through the city newsletter, cable television or bulletins concerning the value, maintenance and health of trees, shrubs and other plantings by addressing issues of planting, pruning, drought, disease, and other appropriated matters that will ensure the continued pleasing urban greenery setting for the city;
  3. A commentary on proposed budget activities of the Public Works Director or any other City-sponsored activity relating to trees, shrubs, and other plantings on City-owned property;
  4. When requested by the Governing Body, a report upon any matter coming within its scope of duties and responsibilities.
- C. Meetings, Rules, and Regulations. The tree board shall meet at such times and places as it shall agree upon, or upon call by the Governing Body. Upon formation, it shall appoint its own officers and prepare recommended rules and regulations relating to its meetings and proceedings, subject to approval of the governing body. The tree board shall keep minutes of its meetings and proceedings, and shall provide a copy thereof to the Governing Body and City Clerk. A simple majority of the members of the tree board shall be sufficient as a quorum for transaction of business, and a simple majority vote of the quorum shall be sufficient to pass any action of the tree board.

(Ord. 1911, Sec. 1, Ord. 2075, Sec. 1)

**ARTICLE 4. SNOW AND ICE**

- 13-401. **PURPOSE.** The City of Prairie Village believes that it is in the best interests of the residents for the city to assume basic responsibility for removal of snow and ice from public streets. Reasonable ice and snow removal from public streets is necessary for routine travel and emergency services. The City will provide such removal in a safe and cost effective manner, keeping in mind safety, budget, personnel and environmental concerns. The City will use City employees, equipment, materials and/ or private contractors to provide this service. (Ord. 2031, Sec. 1)
  
- 13-402. **AUTHORITY.** The City's Director of Public Works or his/her designee shall be responsible for the removal of snow and ice from public streets. (Ord. 2031, Sec. 1)
  
- 13-403. **REMOVAL OF ILLEGALLY PARKED VEHICLES.** Any motor vehicle parked in violation of this code is deemed to be a nuisance that interferes with snow removal from the public streets. Any law enforcement officer may remove any such vehicle by means of towing or other means in order to facilitate proper snow removal. The removal of illegally parked vehicles shall not preclude prosecutions for violations of any provision of this section. (Ord. 2031, Sec. 1)
  
- 13-404. **SIDEWALK; REMOVAL OF ICE AND SNOW.** It shall be unlawful for the owner and/or occupant of any property abutting one or more public sidewalks to fail to cause to be removed from such sidewalks all snow and ice within 24 hours from the time that the snow or ice storm ends. If the snow falls or ice accumulates upon the sidewalks in the nighttime, removal of it must be within 24 hours after sunrise.  
  
Where there shall be ice or compacted snow on any such sidewalk of such a character as to make it practically impossible to remove the same, the sprinkling of sand or non-corrosive chemicals on the accumulation of ice or snow in such a manner as to make such sidewalk reasonably safe for pedestrian travel shall be deemed sufficient compliance with provisions of this article until the ice or snow can be removed. (Ord. 2031, Sec. 1)
  
- 13-405. **REMOVAL OF OVERHANGING SNOW.** It is made the duty of the owner and of the occupant of any building or structure located near or adjacent to any public street, or public sidewalk to remove at his/her own expense any accumulation of snow or ice upon the roof or sides thereof which overhangs or is likely to fall on such public street, or public sidewalk. (Ord. 2031, Sec. 1)
  
- 13-406. **SNOW AND ICE REMOVED FROM PRIVATE PROPERTY.** It shall be unlawful for any person to remove snow from private property and place it upon any public street or public sidewalk. (Ord. 2031, Sec. 1)

13-407. CITY REMOVAL. If any owner or occupant of any lot or lots shall refuse or neglect to clean or remove from the public sidewalk abutting the lot or lots all snow and ice within the time specified, the City may cause such snow and ice to be removed and the cost thereof shall be assessed against such abutting lot or lots and the City Clerk shall certify the same to the County Clerk for collection as provided by law.  
The City will not remove any ice or snow accumulation from any private property. (Ord. 2031, Sec. 1)

13-408. COSTS ON TAX ROLLS. The City Clerk shall, at the time of certifying other city taxes to the County Clerk, certify the unpaid costs for removal of snow and ice performed under the authority of this section and the County Clerk shall extend the same on the tax roll of the county against the lot or parcel of ground. The cost of such work shall be paid from the general fund or other proper fund of the City, and such funds shall be reimbursed when payments therefore are received or when such assessments are collected and received by the City. (Ord. 2031, Sec. 1)



## ARTICLE 5. USE AND OCCUPANCY OF THE PUBLIC RIGHT-OF-WAY

- 13-501. GENERAL. No person shall excavate the right-of-way, construct, or use the facilities within the right-of-way of the City except as provided herein. (Ord. 1982, Sec. 2; Ord. 2047, Sec. 1, 2002)
- 13-502. PURPOSE.
- A. To recognize the City's primary role as chief steward of the right-of-way and its duty to its citizens to recover the costs of managing the right-of-way and incursions into it;
  - B. To clarify and regulate conditions of occupancy and construction for those ROW-users occupying space within the City's right-of-way given the anticipated increased use of the right-of-way by various ROW-users throughout the country;
  - C. To recognize the necessity for sound management practices in light of the increased use of the right-of-way and the fact that the right-of-way is a limited resource;
  - D. To treat each ROW-user equitably and in a competitively neutral and nondiscriminatory manner with considerations that may be unique to the technologies and situation of each particular ROW-user;
  - E. To minimize disruption, visual impact or inconvenience to the public, and to preserve the public health, safety and welfare; and
  - F. To comply with state and federal legislation.  
(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)
- 13-503. DEFINITIONS. For purposes of this article, the following words and phrases shall have the meaning given herein:
- A. Abandoned Facilities means those facilities owned by the ROW-user that are not in use and will not be utilized by the owner in the future.
  - B. Affiliate means any person controlling, controlled by or under the common control of a service provider.
  - C. Applicant means any person requesting permission to occupy, lease or operate facilities using the right-of-way, or to excavate the right-of-way.
  - D. Application means a request submitted by an applicant to an authority for:  
(1) The construction of a new wireless support structure or new wireless facility; (2) the substantial modification of a wireless support structure or wireless facility; or (3) collocation of a wireless facility or replacement of a wireless facility.
  - E. Area of Influence means that area around a street excavation where the pavement and sub-grade is impacted by the excavation and is subject to more rapid deterioration.
  - F. City means the City of Prairie Village, Kansas, a municipal corporation and any duly authorized representative.
  - G. City Engineer means the City Engineer, Prairie Village, Kansas, or the authorized representative.
  - H. Construct means and includes construct, install, erect, build, affix or otherwise place any fixed structure or object, in, on, under, through or above the right-of-way.

- I. Day means calendar day unless otherwise specified.
- J. Emergency means a condition that (1) poses a clear and immediate danger to life or health, or of a significant loss of property; or (2) requires immediate repair or replacement in order to restore service to a user.
- K. Excavate means and includes any cutting, digging, excavating, tunneling, boring, grading or other alteration of the surface or subsurface material or earth in the right-of-way.
- L. Excavation Fee means the fee charged by the City for each street or pavement cut which is intended to recover the costs associated with construction and repair activities of the ROW-user and its contractors and/or subcontractors.
- M. Existing facility means a facility that exists at the time an application is filed.
- N. FCC means Federal Communications Commission.
- O. Facility means lines, pipes, irrigation systems, wires, cables, conduit facilities, ducts, poles, towers, vaults, pedestals, boxes, appliances, antennas, transmitters, gates, meters, appurtenances, wireless communication facilities (including but not limited to wireless support structures, small cell facilities, base stations, transmission equipment, distributed antenna systems, and primary equipment enclosures, all as may be defined or described in the Kansas New Wireless Deployment Act, as amended), or other equipment. (Ord. 2354, Sec. 1, 2016)
- P. Governing Body means the Mayor and the City Council of the City of Prairie Village, Kansas.
- Q. Governmental Entity means any county, township, city, town, village, school district, library district, road district, drainage or levee district, sewer district, water district, fire district or other municipal corporation, quasi-municipal corporation or political subdivision of the State of Kansas or of any other state of the United States and any agency or instrumentality of the State of Kansas or of any other state of the United States.
- R. KCC means the Kansas Corporation Commission.
- S.. Newly Constructed Facilities means all new facilities other than existing facilities except (i) replacement street lights which meet the City's design criteria, and (ii) antennas on existing or replacement street lights with conduit or cable placed within the pole.
- T. Parkway means the area between a property line and the street curb. Sometimes called boulevard, tree-shelf or snow-shelf.
- U. Pavement means and includes Portland cement concrete pavement, asphalt concrete pavement, asphalt treated road surfaces and any aggregate base material.
- V. Permit and Inspection Fee means the fee charged by the City to recover its cost incurred for right-of-way management; including, but not limited to, costs associated with registering applicants; issuing, processing and verifying right-of-right permit applications; inspecting job sites and restoration of improvements; determining the adequacy of right-of-way restoration; revoking right-of-way permits and, other costs the City may incur in managing the provisions of this Article.
- W. Permittee means any person to whom a right-of-way permit is issued to excavate a right-of-way.

- X. Person means any natural or corporate person, business association or business entity including, but not limited to, a partnership, a sole proprietorship, a political subdivision, a public or private agency of any kind, a utility, a successor or assign of any of the foregoing, or any other legal entity.
- Y. Public Improvement means any project undertaken by the city for the construction, reconstruction, maintenance, or repair of any public infrastructure, and including without limitation, streets, alleys, bridges, bikeways, parkways, sidewalks, sewers, drainage facilities, traffic control devices, street lights, public facilities, public buildings or public lands.
- Z. Public Lands means any real property of the city that is not right-of-way.
- AA. Public Works Director means the Director of the Public Works Department of the City of Prairie Village, Kansas, or the authorized representative.
- BB. Registration means the application process of a service provider, the approval of the application by the City, and the authorization of the service provider to use any portion of the right-of-way within the city to provide service both within and beyond the city limits.
- CC. Repair means the temporary construction work necessary to make the right-of-way useable.
- DD. Repair and Restoration Costs means those costs associated with repairing and restoring the public right-of-way because of damage caused by the ROW-user and its contractors and/or subcontractors in the right-of-way.
- EE. Restoration means the process by which an excavated right-of-way and surrounding area, including pavement and foundation, is returned to the same condition, or better, than existed before the commencement of the work.
- FF. Right-of-way means the area on, below, or above streets, alley, bridges, and parkways in which the City has a dedicated or acquired right-of-way interest in the real property.
- GG. Right-of-Way Permit means the authorization to excavate for the construction, installation, repair or maintenance of any type of facility within the right-of-way.
- HH. Routine Service Operation means a work activity that makes no material change to the facilities and does not disrupt traffic.
- II. ROW-user means a person, its successors and assigns, that uses the right-of-way for purposes of work, excavation, provision of services, or to install, construct, maintain, repair facilities hereon, including, but not limited to, landowners and service providers. A ROW-user shall not include ordinary vehicular or pedestrian traffic or any governmental entity that has entered into an interlocal agreement pursuant to K.S.A. 12-2901 et seq. with the City regarding the use and occupancy of the City's right-of-way.
- JJ. Service means a commodity provided to a person by means of a delivery system that is comprised of facilities located or to be located in the right-of-way, including, but not limited to, gas, telephone, cable television, Internet services, open video systems, wireless services, alarm systems, steam, electric, water, telegraph, data transmission, petroleum pipelines, or sanitary sewerage. (Ord. 2354, Sec 1, 2016)
- KK. Service Provider means any person owning, possessing or having an interest in facilities in the right-of-way that are used for the provisions of a service for or without a fee; provided, that this definition shall also include persons

owning, possessing or having an interest in facilities in the right-of-way that are used by, may be used by or are intended for use by another person, in whole or in part, to provide a service for or without a fee, regardless of whether the actual facility owner provides any service as defined herein.

- LL. Street means the pavement and sub-grade of a City residential, collector or arterial roadway. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002; Ord. 2354, Sec. 1, 2016)

13-504.

POLICY.

- A. It is the policy of the City to authorize any ROW-user to utilize the right-of-way in a competitively neutral, non-discriminatory manner that maximizes the efficient use of and conserves the right-of-way and minimizes the burden on the right-of-way, physically and aesthetically. Any use of the right-of-way by a ROW-user shall be subject to the terms and conditions hereof, in addition to other applicable federal, state or local requirements.
- B. The right granted to the ROW-user to use the right-of-way is limited to the use that the ROW-user has filed with the City in accordance with this article. These rights are for the exclusive use of the ROW-user except where otherwise provided herein, or when authorized by the City.
- C. This article also is designed to regulate occupancy and excavations in the right-of-way by providing, among other things, for the issuance of permits that grant the authority to utilize and occupy the right-of-way within the City.
- D. All ROW-users shall be subject to all rules, regulations, policies, resolutions, and ordinances now or hereafter adopted or promulgated by the city in the reasonable exercise of its police power and are subject to all applicable laws, orders, rules and regulations adopted by governmental entities now or hereafter having jurisdiction. In addition, the ROW-users shall be subject to all technical specifications, design criteria, policies, resolutions and ordinances now or hereafter adopted or promulgated by the City in the reasonable exercise of its police power relating to permits and fees, sidewalk and pavement cuts, utility location, construction coordination, surface restoration, and other requirements on the use of the right-of-way.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-505.

ADMINISTRATION.

- A. The Public Works Director is the principal City official for administration of right-of-way permits for work and excavations made in the right-of-way. The Public Works Director may delegate any or all of the duties hereunder.
- B. The City Administrator is the principal City official responsible for administration of the registering of a service provider. The City Administrator may delegate any or all of the duties hereunder.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-506.

REQUIREMENTS OF SERVICE PROVIDER.

- A. Any existing service provider must register within thirty (30) days of the effective date of this Article.
- B. Any person, who is not an existing service provider prior to the effective date of this Article and who wishes to become a service provider, must first register with the City.

- C. The service provider shall report any changes in its registration information within thirty (30) days.
- D. No service provider shall be authorized to utilize the right-of-way in any capacity or manner without registering and obtaining the necessary right-of-way permit from the City.
- E. The information required for registration includes the following:
  - 1. Identity and legal status of service provider, including related affiliates.
  - 2. Name, address, telephone number, fax number and e-mail address of officer, agent or employee responsible for the accuracy of the registration statement.
  - 3. Name, address, telephone number, fax number and email address of the local representative of the service provider who shall be available at all times to act on behalf of the service provider in the event of an emergency.
  - 4. Proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.
  - 5. Description of the service provider's intended use of the right-of-way.
  - 6. Information sufficient to determine whether the service provider is subject to franchising by Kansas law.
  - 7. Information sufficient to determine whether the service provider has applied for and received any certificate of authority required by the Kansas Corporation Commission.
  - 8. Information sufficient to determine that the service provider has applied for and received any permit or other approvals required by the Federal Communications Commission.
  - 9. Such other information as may be reasonably required by the City to complete the registration statement.
- F. Each service provider shall designate a local person familiar with the facilities that will act as a local agent for the service provider and will be responsible for satisfying information requirements of this article. The service provider shall present to the City the agent's name, address, telephone number, fax number and email address. The agent shall be the person to whom relocation notices and other such notices shall be sent, and with whom rests the responsibility to facilitate all necessary communications. The service provider shall be responsible for all costs incurred by the City due to the failure to provide such information to the City.
- G. Prior to construction, reconstruction, repair, maintenance, or relocation of facilities owned by the service provider in the right-of-way, the service provider shall first obtain the necessary right-of-way permit as provided hereafter.
- H. Prior to providing service to the City and its residents, the service provider shall first obtain the necessary franchise agreement, if any, from the City.
- I. The service provider shall participate in any joint planning, construction and advance notification of right-of-way work, including coordination and consolidation of street cut work as directed by the Public Works Director. In addition, the service provider shall cooperate with other service providers and the City for the best, most efficient, most aesthetic and least obtrusive use of

the right-of-way, consistent with safety, and to minimize traffic and other disruptions, including street cuts.

- J. The service provider shall furnish maps showing the location of facilities of the service provider within the City as provided hereafter.
- K. The City shall not exercise its authority under this provision to in any way deter competition or discriminate against any service provider.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-507. MAPPING REQUIREMENT OF SERVICE PROVIDER.

- A. The service provider shall keep and maintain accurate records and as-built drawings depicting accurate location of all its facilities constructed, reconstructed, or relocated in the right-of-way.
- B. Within ten (10) days of a request by the City, the service provider will provide to the City information concerning such facilities as may be reasonably requested.
- C. When available to the service provider, such information will be submitted electronically in an AutoCad® format to the extent compatible with the city's Geographical Information Systems (GIS) and Johnson County Automated Integrated Mapping Systems (AIMS) provided, however, that nothing herein shall be construed to require the ROW-user to acquire or modify any electronic mapping system.
- D. Underground facilities shall be differentiated from overhead facilities.
- E. Such mapping and identification shall be at the sole expense of the service provider. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-508. SERVICE PROVIDER'S RIGHT TO SELL, TRANSFER, LEASE, ASSIGN, SUBLET OR DISPOSE. Except as provided hereafter, the service provider shall not sell, transfer, lease, assign, sublet or dispose of its facilities, or any portion thereof, that is located in City right-of-way, or any right, title or interest in the same, or the transfer of any rights granted by the City to any person either by forced or involuntary sale, or by ordinary sale, consolidation or otherwise, without notice to the City. This provision shall not apply to the sale of property or equipment in the normal course of business or to the sale or lease of facilities to reseller service providers. No notice to the City shall be required for a transfer in trust, mortgage, or other similar instrument, in whole or in part, to secure an indebtedness, or for a pro forma transfer to a corporation, partnership, or other entity controlling, controlled by or under common control with the service provider. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-510. USE OF THE RIGHT-OF-WAY.

- A. The ROW-user's use of the right-of-way shall in all matters be subordinate to the City's use or occupation of the right-of-way. Without limitation of its rights, the City expressly reserves the right to exercise its governmental powers now and hereafter vested in or granted to the City.
- B. The ROW-user shall coordinate the placement of facilities in a manner that does not interfere with a Public Improvement and does not compromise the public health, safety, or welfare, as reasonably determined by the City. Where placement is not regulated, the facilities shall be placed with adequate clearance from such public improvements so as not to impact or be impacted

by such public improvement as defined in the City's "Manual of Infrastructure Standards" available in the office of the Public Works Director. Such Standards shall be competitively neutral and not unreasonable or discriminatory. (Ord. 2354, Sec 2, 2016)

- C. The ROW-users shall consider any request made by the City concerning placement of facilities in private easements in order to limit or eliminate future street improvement relocation expenses.
- D. All facilities shall be located and laid so as not to disrupt or interfere with any pipes, drains, sewers, irrigation systems, or other structures or public improvements already installed. In addition, the ROW-user shall, in doing work in connection with its facilities, avoid, so far as may be practicable, disrupting or interfering with the lawful use of right-of-way or other public lands of the City.
- E. All facilities of the ROW-user shall be placed so that they do not interfere with the use of right-of-way and public lands. The City, through its Public Works Director, shall have the right to consult and review the location, design and nature of the facility prior to its being installed.
- F. All newly-constructed facilities shall be located underground. The ROW-user shall comply with all requirements of the City relating to underground facilities. This requirement may be waived by the Public Works Director at his or her discretion for safety concerns, or some other good cause under the condition that does not cause discrimination among ROW-users. If this requirement is waived, the facilities shall be located as directed by the Public Works Director, including, but not limited to, requirements regarding location, height, breakaway design, and clear zones. Provided, however, the height of a facility will not exceed, or cause any existing facility to exceed, the lesser of:
  - (a) thirty-five (35) feet for residential or collector streets or forty-five (45) feet for arterial streets; and
  - (b) sixty-six (66) inches about the height of existing street light poles along the right-of-way surrounding the facility.

Above ground facilities shall comply with the Manual of Infrastructure Standards and all applicable zoning regulations, including but not limited to design, size, height, setbacks, screening and landscaping, and illumination, and be located in a manner that does not compromise the public health, safety, or welfare. No newly-constructed above ground facilities shall be located directly in front of any single-family home (or in front of where a single-family home could be constructed, in the case of a vacant lot), provided that if the Public Works Director deems it necessary or appropriate, such facilities may be located in the front yard, at or along the property line between two adjacent properties. (Ord. 2354, Sec 2, 2016)

- G. The ROW-user shall not interfere with the facilities of the other ROW-users without their permission. If and when the City requires or negotiates to have a service provider cease using its existing poles and to relocate its facilities underground, all other service providers using the same poles shall also relocate their facilities underground at the same time, except transmission equipment, as defined in 47 CFR 1.40001. Provided, any such relocations shall be subject to the appeal process contained in Section 13-528, as amended. (Ord. 2354, Sec 2, 2016).

- H. The Public Works Director may assign specific corridors within the right-of-way, or any particular segment thereof as may be necessary, for each type of facility that is currently or, pursuant to current technology, the Public Works Director expects will someday be located within the right-of-way. All right-of-way permits issued by Public Works Director shall indicate the proper corridor for the ROW-user's facilities. Any ROW-user whose facilities are currently in the right-of-way in a position at a variance with the designated corridors shall, no later than at the time of next reconstruction or excavation of the area where its facilities are located, move the facilities to its as signed position within the right-of-way, unless this requirement is waived by Public Works Director for good cause shown, upon consideration of such factors as the remaining economic life of the facilities, public health, safety or welfare, user service needs and hardship to the ROW-user. (Ord. 2354, Sec 2, 2016)
- I. If, in the preparation and planning of a right-of-way project, the Public Works Director deems it appropriate for a conduit to be constructed along, across or under the right-of-way, the Public Works Director shall contact all appropriate ROW-users for their input on the planning and design of such conduit. If a ROW-user desires to construct, maintain or operate facilities along such right-of-way, the Public Works Director may require the ROW-user to use such conduit, and to contribute to the expense of such conduit, provided, however, the ROW-user's use of the conduit is reasonable and appropriate under the circumstances.
- J. All earth, materials, sidewalks, paving, crossings, utilities, other public improvements or improvements of any kind damaged or removed by the ROW-user shall be fully repaired or replaced promptly by the ROW-user at its sole expense and to the reasonable satisfaction of the City. Upon determination by the Public Works Director that such repair or replacement is a public safety matter, all such repair or replacement shall be commenced within twenty-four (24) hours of notice from the City, or the Public Works Director may direct the city to make such repair or replacement and bill the ROW-user for the City cost. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the ROW-user to do any necessary additional work.
- K. All technical standards governing construction, reconstruction, installation, operation, testing, use, maintenance, and dismantling of a ROW-user's facilities in the right-of-way shall be in accordance with the Manual of Infrastructure Standards and all applicable federal, state and local law and regulations, including those promulgated by national trade associations commonly associated with the service provided by the ROW-user. It is understood that the standards established in this paragraph are minimum standards and the requirements established or referenced in this article may be in addition to or stricter than such minimum standards. A ROW-user shall not construct or reconstruct any of its facilities located upon, over, under or within the City right-of-way without first having submitted in writing a description of its planned improvement to the Public Works Director and having received a permit for such improvement. The Public Works Director may require that any drawings, plans and/ or specifications submitted be certified by a Kansas registered professional engineer stating that such drawings, plans and/or specifications comply with all applicable technical



codes, rules and regulations, unless such plans are based directly on nationally recognized codes, which are appropriately cited, and attested to on the plans by the signature of an authorized official of the organization applying for the permit.

- L. The ROW-user shall cooperate promptly and fully with the City and take all reasonable measures necessary to provide accurate and complete on-site information regarding the nature and horizontal and vertical location of its facilities located within the right-of-way, both underground and overhead, when requested by the City or its authorized agent for a public improvement. Such location and identification shall be at the sole expense of the ROW-user without any expense to the City, its employees, agents, or authorized contractors. (Ord. 1982, Sec. 2; 1995; Ord. 2047, Sec. 1, 2002; Ord. 2354 Sec. 2, 2016)

13-511.

FACILITY RELOCATION.

- A. The ROW-user shall promptly remove, relocate or adjust any facilities located in the right-of-way as directed by the City for a public improvement or when reasonably required by the City by reason of public health, safety and welfare. Such removal, relocation, or adjustment shall be performed by the ROW-user at the ROW-user's sole expense without expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations and schedules of the City pertaining to such. The ROW-user shall proceed with relocations at due diligence upon notice by the City to begin relocation.
- B. The ROW-user shall promptly remove, relocate or adjust any facilities located in private easement, as directed by the City, for a public improvement, at City expense, by moving such facilities to areas within the expanded right-of-way or within remaining private easements or remaining portions of such easements not condemned by nor disclaimed to the City to avoid conflict with City construction and improvements. The ROW-user shall disclaim those parts of its easements which lie within the expanded right-of-way. Should the City, in the future, elect to require the ROW-user to again relocate its facilities to other areas within the expanded right-of-way, the cost of any such future relocation shall be borne by the City.
- C. As soon as working drawings are available for public improvements which will require the ROW-user to relocate its facilities, the city shall provide the ROW-user with written notice of relocations and the anticipated bid letting date of said improvement. The ROW-user shall respond with any conflicts and a proposed construction schedule within thirty (30) days.
- D. Following notice by the City in the form of the delivery of final design plans for such public improvements, the ROW-user shall remove, and relocate its facilities in accordance with the mutually agreed upon schedule, provided the project is not delayed by adverse weather conditions and other factors beyond the control of the ROW-user. The ROW-user shall certify to the City, in writing, that its facilities have been relocated or adjusted to clear construction in accordance with project plans provided by the City.
- E. Any damages suffered by the City, its agents or its contractors to the extent caused by ROW-user's failure to timely relocate or adjust its facilities, or

failure to properly relocate or adjust such facilities, shall be borne by the ROW-user.

- F. In the event the ROW-user is required to move its facilities in accordance with this section, any ordinary right-of-way permit fee shall be waived.
- G. It is the intent of this section for both the City and the ROW-user to cooperate with one another so that the need for facility relocation is minimized and, when required and feasible, relocations may be completed prior to receipt of bids by the City for a public improvement.
- H. In the event that a ROW-user is required to move its facilities for a private benefit, the ROW-user shall not bear the cost of the relocation or adjustment to the extent of such private benefit, and the ROW-user shall not be obligated to commence the relocation or adjustment until receipt of funds for such relocation or adjustment.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002; Ord. 2354, Sec. 3, 2016)

13-512.

#### PROTECTION OF THE PUBLIC.

- A. It shall be the responsibility of the ROW-user to take adequate measures to protect and defend its facilities in the right-of-way from harm and damage.
- B. The City shall not be liable for any damage to or loss of any of the ROW-user's facilities within the right-of-way as a result of or in connection with any construction, excavation, grading, filling or work of any kind, including public improvements by or on the behalf of the City, except to the extent caused by the negligent, willful, intentional, or malicious acts or omissions of the City.
- C. The ROW-user shall be responsible to the City and its agents, representatives, and authorized contractors for all damages suffered by them including, but not limited to delay damages, repair costs, down time, construction delays, penalties or other expenses of any kind arising out of the failure of the ROW-user to timely perform any of its obligations under this article to the extent caused by the acts or omissions of the ROW-user.
- D. The City or its authorized contractors shall be responsible for taking reasonable precautionary measures including closing for facility locations when constructing its public improvements.
- E. Any ROW-user who for any purpose makes or causes to be made any excavation in, upon, under, through or adjoining any street, sidewalk, alley or other right-of-way, and shall leave any part or portion thereof open, or shall leave any part or portion thereof disrupted with rubbish, building or other material during construction and/or the night time, shall cause the same to be enclosed with good substantial and sufficient barricades or drums equipped with the appropriate type warning lights and orange safety fencing material which is properly secured around the excavation or the disruption.
- F. Whenever a ROW-user shall excavate the full width of any street, sidewalk, alley, driveway approach or other right-of-way, it shall be its duty to maintain an adequate passage for vehicles and pedestrians across or around the excavation until it is refilled as specified.
- G. Any excavation left open overnight on any thoroughfare or collector type streets shall be securely covered. The ROW-user assumes the sole responsibility for maintaining proper barricades, plates, safety fencing and/or lights as required from the time of opening of the excavation until the excavation is surfaced and opened for travel.

- H. The Public Works Director, upon the review and approval of a plan and details for trimming trees in the right-of-way, may grant permission by permit to any ROW-user to trim trees upon and overhanging the right-of-way so as to prevent such trees from coming in contact with the facilities of the ROW-user.
- I. In the event the ROW-user severely disturbs or damages the root structure of any tree in the right-of-way to the detriment of the health and safety of the tree, the ROW-user will be required to remove and replace the tree at the ROW-user's cost. Further, in review of the ROW-user's plan, Public Works Director, in his or her discretion, may require the ROW-user to directionally bore around any tree in the right-of-way.
- J. Upon the appropriate request of any person having satisfied City procedure and ordinances, the ROW-user shall remove, raise, or lower its facilities temporarily to permit the moving of houses or other structures. The expense of such temporary removal, raising or lowering shall be paid by the person requesting the same, and the ROW-user may require such payment in advance. The ROW-user must be given not less than fifteen (15) days written notice from the person detailing the time and location of the moving operations, and not less than twenty-four (24)-hours advance notice from the person advising of the actual operation.
- K. The Public Works Director may cause to be removed any encroachment in the Right-of-Way that creates a hazard to public health, safety, or welfare, and the cost of such removal and restoration of the right-of-way shall be borne by the ROW-user.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002; Ord. 2354, Sec. 4; 2016)

13-513.

RIGHT-OF-WAY VACATION.

- A. If the City vacates a right-of-way which contains the facilities of the service provider, and if the vacation does not require the relocation of the service provider's facilities, the City shall reserve, to and for itself and all service providers having facilities in the vacated right-of-way, an easement for the right to install, maintain and operate any facilities in the vacated right-of-way and to enter upon such vacated right-of-way at any time for the purpose of reconstructing, inspecting, maintaining or repairing the same.
- B. If the vacation requires the relocation of facilities, and
  - 1. If the vacation proceedings are initiated by the service provider, the service provider must pay the relocation costs.
  - 2. If the vacation proceedings are initiated by the City, the service provider must pay the relocation costs unless otherwise agreed to by the City and the service provider.
  - 3. If the vacation proceedings are initiated by a person other than the service provider or the City, such other person must pay the relocation costs. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-514.

ABANDONED AND UNUSABLE FACILITIES.

- A. A ROW-user owning abandoned facilities in the right-of-way must either:
  - 1. Remove its facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Public Works Director

may allow underground facilities or portions thereof remain in place if the Public Works Director determines that it is in the best interest of public health, safety, or welfare to do so. At such time, the City may take ownership and responsibility of such vacated facilities left in place; or

2. Provide information satisfactory to the city that the ROW-user's obligations for its facilities in the right-of-way have been lawfully assumed by another authorized ROW-user; or
  3. Submit to the City a proposal and instruments for transferring ownership of its facilities to the city. If the ROW-user proceeds under this section, the City may, at its option purchase the equipment, require the ROW-user, at its own expense, to remove it, or require the ROW-user to post a bond in an amount sufficient to reimburse the City for reasonable anticipated costs to be incurred to remove the facilities.
- B. Facilities of a ROW-user who fails to comply with this section, and whose facilities remain unused for two (2) years, shall be deemed to be abandoned after the City has made a good faith effort to contact the ROW-user, unless the City receives confirmation that the ROW-user intends to use the facilities. Abandoned facilities are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to,
1. abating the nuisance,
  2. taking possession and ownership of the facility and restoring it to a useable function, or
  3. requiring the removal of the facility by the ROW-user.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002; Ord. 2354, Sec. 5, 2016)

13-515.

Permit Requirement.

- A. Except as otherwise provided, no ROW-user may excavate any right-of-way or conduct any repair, construction, or reconstruction of facilities located within the right-of-way without first having obtained the appropriate right-of-way permit.
- B. There are two exemptions to this provision:
  1. Contractors working on the construction or reconstruction of public improvements.
  2. ROW-users performing routine service operations which do not require excavation in the right-of-way and do not disrupt traffic for more than four (4) hours.
- C. No person owning or occupying any land abutting on a public right-of-way shall construct, maintain, or permit in or on the portion of the public right-of-way to which such land is adjacent, any fixed structure, material or object without having obtained the appropriate right-of-way permit.
- D. A right-of-way permit is required for emergency situations. If due to an emergency it is necessary for the ROW-user to immediately perform work in the right-of-way, and it is impractical for the ROW-user to first get the appropriate permit, the work may be performed, and the required permit shall be obtained as soon as possible during the next City working day.
- E. No permittee may excavate the right-of-way beyond the date or dates specified in the right-of-way permit unless the permittee:
  1. Makes a supplementary application for another right-of-way permit before the expiration of the initial permit, and,

2. A new right-of-way permit or permit extension is granted.
- F. Right-of-way permits issued shall be conspicuously displayed by the permittee at all times at the indicated work site and shall be available for inspection by the Public Works Director, other City employees and the public.
- G. Prior to the commencement of excavation, the permittee shall identify and locate any buried facilities to be spray painted according to the Uniform Color Code required by the Kansas One Call.
- H. All excavations by the permittee shall have a metal marker inserted into the excavation of the restored pavement, which shall identify the ROW-user.
- I. Before receiving a right-of-way permit, the applicant must show proof of any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to, the City, the FCC or the KCC.
- J. Any ROW-user who is found to be working in the public right-of-way without a permit will be directed to stop work until a permit is acquired and properly posted at the work site. The only exception allowed is for emergency repair work.
- K. Any permittee found to be working without providing for required safety and traffic control will be directed to stop work until the appropriate measures are implemented in accordance with the current edition of the Manual on Uniform Traffic Control Devices. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-516.

#### PERMIT APPLICATIONS.

- A. Application for a right-of-way permit shall be submitted to the Public Works Director either by the ROW-user or by the person who will do the work and/or excavation in the right-of-way. Before an application may be submitted, the applicant must attend a pre-application meeting with designated City staff, unless waived by the Public Works Director (Ord. 2354, Sec. 6, 2016)
- B. Right-of-way applications shall contain and be considered complete only upon receipt of the following:
  1. Compliance with verification of registration;
  2. Submission of a completed permit application form, including all required attachments and scaled drawings showing the location and area of the proposed project and the location of all existing and proposed facilities at such location;
  3. A traffic control plan;
  4. Payment of all money due to the city for permit fees and costs, for prior excavation costs, for any loss, damage or expense suffered by the City because of the applicant's prior excavations of the right-of-way or for any emergency actions taken by the City, unless the payment of such money is in dispute and timely appealed as provided hereafter.
- C. All applications shall be processed within the timeframes required by state and federal law. (Ord. 2354, Sec. 6, 2016)
- D. If an applicant has submitted an application for a permit for the installation, construction, maintenance, or repair of multiple facilities, that applicant may not submit another application for a permit for the installation, construction, maintenance, or repair of multiple facilities until the first application has been

approved or denied. This provision may be waived by the Public Works Director. (Ord. 1982, Sec. 2; Ord. 2047, Sec. 1; Ord. 2354, Sec. 6, 2016)

13-517. LIABILITY INSURANCE, PERFORMANCE AND MAINTENANCE BOND REQUIREMENT.

- A. The permittee shall file with the City evidence of commercial general and automobile liability insurance with an insurance company licensed to do business in Kansas. The general liability limit will be not less than one million dollars (\$1,000,000) per occurrence and \$2,000,000 in aggregate. The automobile liability limit will not be less than one million (\$1,000,000) combined single limit. The insurance will protect the City from and against all claims by any person whatsoever for loss or damage from personal injury, bodily injury, death, or property damage to the extent caused or alleged to have been caused by the negligent acts or omissions of the permittee. If the permittee is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts.
- B. The permittee shall at all times during the term of the permit, and for two (2) years thereafter, maintain a performance and maintenance bond in a form approved by the City Attorney. The amount of the bond will be \$5,000 or the value of time restoration, whichever is greater, for a term consistent with the term of the permit plus two (2) additional years, conditioned upon the permittee's faithful performance of the provisions, terms and conditions conferred by this article. An annual bond in an amount of \$50,000 automatically renewed yearly during this period shall satisfy the requirement of this section. In the event the City shall exercise its right to revoke the permit as granted herein, then the City shall be entitled to recover under the terms of said bond the full amount of any loss occasioned.
- C. A copy of the Liability Insurance Certificate and Performance and Maintenance Bond must be on file with the City Clerk.
- D. No performance and maintenance bond or liability insurance will be required of any governmental entity, or of any residential property owner working in the right-of-way adjacent to his/her residence, who does not utilize a contractor to perform the excavation. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-518. RIGHT-OF-WAY PERMIT FEES.

- A. The right-of-way permit fee and other appropriate fees, including but limited to inspection fees, excavation fees, pole attachment fees and franchise fees, shall be recommended by the Public Works Director, approved by the governing body and listed in the Schedule of Fees maintained in the City Clerk's office, as such Schedule may be amended from time to time. An application shall not be deemed submitted unless the right-of-way permit fee is paid. The right-of-way permit fee shall be subject to all state and federal fee limitations. (Ord. 2354, Sec. 7, 2016)
- B. Fees paid for a right-of-way permit, which is subsequently revoked by the Public Works Director, are not refundable.
- C. Except as provided for in an emergency situation, when a ROW-user is found to have worked or is working in the right-of-way without having obtained a

permit, the fee for the permit will be double the amount had the ROW-user obtained a permit prior to beginning work.

- D. The City may also charge and collect any necessary repair and restoration costs. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002; Ord. 2354, Sec. 7, 2016))

13-519. ISSUANCE OF PERMIT.

- A. If the Public Works Director determines that the applicant has satisfied the requirements of this article, the public works director shall issue a right-of-way permit.
- B. The Public Works Director may impose reasonable conditions upon the issuance of a right-of-way permit and the performance of the permittee in order to protect the public health, safety and welfare, to ensure the structural integrity of the right-of-way, to protect the property and safety of other users of the right-of-way, and to minimize the disruption and inconvenience to the traveling public.
- C. When a right-of-way permit is requested for purposes of installing additional facilities and the performance and maintenance bond for additional facilities is reasonably determined to be insufficient, the posting of an additional or larger performance and maintenance bond for the additional facilities may be required.
- D. Issued permits are not transferable.
- E. If work is being done for the ROW-user by another person, a subcontractor or otherwise, the person doing the work and the ROW-user shall be liable and responsible for all damages, obligations, and warranties herein described.
- F. For the purposes of defining replacement of facilities, the City considers any repair or replacement of a facility that is in such disrepair that substantial replacement is required, to be a new facility. In cases of natural disaster events, restoration of facilities will be considered as neither new nor replacement, but as an emergency repair.
- G. All right-of-way permits will be issued with a maximum of ninety (90) calendar days to complete the work. Any work beyond the expiration of the permit will be as provided in the provisions of this Article with regard to Supplementary Applications.
- H. Individual right-of-way permits are limited to a maximum of 2,500 feet of contiguous work length. (Ord. 1982, Sec. 2; Ord. 2047, Sec. 1)

15-520. PERMITTED WORK.

- A. The permittee shall not make any cut, excavation or grading of right-of-way other than excavations necessary for emergency repairs without first securing a right-of-way permit.
- B. The permittee shall not at any one time open or encumber more of the right-of-way than shall be reasonably necessary to enable the permittee to complete the project in the most expeditious manner.
- C. The permittee shall, in the performance of any work required for the installation, repair, maintenance, relocation and/or removal of any of its facilities, limit all excavations to those excavations that are necessary for efficient operation.

- D. The permittee shall not permit such an excavation to remain open longer than is necessary to complete the repair or installation.
- E. The permittee shall notify the City no less than three (3) working days in advance of any construction, reconstruction, repair, location or relocation of facilities which would require any street closure or which reduces traffic flow to less than two (2) lanes of moving traffic for more than four (4) hours. Except in the event of an emergency as reasonably determined by the permittee, no such closure shall take place without notice and prior authorization from the City.
- F. Non-emergency work on arterial and collector streets may not be performed during the hours of 7:00 a.m. to 8:30 a.m. and 4:00 p.m. to 6:00 p.m., in order to minimize disruption of traffic flow.
- G. All work performed in the right-of-way or which in any way impacts vehicular or pedestrian traffic shall be properly signed, barricaded, and otherwise protected at the permittee's expense. Such signage shall be in conformance with the latest edition of the Administration's Manual on Uniform Traffic Control Devices, unless otherwise agreed to by the City.
- H. The permittee shall provide identify and locate any underground facilities in conformance with the Kansas Underground Utility Damage Prevention Act "Kansas One Call" system, and notice shall be provided directly to Johnson County Water District #1 and either to Kansas City Power and Light (KCPL) or to the Traffic Operations section of the Public Works Department with respect to any municipal traffic signal and street light systems, as appropriate.
- I. The permittee shall be liable for any damages to underground facilities due to excavation work prior to obtaining location of such facilities, or for any damage to underground facilities that have been properly identified prior to excavation. The permittee shall not make or attempt to make repairs, relocation or replacement of damaged or disturbed underground facilities without the approval of the owner of the facilities.
- J. Whenever there is an excavation by the permittee, the permittee shall be responsible for providing adequate traffic control to the surrounding area as determined by Public Works Director of the City. The permittee shall perform work on the right-of-way at such times that will allow the least interference with the normal flow of traffic and the peace and quiet of the neighborhood. In the event the excavation is not completed in a reasonable period of time, the permittee may be liable for actual damages to the City for delay caused by the permittee pursuant to this article.
- K. All facilities and other appurtenances laid, constructed and maintained by the permittee shall be laid, constructed and maintained in accordance with acceptable engineering practice and in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, as well as the rules and regulations of the Kansas Corporation Commission or any other local, state or federal agency having jurisdiction over the parties.
- L. Following completion of permitted work for new construction, the permittee shall keep, maintain and provide to the City accurate records and as-built drawings, drawn to scale and certified to the City as accurately depicting the location of all utility facilities constructed pursuant to the permit. When



available to the permittee, maps and drawings provided will be submitted in AUTOCAD.DXF or AUTOCAD.DWG automated formats if available, or in hard copy otherwise. The Public Works Director may waive this requirement. Such information shall be subject in all respects and shall have the benefit of protection as set forth in the "Mapping Requirements of Service Provider" contained herein.

- M. The City may use the as-built records of the service provider's facilities in connection with public improvements.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-521.

#### RIGHT-OF-WAY REPAIR AND RESTORATION.

- A. The work to be done under the right-of-way permit and the repair and restoration of the right-of-way as required herein must be completed within the dates as specified in the permit. However, in the event of circumstances beyond the control of the permittee or when work was prohibited by unseasonable or unreasonable conditions, the Public Works Director may extend the date for completion of the project upon receipt of a supplementary application for a permit extension.
- B. All earth, materials, sidewalks, paving, crossing, utilities, public improvement or improvements of any kind damaged or removed by the permittee shall be fully repaired or replaced promptly by the permittee at its sole expense and the reasonable satisfaction of the City. The Public Works Director has the authority to inspect the repair or replacement of the damage, and if necessary, to require the permittee to do the additional necessary work. Notice of the unsatisfactory restoration and the deficiencies found will be provided to the permittee and a reasonable time not to exceed fifteen (15) days will be provided to allow for the deficiencies to be corrected.
- C. After any excavation, the permittee shall, at its expense, restore all portions of the right-of-way to the same condition or better condition than it was prior to the excavation thereof.
- D. In addition to repairing its own street cuts, the permittee must restore any area within five (5) feet of the new street cut that has previously been excavated, including the paving and its aggregate foundations.
- E. If the permittee fails to restore the right-of-way in the manner and to the condition required by the Public Works Director, or fails to satisfactorily and timely complete all restoration the City may, at its option, serve written notice upon the permittee and its surety that, unless within five (5) days after serving of such notice, a satisfactory arrangement can be made for the proper restoration of the right-of-way, the City shall immediately serve notice of failure to comply upon the surety and the permittee, and the surety shall have the right to take over and complete the work; provided, however, that if the surety does not commence performance thereof within ten (10) days from the date of notice, the City may take over the work and prosecute same to completion, by contract or otherwise at the expense of the permittee, and the permittee and its surety shall be liable to the City for any and all excess cost assumed by the City by reason of such prosecution and completion.
- F. The permittee responsible for the excavation that leaves any debris in the right-of-way shall be responsible for providing safety protection in accordance

with the latest edition of the Manual of Uniform Traffic Control Devices and any applicable federal or state requirement.

- G. If an excavation cannot be back-filled immediately and left unattended, the permittee shall securely and adequately cover the unfilled excavation. The permittee has sole responsibility for maintaining proper barricades, safety fencing and/or lights as required, from the time of the opening of the excavation until the excavation is surfaced and opened for travel.
- H. In restoring the right-of-way, the permittee guarantees its work and shall maintain it for twenty-four (24) months following its completion. During the twenty-four (24) months the permittee shall, upon notification from the Public Works Director, correct all restoration work to the extent necessary, using any method as required by the public works director. Said work shall be completed within a reasonable time, not to exceed thirty (30) calendar days, of the receipt of notice from the Public Works Director (not including days during which work cannot be done because of circumstances constituting force Majeure or days when work is prohibited as unseasonable or unreasonable). In the event the permittee is required to perform new restoration pursuant to the foregoing guarantee, the public works director shall have the authority to extend the guarantee period for such new restoration for up to an additional twenty-four (24) months from the date of the new restoration, if the Public Works Director determines any overt action by the permittee not to comply with the conditions of the right-of-way permit and any restoration requirements.
- I. The twenty-four (24) month guarantee period shall be applicable to failure of the pavement surface as well as failure below the pavement surface.
- J. Payment of an excavation fee shall not relieve the permittee of the obligation to complete the necessary right-of-way restoration.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-522. JOINT APPLICATIONS.

- A. Applicants may apply jointly for permits to excavate the right-of-way at the same time and place.
- B. Applicants who apply jointly for a right-of-way permit may share in the payment of the permit fee. Applicants must agree among themselves as to the portion each shall pay.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-523. SUPPLEMENTARY APPLICATIONS.

- A. A right-of-way permit shall only be valid for the area of the right-of-way specified within the permit. No permittee may cause any work to be done outside the area specified in the permit, except as provided herein. Any permittee who determines that an area greater than that which is specified in the permit must be excavated must do the following prior to the commencement of work in that greater area:
  - 1. make application for a permit extension and pay any additional fees required thereby; and
  - 2. receive a new right-of-way permit or permit extension.
- B. A right-of-way permit shall be valid only for the dates specified in the permit. No permittee may commence work before the permit start date or, except as

provided herein, may continue working after the end date. If a permittee does not complete the work by the permit end date, the permittee must apply for and receive a new right-of-way permit or a permit extension for additional time. This supplementary application must be submitted to the City prior to the permit end date. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-524.

OTHER OBLIGATIONS.

- A. Obtaining a right-of-way permit under this article shall not relieve the permittee of its duty to obtain any necessary permit, license, certification, grant, registration, franchise agreement or any other authorization required by any appropriate governmental entity, including, but not limited to the City, the FCC or the KCC, and to pay any fees required by any other City, County, State, or Federal rules, laws, or regulations. A permittee shall perform all work in full accord with any and all applicable engineering codes adopted or approved by the parties and in accordance with applicable statutes of the State of Kansas, and the rules and regulations of the KCC or any other local, state or federal agency having jurisdiction over the parties. A permittee shall perform all work in conformance with all applicable codes and established rules and regulations and shall be responsible for all work done in the right-of-way pursuant to its permit, regardless by whom the work is done by.
  - B. Except in cases of an emergency or with approval of the Public Works Director, no right-of-way work may be done when conditions are unreasonable for such work.
  - C. A permittee shall not disrupt a right-of-way such that the natural free and clear passage of water through the gutters or other waterways is interfered with. Private vehicles may not be parked within or next to the permit area.
- (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-525.

DENIAL OF PERMIT.

- A. The Public Works Director may deny a permit or prohibit the use or occupancy of a specific portion of the right-of-way to protect the public health, safety and welfare, to prevent interference with the safety and convenience of ordinary travel over the right-of-way, or when necessary to protect the right-of-way and its users. The Public Works Director, at his or her discretion, may consider all relevant factors including but not limited to:
  - 1. The extent to which the right-of-way space where the permit is sought is available;
  - 2. The competing demands for the particular space in the right-of-way;
  - 3. The availability of other locations in the right-of-way or in other right-of-way for the facilities of the applicant;
  - 4. The applicability of any ordinance or other regulations, including City zoning regulations, that affect location of facilities in the right-of-way;
  - 5. The degree of compliance of the applicant with the terms and conditions of its franchise, this article, and other applicable ordinances and regulations;
  - 6. The degree of disruption to surrounding communities and businesses that will result from the use of that part of the right-of-way;

7. The balancing of costs of disruption to the public and damage to the right-of-way, against the benefits to that part of the public served by the construction in the right-of-way;
  8. Whether the applicant maintains a current registration with the City.
  9. Whether the issuance of a right-of-way permit for the particular dates and/or time requested would cause a conflict or interferes with an exhibition, celebration, festival, or any other event. In exercising this discretion, the Public Works Director shall be guided by the safety and convenience of anticipated travel of the public over the right-of-way.
  10. Whether the application complies with the Manual of Infrastructure Standards.
  11. The adverse impact of the facilities or the facilities' proposed location on any reasonable public interest necessitated by public health, safety, or welfare.
- B. Notwithstanding the above provisions, the Public Works Director may in his or her discretion issue a right-of-way permit in any case where the permit is necessary to:
1. Prevent substantial economic hardship to a user of the applicant's service;
  2. Allow such user to materially improve the service provided by the applicant.
- C. Any denial of wireless communications antenna, tower, or related facilities shall, in accordance with federal and state law, be made in writing and supported by substantial evidence contained in a written record issued contemporaneously with said decision. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec.1, 2002; Ord. 2354, Sec. 8, 2016)

13-526.

REVOCAION OF PERMIT.

- A. Permittees hold right-of-way permits issued pursuant to this Article as a privilege and not as a right. The City reserves its right, as provided herein, to revoke any right-of-way permits, without refund of the permit fee, in the event of a substantial breach of the terms and conditions of any law or the right-of-way permit. A substantial breach shall include, but not be limited to the following:
1. The violation of any material provision of the right-of-way permit;
  2. An evasion or attempt to evade any material provision of the right-of-way permit, or the perpetration or attempt to perpetrate any fraud or deceit upon the city or its citizens;
  3. Any material misrepresentation of any fact in the permit application;
  4. The failure to maintain the required bond or insurance;
  5. The failure to complete the work in a timely manner;
  6. The failure to correct a condition indicated on an order issued pursuant to this Article;
  7. Repeated traffic control violations; or
  8. Failure to repair facilities damaged in the right-of-way.
- B. If the Public Works Director determines that the permittee has committed a substantial breach of any law or condition placed on the right-of-way permit, the Public Works Director shall make a written demand upon the permittee to remedy such violation. The demand shall state that the continued violation

may be cause for revocation of the permit, or legal action if applicable. Further, a substantial breach, as stated above, will allow the public works director, at his or her discretion, to place additional or revised conditions on the right-of-way permit, specifically related to the manner in which the breach is cured by the permittee. Within five (5) calendar days of receiving notification of the breach, permittee shall contact the public works director with a plan, acceptable to the Public Works Director, for correction of the breach. Permittee's failure to contact the Public Works Director, permittee's failure to submit an acceptable plan, or permittee's failure to reasonably implement the approved plan shall be cause for immediate revocation of the right-of-way permit.

- C. If a right-of-way permit is revoked, the permittee shall also reimburse the City for the City's reasonable costs, including administrative costs, restoration costs and the costs of collection and reasonable attorney's fees incurred in connection with such revocation.

(Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-527.

#### WORK REQUIREMENTS AND INSPECTIONS.

- A. Any excavation, backfilling, repair and restoration, and all other work performed in the right-of-way shall be done in conformance with the City's Manual of Infrastructure Standards as promulgated by the Public Works Director.
- B. The permittee shall employ a testing laboratory as approved by the Public Works Director, which shall certify the proper back-filling on any street cut. The permittee shall pay all costs associated with such testing. This provision shall be waived when flowable fill is used as backfill or with the permission of the Public Works Director.
- C. The permittee shall notify the office of the Public Works Director upon completion of the authorized work permit.
- D. The permittee will notify the public works director to schedule an inspection at the start of back-filling. Upon completion of all right-of-way restoration activities, the permittee will schedule a closeout inspection.
- E. When any corrective actions required have been completed and inspected to the Public Works Director's satisfaction, the two (2)-year maintenance period will begin.
- F. In addition to the required scheduled inspections, the Public Works Director may choose to inspect the ongoing permitted work in the right-of-way at any time to ensure that all requirements of the approved permit are being met by the permittee.
- G. At the time of any inspection, the Public Works Director may order the immediate cessation of any work, which poses a serious threat to the life, health, safety, or well being of the public. The Public Works Director may issue a citation to the permittee for any work, which does not conform, to the applicable standards, conditions, code or terms of the permit. The citation shall state that failure to correct the violation will be cause for revocation of the permit. (Ord. 1082, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-528.

#### APPEALS PROCESS.

- A. Whenever a person shall deem themselves aggrieved by any decision or action taken by the Public Works Director, the person may file an appeal to the Governing Body within ten (10) calendar days of the date of notice of such decision or action. Provided, this section shall not apply to any person who is availing themselves of the appeal provisions set forth in K.S.A. 66-2019(h)(6), as amended. (Ord. 2354, Sec. 9, 2016)
- B. The persons shall be afforded a hearing on the matter before the Governing Body within thirty (30) days of filing the appeal.
- C. In cases of applicability or interpretation of the rules, the Governing Body may revoke such decision or action taken by the Public Works Director.
- D. In cases where compliance with such decision or action taken by the Public Works Director would cause undue hardship, the Governing Body may extend the time limit of such decision or action, or may grant exceptions to, or waive requirements of, or grant a variance from the specific provisions of rules. The Governing Body shall give due consideration to the purposes of the rules in preserving public safety and convenience, integrity of public infrastructure, and the operational safety and function of the public right-of-way.
- E. Pending a decision by the Governing Body, the order of the Public Works Director shall be stayed, unless the Public Works Director determines that such action will pose a threat to public safety or the integrity of the public infrastructure.
- F. If a person still deem themselves aggrieved after the appeal to the Governing Body, such person shall have thirty (30) days after the effective date of the Governing Body's final decision to institute an action in the District Court of Johnson County, Kansas. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002; Ord. 2354, Sec. 9, 2016)

13-529.

INDEMNIFICATION. A Row-user shall indemnify and hold the City and its officers and employees harmless against any and all claims, lawsuits, judgments, costs, liens, losses, expenses, fees (including reasonable attorney fees and costs of defense), proceedings, actions demands, causes of action, liability and suits of any kind and nature, including personal or bodily injury (including death), property damage or other harm for which recovery of damages is sought, to the extent that it is found by a court of competent jurisdiction to be caused by the negligence of the ROW-user, any agent, officer, director, or their respective officers, agents, employees, directors or representatives, while installing repairing or maintaining facilities in a public right-of-way. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participations shall not under any circumstances relieve the ROW-user from its duty to defend against liability or its duty to pay and judgment entered against the City, or its agents.

If a ROW-user and the City are found jointly liable by a court of competent jurisdiction, liability shall be apportioned comparatively in accordance with the laws of this state without, however, waiving any governmental immunity available to the City under state or federal law. This section is solely for the benefit of the City and ROW-user and does not create or grant any rights, contractual or

otherwise, to any other person or entity. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-530. FORCE MAJEURE. Each and every provision hereof shall be subject to acts of God, fires, strikes, riots, floods, war and other circumstances beyond the ROW-user's or the City's control. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-531. FEDERAL, STATE AND CITY JURISDICTION. This article shall be construed in a manner consistent with all applicable federal, state, and local laws. Notwithstanding any other provisions of this article to the contrary, the construction, operation and maintenance of the ROW-user's facilities shall be in accordance with all laws and regulations of the United States, the state and any political subdivision hereof, or any administrative agency hereof, having jurisdiction. In addition, the ROW-user shall meet or exceed the most stringent technical standards set by regulatory bodies, including the City, now or hereafter having jurisdiction. The ROW-user's rights are subject to the police powers of the City to adopt and enforce ordinances necessary to the health, safety, and welfare of the public. The ROW-user shall comply with all applicable laws and ordinances enacted pursuant to that power. Finally, failure of the ROW-user to comply with any applicable law or regulation may result in a forfeiture of any permit, registration or authorization granted in accordance with this article. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-532. SEVERABILITY. If any section, subsection, sentence, clause, phrase, or portion of this article is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-533. CITY'S FAILURE TO ENFORCE. The City's failure to enforce or remedy any noncompliance of the terms and conditions of this article or of any permit granted hereunder shall not constitute a waiver of the City's rights nor a waiver of any person's obligation as herein provided. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-534. PENALTIES.

A. Any person or entity violating any provision violation of this Article is guilty of a public offense, and upon conviction thereof shall be fined in a sum of not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500). Every day that this article is violated shall constitute a separate offense.

B. The violation of any provision of this article is hereby deemed to be grounds for revocation of the permit and registration to operate with the City.

C. 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. In addition to any other remedies, the City Attorney may institute injunction, mandamus or other appropriate action or proceeding to prevent violation of this Article. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-535.

RESERVATION OF RIGHTS.

- A. In addition to any rights specifically reserved to the City by this Article, the City reserves unto itself every right and power which is required to be reserved by a provision of any ordinance under any registration, permit or other authorization granted under this article. The city shall have the right to waive any provision of this Article or any registration, permit or other authorization granted hereunder, except those required by federal or state law, if the city determines as follows:
  - 1. that it is in the public interest to do so; and
  - 2. that the enforcement of such provision will impose an undue hardship on the person. To be effective, such waivers shall be evidenced by a statement in writing signed by a duly authorized representative of the City. Further, the City hereby reserves to itself the right to intervene in any suit, action or proceeding involving the provisions herein.
- B. Notwithstanding anything to the contrary set forth herein, the provisions of this Article shall not infringe upon the rights of any person pursuant to any applicable state or federal statutes, including, but not limited to the right to occupy the right-of-way. (Ord. 1982, Sec. 2, 1995; Ord. 2047, Sec. 1, 2002)

13-536

REPEAL OF OTHER ORDINANCES. All other ordinances and resolutions or parts thereof inconsistent or in conflict with the terms thereof shall be canceled, annulled, repealed and set aside; provided, that this Article shall not take effect or become in force until the requirements for adopting an Ordinance as set forth in the City of Prairie Village Municipal Code have occurred.  
(Ord. 2047, Sec. 1, 2002)



## ARTICLE 6. CURB CUTS AND CUTBACKS

- 13-601. CURB CUTS; RESIDENTIAL DRIVEWAYS.
- A. Permit Required. No person shall cut any street curbing for the purpose of constructing an entrance for a private driveway for any residence property without first securing a permit therefore from the Director of Public Works.
  - B. Maximum Width. No curb for such a private driveway entrance shall exceed 22 feet not including the wings. (Ord. 2006, Sec. 1)
- 13-602. SAME; COMMERCIAL DRIVEWAYS.
- A. Permit Required. No person shall cut any street curbing for the purpose of constructing an entrance for any commercial property without first securing a permit therefore from the director of public works.
  - B. Width. Single direction driveways shall not exceed 18 feet not including the entrance radius. Multiple direction driveways shall not exceed 14 feet per lane not including the entrance radius. The entrance radius will be a maximum of 20 feet radius.
  - C. Number and Location of Multiple Commercial Driveways. The construction of multiple driveway entrances from the same street to the same commercial property or tract is prohibited unless the following minimum requirements are complied with:
    1. There shall be not more than one commercial driveway entrance for each 50 lineal feet of frontage on the same street;
    2. Multiple commercial driveway entrances must be separated by intervening curbing or space affording a parking area in the street of not less than 18 lineal feet parallel to the curbing. (Ord. 2006, Sec. 1)
- 13-603. REGULATIONS.
- A. No driveway entrance shall be located closer than 20 feet from the corner of the curbing at the intersection of any street and alley.
  - B. No driveway entrances shall be located closer than two feet -- exclusive of wings or radius -- from the side lot lines of any residential or commercial property or tract.
  - C. Whenever any curb is cut for the purpose of constructing a driveway entrance, it shall be entirely cut and removed, and the curb and gutter, if any, shall be replaced by sectional paving with expansion joints to prevent the breaking of the adjacent curb and gutter and the curb at each side of the entrance shall be replaced by a sectional curb rounded off on a radius of at least two feet.
  - D. Driveway entrances shall be constructed so as not to interfere with or change the grade of any existing street or sidewalk. (Ord. 2006, Sec. 1)
- 13-604. CURB CUTBACK FOR PARKING OF VEHICLES; PERMIT REQUIRED.
- A. No person, firm or corporation shall remove or cut back the curbing along any street for the purpose of widening the area for parking vehicles parallel or angular in the street, unless permission to do so has been obtained from the Governing Body of the City.

- B. Before applying to the Governing Body for a permit, the applicant shall first submit a plan of such cutback and of the additional area to be devoted to parking of motor vehicles in the street to the City Planning Commission for its approval and recommendation. The planning commission shall endorse in writing its approval, disapproval, or recommendations upon the plans and return the same to the applicant.
- C. After approval by the Governing Body, the applicant shall obtain a right-of-way permit from the Director of Public Works. (Ord. 2006, Sec. 1)

13-605. PLAN APPROVAL AND RECOMMENDATION. Before applying to the Governing Body for a permit, the applicant shall first submit a plan of such cutback and of the additional area to be devoted to parking of motor vehicles in the street to the city planning commission for its approval and recommendation. The Planning Commission shall endorse in writing its approval, disapproval or recommendations upon the plans and return the same to the applicant. (Code 1973, 13.20.050)

13-606. PERMIT; APPLICATION; DENIAL; FEE.

- A. An application to the governing body for a permit to remove and cut back the curbing along any street for the purpose of widening the area for parking of vehicles in the street shall have attached thereto, the plans submitted to the City Planning Commission together with its approval, disapproval or recommendations endorsed thereon.
- B. The Governing Body may allow or deny the application for such permit in its discretion. If allowed, the Director of Public Works shall issue such permit upon payment of the fee therefore.
- C. The fee for such permit shall be \$15 which fees shall be paid to the City Treasurer before any such permit is issued. (Code 1973, 13.20.060)

13-607. DETAIL PLANS AND SPECIFICATIONS FOR WORK; BOND.

- A. If a permit is allowed by the Governing Body, before commencing such work, the applicant shall secure detail plans and specifications for such work approved by the Director of Public Works, which shall provide for the cutting and setting back of such curbing, for the paving of the additional street parking area, for proper drainage in connection with existing gutters, drains and storm sewers, if any, and for the construction of a new curbing and an estimate of the cost thereof made by the City Engineer.
- B. Before commencing such work, the applicant shall file with the City Clerk a surety company bond approved by the City Attorney, in an amount equal to not less than twice the amount of the City Engineer's estimated cost of such work, conditioned that the applicant will cause the work to be done and to be completed in a satisfactory workmanlike manner, in accordance with the detailed plans and specifications prepared for such work by the director of public works. (Code 1973, 13.20.070)

## ARTICLE 7. MANUAL OF INFRASTRUCTURE STANDARDS

- 13-701. PURPOSE. The purpose of this article is to set forth the strategies, criteria, and standards to be used in the design and construction, reconstruction, repair, improvement, and maintenance of the public improvements in the city. (Ord. 1984, Sec. 1)
- 13-702. DEFINITIONS. For purposes of this article the following words and phrases shall have the meanings respectively ascribed to them:
- A. City. The City of Prairie Village, Kansas.
  - B. Director of Public Works. The Director of Public Works or designee of the City.
  - C. Highway, Street, or Roadway. A general term denoting a public way for the purpose of vehicular travel including the entire area within the street right-of-way.
  - D. Infrastructure. Any facility or structure proposed to be constructed, reconstructed, repaired, improved, or maintained either wholly or partially within the right-of-way or connecting to the right-of-way.
  - E. Manual of Infrastructure Standards. The Manual of Infrastructure Standards as adopted by the City will be a compilation of City ordinances, City Council policies, design criteria, construction methods, and material specifications pertaining to the City infrastructure as assembled by the Director of Public Works.
  - F. Public Easement. Property to which the City has interest and right of use as granted by the property owner.
  - G. Right-of-Way. Property that is owned by the City and held for the public interest. (Ord. 1984, Sec. 1)
- 13-703. SCOPE.
- A. No person shall construct, or cause to be constructed, reconstructed, repaired, improved, maintained or connected to any City infrastructure that either is on a public right-of-way or on a public easement, without prior approval of the Director of Public Works.
  - B. All infrastructure work shall be in compliance with the Manual of Infrastructure Standards.
  - C. The Manual of Infrastructure Standards is hereby incorporated as part of ordinance by specific reference thereto.
  - D. The Director of Public Works is given the authority, in the City's best interests, to issue and enforce more or less stringent standards contained in the Manual of Infrastructure Standards should adverse conditions exist and where the standards are either inappropriate or cannot be justified economically.
  - E. The Director of Public Works shall maintain and keep available for public inspection and purchase the Manual of Infrastructure Standards.
  - F. The Director of Public Works is authorized to establish any rules or regulations pertaining to the use and enforcement of the use of the Manual of Infrastructure Standards. (Ord. 1984, Sec. 1)

## ARTICLE 8. VEGETATION IN THE RIGHT-OF-WAY

### 13-801. VEGETATION IN RIGHT-OF-WAY

- A. It shall be the duty of every owner or occupant of lots abutting upon any sidewalk or public way of the City or adjacent to the street parking to cultivate any trees, shrubbery, hedge, or weed in such a manner that the same shall not interfere with persons or travel upon or along said streets, sidewalks or public ways and it shall further be the duty of all such persons to cut or trim any such trees, shrubbery hedge or weed so that any growth thereof shall not extend out over the sidewalk lower than nine (9) feet from the surface thereof.
- B. It shall be the duty of every owner or occupant of lots abutting upon any public way of the City or adjacent to the street parking to cultivate any trees shrubbery, hedge or weed in such a manner that the same shall not interfere with persons or travel upon or along said streets or public ways and it shall further be the duty of all such persons to cut or trim any such trees, shrubbery, hedge, or weed so that any growth thereof shall not extend out over the street lower than fourteen (14) feet from the surface thereof.
- C. It shall further be the duty of every owner or occupant of lots abutting upon any sidewalk or public way of the City or adjacent to the street parking to remove any limbs or branches overhanging any street, sidewalk, or public way of the City, which are dangerous to public travel thereon.

(Ord. 2033, Sec. 1)

**CHAPTER XIV. STORMWATER**

- Article 1. Stormwater Pollution Prevention
- Article 2. Stormwater Management
- Article 3. Floodplain Management
- Article 4. Stormwater Utility
- Article 5. Erosion and Sediment Control
- Article 6. Post-Construction Stormwater Runoff Control
- Article 7. Stream Setback Requirements and Controls

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**ARTICLE 1. STORMWATER POLLUTION PREVENTION**

14-101. TITLE. The title of Prairie Village Municipal Code Sections 901 through 910, inclusive, shall be known as the Stormwater Pollution Prevention Code. (Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

14-102. PURPOSE AND FINDINGS

- A. The purpose of this Stormwater Pollution Prevention Code shall be to prevent the discharge of pollutants from land and activities within the City into the municipal separate storm sewer system (MS4) and/or into surface waters.
- B. The Governing Body of the City hereby finds that pollutants are discharged into surface waters, both through inappropriate non-stormwater discharges into the MS4 or the surface waters directly, and through the wash off and transport of pollutants found on the land and built surfaces by stormwater during rainfall events.
- C. Further, the Governing Body of the City hereby finds that such discharge of pollutants may lead to increased risks of disease and harm to individuals, particularly children, who come into contact with the water; may degrade the quality of such water for human uses, such as drinking, irrigation, recreation, and industry; and may damage the natural ecosystems of rivers, streams, lakes and wetlands, leading to a decline in the diversity and abundance of plants and animals.
- D. Further, the Governing Body of the City hereby finds that this ordinance will promote public awareness of the hazards involved in the improper discharge of trash, yard waste, lawn chemicals, pet waste, wastewater, oil, petroleum products, cleaning products, paint products, hazardous waste, sediment and other pollutants into the storm drainage system.
- E. Further, the Governing Body of the City Further, the Governing Body of the City hereby finds that such discharges are inconsistent with the provisions and goals of the Clean Water Act, the National Pollutant Discharge Elimination System (NPDES), and other federal and state requirements for water quality and environmental preservation.
- F. Further, the Governing Body of the City hereby finds that a reasonable establishment of restrictions and regulations on activities within the City is necessary to eliminate or minimize such discharges of pollutants, to protect the health and safety of citizens, to preserve economic and ecological value of existing water resources within the City and within downstream communities, and to comply with the provisions of the City's responsibilities

under the Clean Water Stormwater Pollution Prevention and the NPDES program.  
(Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

14-103.           **ABBREVIATIONS**

The following abbreviations when used in this Stormwater Pollution Prevention Code shall have the designated meanings:

BMP	Best Management Practice
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
HHW	Household Hazardous Waste
KDHE	Kansas Department of Health and Environment
MS4	Municipal Separate Storm Sewer System
NDPES	National Pollutant Discharge Elimination System
PST	Petroleum Storage Tank

(Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

14-104.           **DEFINITIONS.** For the purposes of this Stormwater Pollution Prevention Code, the following definitions shall apply:

- A. “Best Management Practices (BMP’s)” means schedules of activities, prohibitions of practices, general good housekeeping practices, pollution prevention and educational practices, maintenance procedures, and other management practices to prevent or reduce the discharge of pollutants directly or indirectly to stormwater, receiving waters, or stormwater conveyance systems. BMPs also include treatment practices, operating procedures, and practices to control site runoff, spillage or leaks, sludge or water disposal, or drainage from raw materials storage.
- B. “Car” means any vehicle meeting the definition for passenger car, passenger van, pickup truck, motorcycle, recreational vehicle, or motor home.
- C. “City” means the City of Prairie Village, Kansas.
- D. “Clean Water Act” means the federal Water Pollution Control Act (33 U.S.C. Section 1251 et seq.), and any subsequent amendments thereto.
- E. “Code” means the Prairie Village Municipal Code.
- F. “Director” means the Director of Public Works Department or the Director’s authorized representative.
- G. “Discharge” means the addition or introduction, directly or indirectly, of any pollutant, stormwater, or any other substance into the MS4 or surface waters.
- H. “Domestic sewage” means human excrement, gray water (from home clothes washing, bathing, showers, dishwashing, and food preparation), other wastewater from household drains, and waterborne waste normally discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, retail and commercial establishments, factories, and institutions, that is free from industrial waste.
- I. “Extremely hazardous substance” means any substance listed in the appendices to 40 CFR Part 355, Emergency Planning and Notification.
- J. “Fertilizer” means a substance or compound that contains a plant nutrient element in a form available to plants and is used primarily for its plant nutrient element content in promoting or stimulating growth of a plant or improving the quality of a crop, or a mixture of two or more fertilizers.

- K. "Hazardous household waste (HHW)" means any material generated in a household (including single and multiple residences) by a consumer which, except for the exclusion provided in 40 CFR Section 261.4(b)(1), would be classified as a hazardous waste under 40 CFR Part 261 or K.A.R 28-29-23b.
- L. "Hazardous substance" means any substance listed in Table 302.4 of 40 CFR Part 302.
- M. "Hazardous waste" means any substance identified or listed as a hazardous waste by the EPA pursuant to 40 CFR Part 261.
- N. "Industrial waste" means any waterborne liquid or solid substance that occurs from any process of industry, manufacturing, mining, production, trade, or business.
- O. "Municipal separate storm sewer system (MS4)" means the system of conveyances, (including roads with drainage systems, municipal streets, private streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains) owned and operated by the City and designed or used for collecting or conveying stormwater, and which is not used for collecting or conveying sewage.
- P. "NPDES" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements under Sections 307, 402, 318 and 405 of the federal Clean Water Act.
- Q. "NPDES permit" means for the purpose of this chapter, a permit issued by United States Environmental Protection Agency (EPA) or the state of Kansas that authorizes the discharge of pollutants to waters of the United States, whether the permit is applicable on an individual, group, or general area-wide basis.
- R. "Oil" means any kind of oil in any form, including but not limited to: petroleum, fuel oil, crude oil, synthetic oil, motor oil, bio-fuel, cooking oil, grease, sludge, oil refuse, and oil mixed with waste.
- S. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns, including all federal, state, and local governmental entities.
- T. "Pesticide" means a substance or mixture of substances intended to prevent, destroy, repel, or migrate any pest, or substances intended for use as a plant regulator, defoliant, or desiccant.
- U. "Petroleum Product" means a product that is obtained from distilling and processing crude oil and that is capable of being used as a fuel or lubricant in a motor vehicle, boat or aircraft including motor oil, motor gasoline, gasohol, other alcohol blended fuels, aviation gasoline, kerosene, distillate fuel oil and #1 and #2 diesel fuel.
- V. "Pollutant" means any substance or material which contaminates or adversely alters the physical, chemical or biological properties of the waters including changes in temperature, taste, odor, turbidity, or color of the water. Such substance or material may include but is not limited to, dredged spoil, spoil waste, incinerator residue, sewage, pet and livestock waste, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, soil, yard waste, hazardous household wastes, oil and petroleum products, used motor

- oil, anti-freeze, litter, pesticides, and industrial, municipal, and agricultural waste discharged into water.
- W. "Property Owner" shall mean the named property owner as indicated by the records of the Johnson County Kansas Records and Tax Administration.
  - X. "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the MS4 and/or surface waters.
  - Y. "Sanitary sewer" means the system of pipes, conduits, and other conveyances which carry industrial waste and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, to a sewage treatment plant and to which stormwater, surface water, and groundwater are not intentionally admitted.
  - Z. "Septic Tank Waste" means any domestic sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
  - AA. "Sewage" means the domestic sewage and/or industrial waste that is discharged into the sanitary sewer system and passes through the sanitary sewer system to a sewage treatment plant for treatment.
  - BB. "State" means state of Kansas.
  - CC. "Stormwater" means stormwater runoff, snow melt runoff, and surface runoff and drainage.
  - DD. "Surface Waters" means any body of water classified as "surface waters" by the state of Kansas, including streams, rivers, creeks, brooks, sloughs, draws, arroyos, canals, springs, seeps, cavern streams, alluvial aquifers associated with these surface waters, lakes, man-made reservoirs, oxbow lakes, ponds, and wetlands, as well as any other body of water classified by the federal government as a "water of the United States".
  - EE. "Waste" means any garbage, refuse, sludge or other discarded material which is abandoned or committed to treatment, storage or disposal, including solid, liquid, semisolid or contained gaseous materials resulting from industrial, commercial mining, community and agricultural activities. Waste does not include solid or dissolved materials in domestic sewage or irrigation return flows or solid or dissolved materials or industrial discharges which are point sources subject to permits under the State of Kansas. The Federal definition of solid waste is found at 40 CFR 257.2.
  - FF. "Water Quality Standard" means the law or regulation that consists of the beneficial designated use or uses of a water body, the numeric and narrative water quality criteria that are necessary to protect the use or uses of that particular water body, and an anti-degradation statement.
- (Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

14-105. GENERAL PROHIBITION

- A. No person shall release or cause to be released into the MS4, or into any surface water within the City, any discharge that is not composed entirely of stormwater that is free of pollutants, except as allowed in subsection B.
- B. Unless identified by the City or KDHE as a significant source of pollutants to surface water the following non-stormwater discharges are deemed acceptable and not a violation of this section:
  1. Water line flushing;
  2. Diverted stream flow;



3. Rising groundwater;
  4. Run-contaminated groundwater infiltration as defined under 40 CFR 35.2005(20) to separate storm sewers;
  5. Uncontaminated pumped groundwater;
  6. Contaminated groundwater if authorized by KDHE and approved by the municipality;
  7. Discharges from potable water sources;
  8. Foundation drains;
  9. Air conditioning condensate
  10. Irrigation waters;
  11. Springs;
  12. Water from crawl space pumps;
  13. Footing drainings;
  14. Individual residential car washing;
  15. Flows from riparian habitats and wetlands;
  16. De-chlorinated swimming pool discharges excluding filter backwash;
  17. Street wash waters (excluding street sweepings which have been removed from the Street);
  18. Discharges or flows from emergency fire fighting activities;
  19. Heat pump discharge waters (residential only);
  20. Treated wastewater or other discharges meeting requirements of a NPDES permit; and
  21. Other discharges determined not to be a significant source of pollutants to waters of the state, a public health hazard or a nuisance.
- C. Discharges specified in writing by the Director as being necessary to protect public health and safety.
- D. Notwithstanding the provisions of subsection B of this section, any discharge shall be prohibited by this section if the discharge in question has been determined by the Director to be a source of a pollutants to the MS4 or to surface waters, written notice of such determination has been provided to the property owner or person responsible for such discharges, and the discharge has occurred more than ten days beyond such notice.
- (Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

#### 14-106. SPECIFIC PROHIBITIONS AND DUTIES

The specific prohibitions and requirements in this section are not inclusive of all the discharges prohibited by the general prohibition in Section 8.050, but are provided to address specific discharges that are frequently found or are known to occur:

- A. No person shall release or allow to be released any of the following substances into the MS4:
1. Any new or used petroleum product or oil;
  2. Any industrial waste;
  3. Any hazardous substance or hazardous waste, including household hazardous waste;
  4. Any domestic sewage or septic tank waste, grease trap or grease interceptor waste, holding tank waste, or grit trap waste;
  5. Any garbage, rubbish or other waste;
  6. Any new or used paints, including latex-based paints, oil-based paints, stains, varnish, and primers, as well as cleaning solvents and other

- associated products;
7. Any yard wastes, which have been moved or gathered by a person;
  8. Any wastewater that contains soap, detergent, degreaser, solvent, or surfactant based cleaner from a commercial motor vehicle wash facility; from any vehicle washing, cleaning, or maintenance at any new or used motor vehicle dealership, rental agency, body shop, repair shop, or maintenance facility; or from any washing, cleaning, or maintenance of any business or commercial or public service vehicle, including a truck, bus or heavy equipment;
  9. Any wastewater from a commercial mobile power washer or from the washing or other cleaning of a building exterior that contains soap, detergent, degreaser, solvent, or any surfactant based cleaner;
  10. Any wastewater from commercial floor, rug, or carpet cleaning;
  11. Any wastewater from the wash-down or other cleaning of pavement that contains any soap, detergent solvent, degreaser, emulsifier, dispersant, or other cleaning substance; or any wastewater from the wash-down or other cleaning of any pavement where any spill, leak, or other release of oil, motor fuel, or other petroleum or hazardous substance has occurred, unless all such materials have been previously removed;
  12. Any effluent from a cooling tower, condenser, compressor, emissions scrubber, emission filter, or the blow-down from a boiler;
  13. Any ready-mixed concrete, mortar, ceramic, or asphalt base material or discharge resulting from the cleaning of vehicles or equipment containing or used in transporting or applying such material;
  14. Any runoff, wash-down water or waste from any animal pen, kennel, fowl or livestock containment area or any pet wastes generally;
  15. Any filter backwash from a swimming pool or fountain, except that nothing in this ordinance shall be construed as to require the alteration of the filter discharge plumbing of an existing swimming pool, fountain or spa if such plumbing was compliant with applicable state, federal, and local regulations at the time of construction;
  16. Any swimming pool, fountain or spa water containing a harmful level of chlorine (greater than 0 parts per million), muriatic acid or other chemical used in the treatment or disinfection of the water or during cleaning of the facility;
  17. Any discharge from water line disinfection by super chlorination if it contains a harmful level of chlorine (greater than 0 parts per million) at the point of entry into the MS4 or surface waters;
  18. Any contaminated runoff from a vehicle wrecking or storage yard;
  19. Any substance or material that will damage, block, or clog the MS4;
  20. Any release from a petroleum storage tank (PST), or any leachate or runoff from soil contaminated by leaking PST; or any discharge of pumped, confined, or treated wastewater from the remediation of any such PST release, unless the discharge has received an NPDES permit from the state;
  21. Any other discharge that causes or contributes to causing the City to violate a state water quality standard, the City's NPDES stormwater permit, or any state-issued discharge permit for discharges from its MS4.
- B. No person shall introduce or cause to be introduced into the MS4 any harmful quantity of sediment, silt, earth, soil, or other material associated with

clearing, grading, excavation or other construction activities in excess of what could be retained on site or captured by employing sediment and erosion control measures.

- C. No person shall connect a line conveying sanitary sewage, domestic or industrial, to the MS4. No property owner shall allow such a connection to continue in use on their property.
- D. No person shall use pesticides, herbicides and fertilizers except in accordance with manufacturer recommendations. Pesticides, herbicides and fertilizers shall be stored transported and disposed of in a manner to prevent release to the MS4.
- E. No person shall tamper with, destroy, vandalize, or render inoperable any BMPs which have been installed for the purpose of eliminating or minimizing pollutant discharges, nor shall any person fail to install or fail to properly maintain any BMPs which have been required by the City or by other local, state, or federal jurisdictions. (Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

14-107. INSPECTION AND DETECTION PROGRAM

The Director is authorized to develop and implement a plan to actively detect and Such plan may include, but is not limited to, periodic and random inspections of facilities and businesses, particularly those most associated with potentially prohibited discharges; visual surveys of exterior practices; inspection, sampling and analyses of discharges from outfalls of the MS4, particularly during dry weather periods; manhole and pipe inspections to trace discharges through the system to point of origin; education on pollution prevention; and receipt of complaints and information from the public regarding known or suspected discharges. (Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

14-108. RELEASE REPORTING AND CLEANUP

- A. Any person responsible for the release of any prohibited material that may flow, leach, enter, or otherwise be introduced into the MS4 or surface waters shall take all necessary steps to ensure the containment and cleanup of such release.
- B. In the event of such a release of hazardous materials said person shall immediately notify emergency response agencies of the occurrence via emergency dispatch services.
- C. In the event of a release of non-hazardous materials, said person shall notify the Director in person or by phone or facsimile no later than the next business day. Notifications in person or by phone shall be confirmed by written notice addressed and mailed to the Director within three business days of the phone notice. (Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

14-109. ENFORCEMENT; DESIGNATION OF OFFICER; ABATEMENT; RIGHT OF WAY; PENALTY

The Director or his or her appointed representative shall be designated as the public officer charged with the administration and enforcement of this Stormwater Pollution Prevention Code. The public officer shall authorize the investigation of violations of the Stormwater Pollution Prevention Code. If it is determined that a violation of this Stormwater Pollution Prevention Code exists, then the officer shall declare such condition a nuisance and is authorized to pursue abatement and enforcement procedures as specified in Chapter I Article 1 of the Code.

(Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

14-110 SEVERABILITY

If any section, subsection, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall no affect the validity or effectiveness of the remaining portions of this ordinance. (Ord. 2134, Sec. 1; Ord. 2169, Sec. 11, 2008)

**ARTICLE 2. STORMWATER MANAGEMENT**

PURPOSE AND FINDINGS. The purpose of this Article shall be to establish minimum stormwater management requirements and controls on any new development or redevelopment projects. This Article also establishes requirements for long-term maintenance of structural controls within the City for drainages into the municipal separate storm sewer system and/or into surface waters. This ordinance seeks to meet this purpose through the following objectives:

- a. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels;
- b. Minimize increases in non-point source pollution caused by stormwater runoff from development which would otherwise degrade local water quality, particularly if receiving water bodies are classified as impaired on the current version of the 303d listing of impaired waters in Kansas as identified by the Kansas Department of Health and Environment (KDHE);
- c. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable;
- d. Reduce stormwater runoff rates and volumes, soil erosion and non-point source pollution, wherever possible, through stormwater management best management practices (BMPs); ensure the BMPs are maintained properly; and pose no threat to public safety. (Ord. 2163, Sec II, 2008; Ord. 2169, Sec. 12, 2008)

14-201. POLLUTION DISCHARGE. The Governing Body of the City of Prairie Village hereby finds that pollutants are discharged into surface water through the wash off and transport of storm water runoff from disturbed land during rainfall events.

- a. Further, the Governing Body of the City of Prairie Village hereby finds that such discharge of pollutants may lead to increased risks of disease and harm to individuals, particularly children, who come into contact with the water; may degrade the quality of such water for human uses, such as drinking, irrigation, recreation, and industry; and may damage the natural ecosystems of rivers, streams, lakes and wetlands, leading to a decline in the diversity and abundance of plants and animals.
- b. Further, the Governing Body of the City of Prairie Village hereby finds that this ordinance will promote public awareness of damage to water quality, water bodies, and wetlands caused by storm water runoff from land disturbance activities or increased impervious surfaces.
- c. Further, the Governing Body of the City of Prairie Village hereby finds that such discharges are inconsistent with the provisions and goals of the Clean Water Act (CWA), the National Pollutant Discharge Elimination System (NPDES), and other federal and state requirements for water quality and environmental preservation.
- d. Further, the Governing Body of the City of Prairie Village hereby finds that the reasonable establishment of restrictions and regulations on land disturbance activities or increased impervious surfaces within the City of Prairie Village is necessary to eliminate or minimize such storm water runoff to protect the health and safety of citizens, to preserve economic and ecological value of existing

water resources within the City of Prairie Village and within downstream communities, and to comply with the provisions of the City’s responsibilities under the Clean Water Act and the NPDES program.

- e. Further, the Governing Body of Prairie Village hereby finds that uncontrolled storm water runoff, especially floodwaters, can pose a hazard to property, both public and private, and public infrastructure and can endanger human life. These regulations specify certain controls and restrictions to attenuate or avoid flooding within the City, and are to supplement the requirements of the City Floodplain Management requirements.
- f. Finally, the Governing Body of the City of Prairie Village hereby finds that the proper management of stormwater is dependent on the adequate function and performance of the stormwater features. These regulations establish controls to prohibit or minimize any activity which will adversely affect hydraulic function of any stormwater drainage facilities, public or private, including, but not limited to detention facilities, open channels (either engineered or natural), drainage swales, or enclosed stormwater conveyance systems. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-202.                    **APPLICABILITY.** The provisions of this article shall extend and apply to all land and existing or proposed improvements thereon within the corporate limits of the City. Any person proposing to construct buildings, develop land, make improvements to existing buildings, or take any action which will create a land disturbance or cause a change in existing stormwater runoff shall make application to the Director of Public Works for issuance of a Drainage Permit as specified in this Article. No land shall be disturbed, developed or improvements constructed except upon issuance of such permit. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-203.                    **INTERPRETATIONS.** The provisions of this title are intended to supplement existing zoning and land use ordinances of the City. In their interpretation and application, the provisions of these regulations shall be held to be the minimum requirements for the promotion of the public health, safety, and general welfare. (Ord. 1698, Sec. 1; Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-204.                    **RELATIONSHIP TO OTHER LAW.** These regulations shall not be construed as abating any action now pending under, or by virtue of, prior existing regulations, or as discontinuing, abating, modifying or altering any penalty accruing or about to accrue, or as affecting the liability of any person as waiving any right of the city under any section or provision existing at the time of adoption of these regulations, or as vacating or annulling any rights obtained by any person by lawful action of the City, except as shall be expressly provided for in these regulations. (Ord. 1698, Sec. 1; Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-205.                    **PUBLIC PROVISION.** These regulations are not intended to interfere with, abrogate or annul any other ordinance, rule or regulation, statute or other provision of law. Where any provision of these regulations imposes restrictions different from those imposed by any other provision of these regulations or any other ordinance, rule or regulation or other provision of law, whichever provisions are more restrictive or impose higher standards, shall control. (Ord. 2163, Sec. II,

2008; Ord. 2169, Sec. 12, 2008)

- 14-206. PRIVATE PROVISIONS. These regulations are not intended to abrogate any easement, covenant or any other private agreement or restriction, provided that where the provisions of these regulations are more restrictive or impose higher standards or regulations than such easement, covenant or other private agreement or restriction, the requirements of these regulations shall govern. Where the provisions of the easement, covenant or private agreement or restriction impose duties and obligations more restrictive, or higher standards than the requirements of these regulations, and such private provisions are inconsistent with these regulations or determinations thereunder, then such private provisions shall be operative and supplemental to these regulations and determinations made hereunder. (Ord. 1698, Sec. 1; Ord. 2162, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-207. DISCLAIMER OF LIABILITY. The performance standards and design criteria set forth herein establish minimum requirements which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the city, its agents, or its officers and employees, of the adequacy or safety of any stormwater management plan, structure or use of land. Nor shall the approval of a stormwater management plan and the issuance of a drainage permit imply that land uses permitted will be free from damages caused by stormwater runoff. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records, engineering and scientific methods of study. Larger storms may occur or stormwater runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the city, its agents, or any officer or employee with respect to any legislative or administrative decision lawfully made hereunder. (Ord. 1698, Sec. 1; Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-208. DEFINITIONS. For the purpose of this article, the words and terms as used herein are defined to mean as set out in this article. Words used in the present tense include the future tense; words used in the singular number shall include the plural, and vice-versa; the word building includes the word structure, the word person includes corporation, partnership and unincorporated association of persons; the term used for includes the meaning designated for or intended for, and the word shall or the word must is mandatory.
- a. *Applicant* - any person who makes application for a drainage permit, on behalf of the property owner. This person may act as agent for the property owner, but the permit will only be issued to the property owner.
  - b. *Bond* - Any form of security for the completion or performance of any work subject to a drainage permit or the maintenance of drainage improvements, including surety bond, collateral, property or instrument of credit, or escrow deposit in an amount and form satisfactory to the governing body.
  - c. *Channel* - a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
  - d. *City* - the City of Prairie Village, Kansas
  - e. *Clearing* - Any activity, which removes the vegetative ground cover including, but not limited to, root removal or topsoil removal or other forms of earth

- moving.
- f. *Detention* - A stormwater management technique of which the primary function is to control the peak rate of surface water runoff by utilizing temporary storage and a controlled rate of release. This may include, but not be limited to, the use of reservoirs, roof tops, parking areas, holding tanks, in-pipe and in-channel storage.
  - g. *Drainage Easement* - a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes.
  - h. *Earth Materials* - Any rock, natural soil or combination thereof.
  - i. *Easement* - Authorization by a property owner for use by another party or parties of all or any portion of his or her land for a specified purpose.
  - j. *Erosion* - the process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and/or land disturbance activities.
  - k. *Erosion and Sediment Control Standards* - The erosion and sediment control design criteria and specifications adopted in writing by the Director of Public Works.
  - l. *Erosion and Sediment Controls* - A set of measures designed to control runoff and erosion, and to retain sediment on a particular site during pre-construction, construction, and after all permanent improvements have been erected or installed.
  - m. *Excavation* - The mechanical removal of earth materials.
  - n. *Fill* - The deposit, placement, compaction, or stockpiling of earth materials.
  - o. *Floodplain* - the floodway, and floodway fringe as identified by the Federal Insurance Administration through its report entitled "The Flood Insurance Study for the City of Prairie Village, Kansas," dated June 17, 2002, or such other designation of the floodplain as is subsequently adopted by the City, and representing the regulated 100-year water surface and corresponding elevations.
  - p. *Floodway* - The channel of a watercourse and the adjacent land area that must be reserved in order to discharge a 100 year flood without cumulatively increasing the water surface elevation more than one foot.
  - q. *Grading* - Any excavating or filling of earth materials or any combination thereof.
  - r. *Land Disturbance Activity* - any act by which soil is moved and land changed that may result in erosion or the movement of sediments, and may include tilling, clearing, grading, excavating, stripping, stockpiling, filling, and related activities, and the covering of land surfaces with an impermeable material.
  - s. *Land Disturbance/Land Disturbance Activity* - any act by which soil is moved or land changed that may result in erosion or the movement of sediments, and may include tilling, clearing, grubbing, grading, excavating, removal of vegetation, stripping, stockpiling, filling, and related activities. Land disturbance also includes removal of existing pavement, exposing granular materials or earth, but does not include pavement milling.
  - t. *Maintenance Agreement* - a legally recorded document that acts as a property deed restriction, and provides for long-term maintenance of storm water management practices.
  - u. *Maximum Extent Practicable* - the use of those best management practices, which, based on sound engineering and hydro-geological principals, will, to the greatest degree possible, given all relevant considerations, including



- technology, climate, and site conditions, minimize storm water runoff from a site during and after construction.
- v. *Non-point Source Pollution* - pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
  - w. *Permittee* - For purposes of this article, the property owner or agent of the property owner who is issued a drainage permit.
  - x. *Plat* - A legally recorded plan of a parcel of land indicating the location and dimension of such features as streets, alleys, lots, easements and other elements pertinent to a subdivision.
  - y. *Pre-development* - Is the existing conditions of the property, based on the last development plan approved by the City, for the property in question.
  - z. *Professional Engineer* - is an engineer duly licensed by the Kansas State Board of Technical Professions, pursuant to K.S.A. 74-7001 et seq. to practice engineering.
  - aa. *Project* - Any man-made change involving the construction, reconstruction, demolition, maintenance or improvement of real property in question.
  - bb. *Property Owner* - The individual, individuals, or organization that legally or beneficially owns land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights on the land, and improvements constructed thereupon, except for utilities owned by others and located in the easement.
  - cc. *Public Owned Improvements* - Any infrastructure improvement constructed or maintained by the City, located on City right-of-way or in easement granted to the City.
  - dd. *Public Works Director* - is the individual appointed by the City as the Public Works Director or a duly authorized representative.
  - ee. *Sediment* - soils or other materials transported or deposited by the action of wind, water, ice, gravity, or artificial means.
  - ff. *Site* - any lot or parcel of land or a series of lots or parcels of land adjoining, contiguous, or joined together under one (1) ownership on which an activity subject to this article is proposed.
  - gg. *Soil* - The unconsolidated mineral and organic material at or near the surface of the earth.
  - hh. *Stop Work Order* - an order issued which requires that all construction activity on a site be stopped.
  - ii. *Stormwater Best Management Practices* - measures, either structural or nonstructural, that are determined to be the most effective, practical means of preventing or reducing point source or non-point source pollution inputs to stormwater runoff and water bodies.
  - jj. *Stormwater Runoff* - Water resulting from precipitation which is not absorbed by the soil, evaporated into the atmosphere or entrapped by ground surface depressions and vegetation, and which flows over the ground surface.
  - kk. *Vegetation* - Any grasses, shrubs, trees and other vegetation.
  - ll. *Watercourse* - a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.
- (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-209.

CITY RESPONSIBILITIES. The administration of these regulations shall

be the responsibility of the Director of Public Works. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

- 14-210. CITY OPERATION AND MAINTENANCE. The Department of Public Works shall be responsible for all maintenance of the public owned drainage system, either improved or unimproved, located on public right-of-way and other City-owned property. Maintenance of the public owned drainage system located on a utility or drainage easements shall be limited to the public owned improvements such as concrete structures, pipelines or concrete channel liner and to the repair of any erosion caused by these public owned improvements within this improved portion only of the drainage system. The City will maintain the free flow of all storm drainage within the corporate limits of the City, whether on public or private lands by removing the obstruction of the free flow. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-211. CITY ENFORCEMENT OF MAINTENANCE RESPONSIBILITES. The Director of Public Works has the responsibility to enforce upon the private landowner the requirements of maintenance of a stormwater detention facility, unless the City has accepted the maintenance responsibility for that facility. Further, the Director of Public Works has the responsibility to enforce the requirements of any recorded maintenance agreements for privately-owned BMPs. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-212. PRIVATE RESPONSIBILITES. Each land owner has the responsibility to maintain all privately-owned stormwater facilities to ensure the adequate drainage and control of stormwater on the owner's property, and adequate release to the City-owned system. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-213. PRIVATE OPERATION AND MAINTENANCE. It shall be the responsibility of the owner, occupant or agent in charge of private property, upon which the public storm drainage system exists, to maintain all vegetation including mowing the grass and weeds, trimming and/or removal of dead trees and shrubs and providing of such other general maintenance as is required except as described above. Each developer/permittee has the responsibility and duty to properly operate and maintain any on-site stormwater detention facility which has not been accepted for maintenance by the City. Such responsibility is to be transmitted to subsequent owners through appropriate covenants. This maintenance shall include debris removal and cleaning, cutting of vegetation, erosion repair, removal of silt and maintenance of structural facilities which have not been accepted for maintenance by the City in addition to these facilities not located in a public drainage easement. Owners of detention basins and associated facilities upon completion of construction and on or before May 1<sup>st</sup> of each year shall furnish certification by a professional engineer licensed in Kansas to the Director of Public Works that the detention basin has full storage capacity and that all associated facilities including all inlet and outlet structures are fully functional. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

- 14-214. BEST MANAGEMENT PRACTICE (BMP). On or after the adoption of this article by the governing body, private property owners who are required by the City to construct and operate BMPs have the responsibility to routinely inspect and maintain in good condition, and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices associated with the BMPs, in accordance with the recorded Maintenance Agreement and the approved Stormwater Project Plan, as described in this Article. Owners of BMPs and associated facilities upon completion of construction and on or before May 1<sup>st</sup> of each year shall furnish certification by a professional engineer licensed in Kansas to the Director of Public Works that the BMPs and all associated facilities are fully functional and in good repair. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-215. ILLICIT DISCHARGE. No person shall discharge water, including water from sump pumps and downspouts, from private property onto City property, including City right-of-way, streets and sidewalks, without first obtaining from the City a drainage permit pursuant to this Article. Permitted discharge shall be done in a manner which will not result in a hazardous condition on City property, including, but not limited to, ice, slipperiness and debris, and will not damage City property. No drainage permit shall be issued for water that is designated under applicable Federal, state or local regulations to be polluted. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-216. BUILDING OFFICIAL REFERRAL. The building official shall refer all development plans and all building permit applications to the Director of Public Works for determination of applicability of this Article. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-217. PLANNING COMMISSION REFERRAL. Any item appearing before the Planning Commission pertaining to land use and stormwater shall be referred to the Director of Public Works for determination of applicability of this Article.
- a. Stormwater management considerations and site stormwater design issues shall be evaluated by the developer/applicant at the time of preliminary plat submittal and request for site review. Although preliminary in nature, development of a concept plan is required to demonstrate that the proposed plat or site plan is compatible with appropriate stormwater practices.
  - b. Any applicant presenting a Preliminary Plat or Request for Site Plan Approval to the Planning Commission will be required to submit a Stormwater Concept Plan for review, unless the Director of Public Works waives the requirement. The applicant may request that the Director of Public Works make a determination whether a plan is required prior to official submittal to the Planning Commission.
  - c. The Director of Public Works will require a Stormwater Concept Plan in most cases, unless the Director of Public Works determines that the proposed project does not affect the existing storm drainage system and will not require a Drainage Permit. In accordance with aforementioned criteria, a Stormwater Concept Plan is not required for a single family lot of less than one-third of an acre.
- (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

- 14-218.           ACTIONS REQUIRING DRAINAGE PERMIT. No party may perform the following actions without obtaining a Drainage Permit from the Director of Public Works, prior to commencement of work.
- a. Land disturbance; defined as any act by which soil is moved or land changed that may result in erosion or the movement of sediments, and may include tilling, clearing, grubbing, grading, excavating, removal of vegetation, stripping, stockpiling, filling, and related activities. Land disturbance also includes removal of existing pavement, exposing granular materials or earth, but does not include pavement milling.
  - b. Extension or replacement of existing storm drainage system, whether publicly or privately owned.
  - c. Any activity that changes the volume, timing, or peak rate of stormwater runoff to the public storm drainage system.
- (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-219.           DRAINAGE PERMIT APPLICATION. Drainage Permit shall be submitted by the property owner or agent to the Director of Public Works for his or her review and approval. The Director of Public Works has the responsibility to determine whether the proposed project will satisfy accepted stormwater management practices, both during construction and as a completed project, in accordance with the engineering standards referenced in this Article. For this reason, the Director of Public Works has the authority to require that the application for Drainage Permit be modified, as necessary and to his or her satisfaction, prior to issuance of the Drainage Permit. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-220.           CONTENTS OF APPLICATION FOR DRAINAGE PERMIT. The following items constitute a complete application for Drainage Permit:
- a. Property owner information: The name, address, and telephone number of the individual, individuals, or organization with legal right of ownership to the property or properties covered by the application. The property owner will be the holder of the drainage permit, when issued, and will be legally responsible for compliance of the permit.
  - b. Applicant information: The name, address, and telephone number of the property owner, or the agent thereof. All developers, design professionals, contractors, and other agents with responsibility to complete the project shall also be listed in the permit application.
  - c. Application Fee, Review Fee and Inspection Fee.
  - d. Surety for performance of the work.
  - e. Stormwater Project Plan, if the proposed activity meets the criteria.
  - f. Stormwater Concept Plan, if required by the Director of Public Works. This document will be revised and updated, as required, prior to submittal as part of the permit application.
  - g. Maintenance Agreement, if required by Director of Public Works.
- (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-221.           EXEMPTIONS FROM DRAINAGE PERMIT. A Drainage Permit is not required solely for the following activities:
- a. Any land disturbance activity that affects a disturbed area of less than 1,000

square feet provided the disturbed area is physically separated from an existing open channel, detention basin, stormwater inlet, or stormwater BMP, by no less than 50 feet of established vegetation. In those cases, the persons performing such work must comply with the requirements of the Erosion and Sediment Control Standards if such land remains unprotected for more than seven calendar days.

- b. Land disturbance activities by City departments, although exempt from permit, the department is required to comply with the requirements of the adopted standards.
  - c. Home gardening operations including plowing or tilling of land for the purposes of growing flowers and/or vegetables.
  - d. Re-establishment of lawn areas or routine care of existing lawns, including verti-cutting and aerating. Removal of existing sod for lawn re-establishment must comply with requirements of the Erosion and Sediment Control Standards.
  - e. Work to correct or remedy emergencies. This includes situations that pose an immediate danger to life or property, or substantial flood or fire hazards.
- (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-222.

CONTENTS OF A STORMWATER CONCEPT PLAN. The Stormwater Concept Plan shall be prepared, signed and sealed by a professional engineer licensed in the State of Kansas. The plan will:

- a. Demonstrate that stormwater runoff from the proposed project will not adversely affect downstream properties. The analysis shall, at a minimum, demonstrate that construction site sediments will be adequately controlled on the site and that stormwater discharge quantities will not increase the frequency or extent of downstream flooding.
- b. Indicate that adequate area is allowed for all required stormwater features, including detention basins, BMPs, and stormwater conveyances. Proposed easements, where required, will also be indicated.
- c. Present the existing land features and uses, including all structures, utilities, existing stormwater features, both natural and engineered, and vegetation and soil types. The Plan will also present the proposed changes to land use, impervious surfaces, and vegetation. The plan will quantify the hydrologic changes and present the proposed BMPs in accordance with the Engineering Standards, defined in the Article, based on the proposed changes to the property.
- d. Demonstrate that the proposed project will not adversely affect the regulatory floodplain and that the requirements of the City Floodplain Management are satisfied.
- e. Present the ultimate planned build-out conditions for the property and demonstrate how the storm drainage system will accommodate the planned phases of construction.
- f. Describe the impact the proposed development and proposed land uses will have on stormwater quality. The plan should discuss the sources of stormwater pollution, including "hot spots" areas where land use or activities may generate runoff with concentrations of pollutants in excess of those typically found in stormwater. Examples of such "hot spots" include trash dumpster areas, fueling islands, and grease traps. The plan shall describe the types and layout of proposed BMPs to mitigate for these impacts to

stormwater quality.

- g. The applicant shall comply with the detailed list of requirements for the Stormwater Concept Plan, which is maintained by the Public Works Department and is available upon request.

(Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-223.           ACTIONS REQUIRING STORMWATER PROJECT PLAN. Some actions require a Stormwater Project Plan to be prepared and submitted as part of the application for Drainage Permit. A Stormwater Project Plan is required for the following actions:

- a. Any action that involves land disturbances of one acre or more or,
- b. Any action involving land disturbances of 1000 square feet or more, the limits of which are located within 50 feet of any drainage component, including open channels, BMPs, detention facilities, or stormwater inlets, or
- c. Any action the Director of Public Works determines, at his or her own discretion, has a potential to adversely impact to the quantity or quality of stormwater runoff from the property.

(Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-224.           CONTENTS OF A STORMWATER PROJECT PLAN. The Stormwater Project Plan and all accompanying engineering drawings and calculations shall be prepared, signed and sealed by a professional engineer licensed in the State of Kansas. The Stormwater Project Plan will demonstrate that:

- a. The proposed project, including all storm sewer systems, open channels, BMPs, detention basins, and any other stormwater elements are designed in accordance with all applicable engineering standards.
- b. Adequate Erosion and Sediment Controls will be implemented throughout the entire construction process to control the release of sediments from the project site, in accordance with the applicable engineering standards.
- c. The proposed project, as designed, is compatible with the Stormwater Concept Plan. If the design deviates from the previously submitted Concept Plan, the Concept Plan will be revised and resubmitted. If necessary, the plat shall be revised to reflect the change in Concept Plan and re-filed with the County.
- d. An appropriate plan is in-place for the long-term inspection, maintenance, and care of BMPs and detention basins. The plan will include a recorded maintenance agreement and the planned maintenance schedule, when required.
- e. The proposed project will control the volume, timing, and peak rate of stormwater runoff from the project site, so that the frequency and extent of downstream flooding is not increased beyond pre-construction conditions.
- f. The proposed project satisfies the requirements of Floodplain Management.
- g. The applicant shall comply with the detailed list of requirements for the Stormwater Project plan, which is maintained by the Public Works Department and is available upon request.

(Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-225.           DESIGN AND CONSTRUCTION STANDARDS. All work subject to this Article shall conform to the following standards and shall also be in compliance with all applicable ordinances, policies and practices of the City. (Ord. 2163,

Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

- 14-226. FEDERAL, STATE AND COUNTY JURISDICTION. All projects shall conform to the rules and regulations of the Federal, State and County entities having jurisdiction. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-227. STANDARDS CONFLICT. In the event that there is a conflict between these standards and other City requirements, these standards will prevail. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-228. STANDARDS WAIVER. The Director of Public Works has the discretion to determine the applicability of these standards and to authorize waivers or exceptions to the referenced standards on a case-by-case or City-wide basis. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-229. STANDARDS BY REFERENCE. The Manual of Infrastructure Standards developed and maintained by the Public Works Department of the City, is the primary source of engineering and construction standards applicable to this Article. The manual is available at the Public Works offices for review and purchase.
  - a. All works subject to this article will be designed and constructed in compliance with the standards prescribed in the Manual of Infrastructure Standards, whether the work is located in City right-of-way, in dedicated drainage easements, other public easements, or on private property.
  - b. Use of the Manual of Infrastructure Standards, as it applies to this Article, is modified to comply with the Manual of Best Management Practices for Stormwater Quality, prepared by the Mid-America Regional Council and Kansas City Metro Chapter of the American Public Works Association, where applicable.
  - c. Where conflicts or inconsistencies arise between the Manual of Best Management Practices and the Manual of Infrastructure Standards, the order of precedence shall be:
    - i. Any standard that is specific to the City and documented in the Manual of Infrastructure Standards (as opposed to adopted by reference).
    - ii. The Kansas City Metropolitan Chapter of American Public Works Association Standard Specifications and Design Criteria
    - iii. The Manual of Best Management Practices for Stormwater Quality.
    - iv. All other standards adopted by reference in the Manual of Infrastructure Standards.

(Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-230. MAINTENANCE AGREEMENT. Prior to the issuance of a Drainage Permit, the City shall require the applicant to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the City or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

- 14-231. MAINTENANCE RESPONSIBILITIES. The owner of the property on which work has been done pursuant to this Ordinance for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion and sediment control measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-232. MAINTENANCE SCHEDULE. A maintenance schedule shall be developed for the life of any stormwater management facility; shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-233. LAND RECORDING. The agreement shall be recorded by the owner in the land records of the County. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-234. PERFORMANCE BONDS AND OTHER ASSURANCES FOR COMPLETION AND MAINTENANCE OF STORMWATER MANAGEMENT IMPROVEMENTS. Upon approval of the final stormwater management plan, but before the issuance of Drainage Permit, the applicant shall:
- a. Post a performance bond, cash escrow, certified check, or other acceptable form of performance security for the amount of the work to be done pursuant to approval of the Stormwater Project Plan;
  - b. Submit a maintenance agreement to be approved by the governing body of the city, assuring perpetual maintenance of Stormwater Project Plan;
  - c. Post a two-year maintenance bond against defects in workmanship for any portion of the stormwater management improvements dedicated to the public.
- (Ord. 1698, Sec. 1; Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-235. APPLICATION AND REVIEW FEES. A standard application fee and estimated review fee will be established by the Director of Public Works; the review fee will be adjusted on a case-by-case basis depending on the complexity of the proposed project. The application fee and estimated review fee to be paid in advance. The actual cost of review will be calculated prior to issuance of the Drainage Permit. Any refund of the review fee due to the applicant will be paid by the City. Any balance owed will be paid by the applicant prior to issuance of the permit. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-236. INSPECTION FEE. An estimated cost for City inspection of construction activities relative to the drainage permit will be paid prior to issuance of the drainage permit. The inspection fee will be adjusted on a case-by-case basis depending on the complexity and size of the project. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)



- 14-237. CONSTRUCTION INSPECTION. The Director of Public Works shall be responsible for determining whether the Stormwater Project Plan is in conformance with criteria specified herein and whether construction is proceeding in accordance with the approved drainage permit. Periodic inspection of the project site shall be made by the Director of Public Works or his or her authorized representative. Through such periodic inspections the Director of Public Works shall ensure that the work is performed in conformance with the Stormwater Project Plan and the adopted engineering standards; and that the improvements are properly maintained. (Ord. 1698, Sec. 1; Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-238. FAILURE TO COMPLY. If the Director of Public Works determines that the owner, permit applicant or agent of the owner in charge of any lot piece or parcel of land subject to this Article has failed to comply with the terms of a drainage permit, a maintenance agreement, the adopted engineering standards, or the regulations stated herein, then he or she shall notify the owner of the violation in writing by registered mail. The notice will define the nature of the violation or violations, acceptable measures to mitigate the violation, and a mandatory timetable for the owner to respond and comply. The Director of Public Works will copy notice to the permit applicant, agent, and/or surety, if appropriate, but responsibility for compliance ultimately rests with the property owner. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-239. TIMETABLE FOR COMPLIANCE. The Director of Public Works will establish a reasonable timetable for the owner to respond and comply with a Notice of Failure to Comply. The time allowed will be commensurate with the nature of the violation, the potential threat to public safety or the environment, and the nature of the corrective measure. Unless the violation poses an imminent threat to the public or the environment, the owner will be afforded no less than 72 hours from receipt of notice to respond to a construction site violation and no less than 10 calendar days from receipt of notice to respond to a maintenance violation. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-240. RIGHT TO HEARING. The Notice of Failure to Comply shall state that before the expiration of the mandatory timetable or within 10 calendar days from receipt of notice, whichever is less, the recipient thereof may request a hearing before the Governing Body or its designated representative. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-241. MEANS OF DELIVERY. The Notice of Failure to Comply shall be served by mailing a notice by registered mail to the last known address of the owner. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)
- 14-242. REVOCATION OF PERMITS; STOP WORK ORDERS. The Director of Public Works, after giving written notice, may revoke a drainage permit issued pursuant to these regulations for any project which is found upon inspection to be in violation of the provisions of this article, and for which the permittee has not agreed to undertake remedial work as requested. Drainage permits may also be revoked if remedial work is not completed within the time allowed. Upon revocation of a drainage permit the Director of Public Works shall issue a stop work order. Such stop work order shall be directed to the property owner and

applicant and he or she shall immediately notify those persons or firms actually performing the physical work of clearing, grading and developing the land or constructing the project. The stop work order shall direct the parties involved to cease and desist all or any portion of the work on the project which is not in compliance, except such remedial work necessary to bring the project into compliance. (Ord. 1698, Sec. 1; Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-243. REMEDIAL WORK BY CITY. Upon the failure, neglect or refusal of any owner to comply with the requirements of a Notice of Failure to Comply, the Director of Public Works shall perform all necessary repairs, removal and/or corrective measures. For the purpose of so doing, the Director of Public Works may enter the premises upon which such nuisance exists, with or without the consent of the owner thereof, without being guilty of trespass. (Ord. 1698, Sec. 1; Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-244. COST RECOVERY. The City shall pursue recovery of all costs incurred for remedial work performed, as defined in this article. The City shall give notice to the owner by Registered mail of the total cost of such repair, removal, or corrective actions incurred by the City. Such notice also shall state that payment of such costs due and payable within 30 days following receipt of such notice. If the cost of such repair, removal, or corrective action is not paid within the 30 day period, the cost shall be collected in the manner provided by this code, including the assessment of costs against the performance bond, maintenance bond or equivalent surety, or shall be assessed and charged against the lot or parcel of ground on which the violation was located. If the cost is to be assessed, the city clerk, at the time of certifying other city taxes to the county clerk, shall certify the aforesaid costs, and the county clerk shall extend the same on the tax roll of the county against the lot or parcel of ground and it shall be collected by the county treasurer and paid to the city as other city taxes are collected and paid. (Ord. 1698, Sec. 1; Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-245. APPEALS. Any applicant or permittee aggrieved by a decision of the Director of Public Works in the enforcement of this Article shall have the right to appeal any order requirement, decision or determination to the City Board of Code Appeals. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-246. ENFORCEMENT. Upon the failure, neglect or refusal of any owner to comply with the notice provided, the Director of Public Works shall notify the city prosecutor who may file a complaint against such owner for violation of the provisions of this article in the municipal court. No such owner shall be exempted from prosecution for violation of such provisions by reason of lawfully transferring his or her ownership, tenancy or interest in the premises upon which the nuisance exists after the giving of notice as hereinbefore provided. (Ord. 1698, Sec. 1; Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

14-247. PENALTIES. Any person failing to comply with any of the provisions of this article shall, upon conviction thereof, be deemed guilty of a violation punishable by a fine as specified in 1-116 of this code. (Ord. 2163, Sec. II, 2008; Ord. 2169, Sec. 12, 2008)

### ARTICLE 3. FLOODPLAIN MANAGEMENT

- 14-301. GENERAL PROVISIONS.
- A. LANDS TO WHICH ARTICLE APPLIES
1. This article shall apply to all lands within the jurisdiction of the City of Prairie Village, Kansas, identified as unnumbered and numbered A Zones, AE, AO and AH Zones, on the Index Map dated August 3, 2009, of the Flood Insurance Rate Map (FIRM) as amended and any future revisions thereto. In all areas covered by this article, no development shall be permitted except through the issuance of a floodplain development permit, granted by the Governing Body or its duly designated representative under such safeguards and restrictions as the Governing Body or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the community and where specifically noted in Section 13-303. (Ord. 2032; Ord. 2169, Sec. 13, 2008; Ord. 2194, Sec. 1, 2009)
- B. COMPLIANCE
1. No development located within known flood hazard areas of this community shall be located, extended, converted or structurally altered without full compliance with the terms of this article and other applicable regulations.
- C. ABROGATION AND GREATER RESTRICTIONS
1. It is intended by this article to repeal, abrogate or impair any existing easements, covenants or deed restrictions. However, where this article imposes greater restrictions, the provisions of this article shall prevail. All other ordinances inconsistent with this article are hereby repealed to the extent of the inconsistency only.
- D. INTERPRETATION
1. In their interpretation and application, the provisions of this article shall be held to be minimum requirements and shall be liberally construed in favor of the Governing Body and shall not be deemed a limitation or repeal of any other powers granted by Kansas statutes.
- E. WARNING AND DISCLAIMER OF LIABILITY
1. The degree of flood protection required by this article is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study. Larger floods may occur on rare occasions or the flood height may be increased by manmade or natural causes, such as ice jams and bridge openings restricted by debris. This article does not imply that areas outside the floodway and flood fringe or land uses permitted within such areas will be free from flooding or flood damage. This article shall not create liability on the part of the City of Prairie Village, Kansas, any officer or employee thereof, for any flood damages that may result from reliance on this article or any administrative decision lawfully made there under.
- F. SEVERABILITY
1. If any section, clause, provision or portion of this article is adjudged unconstitutional or invalid by a court of appropriate jurisdiction, the remainder of this article shall not be affected thereby.  
(Ord. 2194, Sec. 1, 2009)
- 14-302. ADMINISTRATION

- A. FLOODPLAIN DEVELOPMENT PERMIT
  - 1. A floodplain development permit shall be required for all proposed construction or other development, including the placement of manufactured homes, in the areas described in Section 14-302.A.1. No person, firm, corporation, or unit of government shall initiate any development or substantial improvement or cause the same to be done without first obtaining a separate floodplain development permit for each structure or other development.
- B. DESIGNATION OF FLOODPLAIN ADMINISTRATOR
  - 1. The Director of Public Works is hereby appointed to administer and implement the provisions of this article.
- C. DUTIES AND RESPONSIBILITIES OF FLOODPLAIN ADMINISTRATOR
  - 1. Duties of the floodplain administrator shall include, but not be limited to:
    - a. Review of all applications for floodplain development permits to assure that sites are reasonably safe from flooding and that the floodplain development permit requirements of this article have been satisfied;
    - b. Review of all applications for floodplain development permits for proposed development to assure all necessary permits have been obtained from Federal, State or local governmental agencies from which prior approval is obtained by Federal, State, or local law;
    - c. Review all subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, to determine whether such proposals will be reasonably safe from flooding;
    - d. Issue floodplain development permits for all approved applications;
    - e. Notify adjacent communities and the Division of Water Resources, Kansas Department of Agriculture, prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Emergency Management Agency (FEMA);
    - f. Assure that the flood-carrying capacity is not diminished and shall be maintained within the altered or relocated portion of the watercourse; and;
    - g. Verify and maintain a record of the actual elevation (in relation to mean sea level) of the lowest floor, including basement, of all new or substantially improved structures;
    - h. Verify and maintain a record of the actual elevation (in relation to mean sea level) that the new or substantially improved non-residential structures have been flood proofed;
    - i. When floodproofing techniques are utilized for a particular non-residential structure, the floodplain administrator shall require certification from a registered professional engineer or architect.
- D. APPLICATION FOR FLOODPLAIN DEVELOPMENT PERMIT
  - 1. To obtain a floodplain development permit, the applicant shall first file an application in writing on a form furnished for that purpose. Every floodplain development permit application shall:
    - a. Describe the land on which the proposed work is to be done by lot, block and tract, house and street address, or similar description that will readily identify and specifically locate the proposed structure or work;
    - b. Identify and describe the work to be covered by the floodplain development permit;
    - c. Indicate the use or occupancy for which the proposed work is intended;

- d. Indicate the assessed value of the structure and the fair market value of the improvement;
  - e. Specify whether development is located in designated flood fringe or floodway;
  - f. Identify the existing base flood elevation and the elevation of the proposed development;
  - g. Give such other information as reasonably may be required by the floodplain administrator;
  - h. Be accompanied by plans and specifications for proposed construction ; and,
  - i. Be signed by the permittee or his or her authorized agent who may be required to submit evidence to indicate such authority.
- (Ord. 2032; Ord. 2169, Sec. 13, 2008; Ord. 2194, Sec. 1, 2009)

14-303. PROVISIONS FOR FLOOD HAZARD REDUCTION

A. GENERAL STANDARDS

- 1. No permit for floodplain development shall be granted for new construction, substantial improvements and other improvements including the placement of manufactured homes within all unnumbered and numbered A zones, AE, AO and AH zones, unless the conditions of this section are satisfied.
- 2. All areas identified as unnumbered A zones on the FIRM are subject to inundation of the 100-year flood; however, the base flood elevation is not provided. Development within unnumbered A zones is subject to all provisions of this article. If Flood Insurance Study (FIS) data is not available, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from federal, state or other sources.
- 3. Until a floodway is designated, no new construction, substantial improvements, or other development, including fill, shall be permitted within any unnumbered or numbered A zones or AE zones on the FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.
- 4. All new construction, subdivision proposals, substantial improvements, prefabricated buildings, placement of manufactured homes and other developments shall require:
  - 1. Design or anchorage to prevent flotation, collapse or lateral movement of the structure resulting from hydrodynamic and hydrostatic loads, including the effects of buoyancy;
  - 2. Construction with materials resistant to flood damages;
  - 3. Utilization of methods and practices that minimize flood damages;
  - 4. All electrical, heating, ventilation, plumbing, air conditioning equipment and other service facilities be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;
- 5. New or replacement water supply systems and/or sanitary sewage systems be designed to minimize or eliminate infiltration of flood waters into the systems and discharges from the systems into flood waters, and on-site

- waste disposal systems be located so as to avoid impairment or contamination from them during flooding: and
6. Subdivision proposals and other proposed new development, including manufactured home parks or subdivisions, located within special flood hazard areas are required to assure that:
    - a. All such proposals are consistent with the need to minimize flood damage;
    - b. All public utilities and facilities, such as sewer, gas, electrical, and water systems are located and constructed to minimize or eliminate flood damage;
    - c. Adequate drainage is provided so as to reduce exposure to flood hazards; and
    - d. All proposals for development, including proposals for manufactured home parks and subdivisions, greater than five acres or 50 lots, whichever is lesser, include within such proposals base flood elevation data.
  7. Storage, material, and equipment.
    - a. The storage or processing of materials within the special flood hazard area that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal, or plant life is prohibited.
    - b. Storage of other material or equipment may be allowed if not subject to major damage by floods, if firmly anchored to prevent floatation, or if readily removable, from the area within the time available after a flood warning.
    - c. All hazardous material storage and handling sites shall be located out of special flood hazard area.
  8. Non Conforming Use
    - a. A structure, or the use of a structure or premises that was lawful before the passage or amendment of amendment of the article, but which is not in conformity with the provisions of this article, may be continued subject to the following conditions:
      - (1) If such structure, use or utility service is discontinued for six consecutive months, any future use of the building shall conform to this article.
      - (2) If any nonconforming use of structure is destroyed by any means, including flood, it shall not be reconstructed if the cost is more than fifty (50) percent of the pre-damaged market value of the structure. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, safety codes, regulations or the cost of any alteration of a structure listed on the National Register of Historic Places, the State Inventory of Historic Places, or local inventory of historic places upon determination.
- B. SPECIFIC STANDARDS
1. In all areas identified as unnumbered and numbered A zones, AE, and AH zones, where base flood elevation data have been provided, as set forth in section 14-302A, the following provisions are required:
    - a. *Residential Construction* New construction or substantial improvement of any residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation. **The elevation**

- of the lowest floor shall be certified by a licensed land surveyor or professional engineer.
- b. *Non-Residential Construction* New construction or substantial improvement of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated a minimum of one (1) foot above the base flood elevation or, together with attendant utility and sanitary facilities, be flood proofed to a minimum of one (1) foot above the base flood elevation. A registered professional engineer or architect shall certify that the standards of this subsection are satisfied. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.** Such certification shall be provided to the floodplain administrator as set forth in section 14-302.C, g, h, i.
2. Require, for all new construction and substantial improvements that fully enclosed areas below lowest floor used solely for parking of vehicles, building access, or storage in an area other than a basement and that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of flood waters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria:
- a. A minimum of two (2) openings having a total net area of not less than one (1) square inch for every square foot of enclosed area subject to flooding shall be provided; and
- b. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- C. CRITICAL FACILITIES
1. All new or substantially improved critical non-residential facilities including, but not limited, to government buildings, police stations, fire stations, hospitals, orphanages, penal institutions, communications centers, water and sewer pumping stations, water and sewer treatment facilities, transportation maintenance facilities, places of public assembly, emergency aviation facilities, and schools shall be elevated above the 0.2 percent annual chance flood event, also referred to as the 500-year flood level or together with attendant utility and sanitary facilities, be so that below the 500-year flood level the structure is water tight with walls substantially impermeable to the passage of hydrodynamic loads and the effects of buoyancy. A registered engineer or architect shall certify that the standards of this section are satisfied. Such certification shall be provided to the flood plain administrator as set forth in 14-302.C, g, h, i.
2. All critical facilities shall have access routes that are above the elevation of the 500-year flood.
3. No critical facilities shall be constructed in any designated floodway.
- D. MANUFACTURED HOMES
1. All manufactured homes to be placed within all unnumbered and numbered A zones, AE, and AH zones on the community's FIRM shall be required to be installed using methods and practices that minimize flood damage. For the purposes of this requirement, manufactured homes must be elevated

- and anchored to resist floatation, collapse, or lateral movement. Methods of anchoring may include, but are not limited to, use of over-the-top or frame ties to ground anchors. This requirement is in addition to applicable State and local anchoring requirements for resisting wind forces.
2. Require manufactured homes that are placed or substantially improved within unnumbered or numbered A zones, AE, and AH zones, on the community's FIRM on sites:
    - a. Outside of a manufactured home park or subdivision;
    - b. In a new manufactured home park or subdivision;
    - c. In an expansion to an existing manufactured home park or subdivision;  
or
    - d. In an existing manufactured home park or subdivision on which a manufactured home has incurred substantial damage as the result of a flood, be elevated on a permanent foundation such that the lowest floor of the manufactured home is elevated a minimum of one (1) foot above base flood elevation and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or Professional Engineer.**
  3. Require that manufactured homes to be placed or substantially improved on sites in an existing manufactured home park or subdivision within all unnumbered and numbered A zones, AE and AH zones, on the community's FIRM, that are not subject to the provisions of section 14-303.C.2 of this article, be elevated so that either:
    - a. The lowest floor is elevated a minimum of one (1) foot above base flood elevation; or
    - b. The manufactured home chassis is supported by reinforced piers or other foundation elements of at least equivalent strength that are no less than thirty-six (36) inches in height above grade and be securely attached to an adequately anchored foundation system to resist flotation, collapse, and lateral movement. **The elevation of the lowest floor shall be certified by a licensed land surveyor or professional engineer.**
- E. AREAS OF SHALLOW FLOODING (AO and AH zones)
1. Locate within the areas of special flood hazard as described in section 14-401.A are areas designated as AO zones. These areas have special flood hazards associated with base flood depths of one (1) to three (3) feet where a clearly defined channel does not exist and where the path of flooding is unpredictable and indeterminate. The following provisions apply:
    - a. AO Zones
      - (1) All new construction and substantial improvements of residential structures including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade at least as high as the depth number specified in feet on the community's FIRM (at least two (2) feet if no depth number is specified).
      - (2) All new construction and substantial improvements of any commercial, industrial, or other non-residential structures, including manufactured homes, shall have the lowest floor, including basement, elevated above the highest adjacent grade



at least as high as the depth number specified in feet on the community FIRM (at least two (2) feet if no depth number is specified) or together with attendant utilities and sanitary facilities be completely floodproofed so that the structure is watertight with walls substantially impermeable to the passage of water and with structural components having the capability of resisting hydrostatic and hydrodynamic loads and effects of buoyancy.

- (3) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.
  - b. AH Zones.
    - (1) The specific standards for all areas of special flood hazard where base flood elevation has been provided shall be required as set forth in sections 14-303.B.
    - (2) Adequate drainage paths shall be required around structures on slopes, in order to guide floodwaters around and away from proposed structures.
- F. FLOODWAY
1. Located within areas of special flood hazard established 14-301.A, are areas designated as floodways. Since the floodway is an extremely hazardous area due to the velocity of floodwaters that carry debris and potential projectiles, the following provisions shall apply:
    - a. The community shall select and adopt a regulatory floodway based on the principle that the area chosen for the regulatory floodway must be designed to carry the waters of the base flood without increasing the water surface elevation of that flood more than one (1) foot at any point.
    - b. The Community shall prohibit encroachments, including fill, new construction, substantial improvements, and other development within the adopted regulatory floodway unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in **any** increase in flood levels within the community during the occurrence of the base flood discharge.
    - c. If Section 14-303.E.b, is satisfied, all new construction and substantial-improvements shall comply with all applicable flood hazard reduction provision of 14-303.
    - d. In unnumbered A zones, the community shall obtain, review, and reasonably utilize any base flood elevation or floodway data currently available from Federal, State, or other sources as set forth in 14-303.A.2.
- G. RECREATIONAL VEHICLES
1. Require that recreational vehicles placed on sites within all unnumbered and numbered A Zones, AH, and AO Zones on the community's FIRM either:
    - a. Be on the site for fewer than 180 consecutive days, *or*
    - b. Be fully licensed and ready for highway use\*; *or*
    - c. Meet the permitting, elevation, and anchoring requirements for manufactured homes of this article.

\* A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect type

utilities and security devices, and has no permanently attached additions.

(Ord. 2032; Ord. 2169, Sec. 13, 2008; Ord. 2194, Sec. 1, 2009)

- 14-304. FLOODPLAIN MANAGEMENT VARIANCE PROCEDURES
  - A. ESTABLISHMENT OF APPEAL BOARD
    - 1. The Prairie Village Board of Zoning Appeals, as established by the City of Prairie Village shall hear and decide appeals and requests for variances from the floodplain management requirements of this article.
    - 2. RESPONSIBILITY OF THE APPEAL BOARD
    - 3. Where an application for a floodplain development permit is denied by the Floodplain Administrator, the applicant may apply for such floodplain development permit directly to the Appeal Board, as defined in section 14-304.A.
    - 4. The Appeal Board shall hear and decide appeals when it is alleged that there is an error in any requirement, decision, or determination made by the Floodplain Administrator in the enforcement or administration of this article.
  - B. FURTHER APPEALS
    - 1. Any person aggrieved by the decision of the Appeal Board or any taxpayer may appeal such decision to the District Court as provided in K.S.A. 12-759 and 12-760.
  - C. FLOODPLAIN MANAGEMENT VARIANCE CRITERIA
    - 1. In passing upon such applications for variances, the Appeal Board shall consider all technical data and evaluations, all relevant factors, standards specified in other sections of this article and the following criteria:
      - a. Danger to life and property due to flood damage;
      - b. Danger that materials may be swept onto other lands to the injury of others;
      - c. Susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
      - d. Importance of the services provided by the proposed facility to the community;
      - e. Necessity to the facility of a waterfront location, where applicable;
      - f. Availability of alternative locations, not subject to flood damage, for the proposed use;
      - g. Compatibility of the proposed use with existing and anticipated development;
      - h. Relationship of the proposed use to the comprehensive plan and floodplain management program for that area;
      - i. Safety of access to the property in times of flood for ordinary and emergency vehicles;
      - j. Expected heights, velocity, duration, rate of rise and sediment transport of the flood waters, if applicable, expected at the site; and,
      - k. Cost of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities such as sewer, gas, electrical, and water systems, streets, and bridges.
  - D. CONDITIONS FOR APPROVING FLOODPLAIN MANAGEMENT VARIANCES
    - 1. Generally, variances may be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size

- contiguous to and surrounded by lots with existing structures constructed below the base flood elevation, providing items two (2) through six (6) below have been fully considered. As the lot size increases beyond the one-half acre, the technical jurisdiction required for issuing the variance increases.
2. Variances may be issued for the reconstruction, rehabilitation or restoration of structures listed on the National Register of Historic Places or the State Inventory of Historic Places, or local inventory of historic places upon determination provided the proposed activity will not preclude the structure's continued historic designation and the variance is the minimum necessary to preserve the historic character and design of the structure.
  3. Variances shall not be issued within any designated floodway if any increase in flood discharge would result.
  4. Variances shall not be issued upon a determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
  5. Variances shall only be issued upon (a) a showing of good and sufficient cause, (b) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (c) a determination that the granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws or ordinances.
  6. A community shall notify the applicant in writing over the signature of a community official that: (a) the issuance of a variance to construct a structure below base flood elevation will result in increase premium rates for flood insurance up to amounts as high as \$25.00 for \$100.00 of insurance coverage and (b) such construction below the base flood elevation increases risk to life and property. Such notification shall be maintained with the record of all variance actions as required by this article.
- E. CONDITIONS FOR APPROVING VARIANCES FOR ACCESSORY STRUCTURES
1. Any variance granted for an accessory structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in 14-304.D and 14-304.E of this Article.
  2. In order to minimize flood damages during the one percent annual chance flood event, also referred to as the 100-year flood and the threat to public health and safety, the following conditions shall be included for any variance issued for accessory structures that are constructed at-grade and wet-proofed.
    - a. Use of the accessory structure must be solely for parking and limited storage purposes in zone A only as identified on the community's Flood Insurance Map (FIRM).
    - b. For any new or substantially damaged accessory structures, the exterior and interior building components and elements (i.e., foundation, wall framing, exterior and interior finishes, flooring, etc.) below the base flood elevation, must be built with flood-resistant materials in accordance with 14-303.A.4.b of this Code.
    - c. The accessory structures must be adequately anchored to prevent floatation, collapse, or lateral movement of the structure in accordance with 14-303.A.4.a of this Code. All of the building's structural

- components must be capable of resisting specific flood-related forces including hydrostatic, buoyancy, and hydrodynamic and debris impact forces.
- d. Any mechanical, electrical, or other utility equipment must be located above the base flood elevation or flood-proofed so that they are contained within, flood-proofed enclosure that is capable of resisting damage during flood conditions in accordance with 14-303.A.4.d of this Code.
  - e. The accessory structures must meet all NFIP opening requirements. The NFIP requires that enclosure of foundation walls, subject to the one percent annual chance flood event, also referred to as the 100-year flood, contain openings that will permit the automatic entry and exit of flood waters in accordance with 14-303.B.1.c of this Code.
  - f. The accessory structures must comply with the floodplain management floodway encroachment provisions of 14-403.E.2. No variances may be issued for accessory structures within any designated floodway, if any increase in flood level would result during the 100-year flood.
  - g. Equipment, machinery, or other contents must be protected from any flood damage.
  - h. No disaster relief assistance under any program administered by any Federal agency shall be paid for any repair or restoration costs of the accessory structures.
  - i. A community shall notify the applicant in writing over the signature of a community official that (1) the issuance of a variance to construct a structure below base flood level will result in increased premium rates for flood insurance up to amounts as high as \$25.000 for \$100.00 of insurance coverage and (2) such construction below the base flood level increases risks to life and property. Such notification shall be maintained with the record of all variance actions as required by this Code.
  - j. Wet-proofing construction techniques must be reviewed and approved by the community and registered engineer or architect prior to the issuance of any floodplain development permit for construction.
- F. CONDITIONS FOR APPROVING VARIANCES FOR TEMPORARY STRUCTURES
- 1. Any variance granted for a temporary structure shall be decided individually based on a case by case analysis of the building's unique circumstances. Variances granted shall meet the following conditions as well as those criteria and conditions set forth in 14-403.D and 14-403.E of this Code.
  - 2. A temporary structure may be considered for location within the one percent annual chance flood event, also preferred to as the 100-year floodplain only when all of the following criteria are met:
    - a. Use of the temporary structure is unique to the land to be developed and cannot be located outside of the floodplain nor meet the NFIP design standards;
    - b. Denial of the temporary structure permit will create an undue hardship on the property owner;
    - c. Community has adopted up-to-date NFIP and building regulations to direct placement and removal of the temporary structure; and,

- d. Community has sufficient staff to monitor the placement, use, and removal of the temporary structure throughout the duration of the permit.
3. Once all of the above conditions are met, the application for a special use permit must be made to City of Prairie Village Planning Commission. The Planning Commission shall consider all applications for special use permits for a temporary structure based on the following criteria:
  - a. The placement of any temporary structure within the special flood hazard areas as shown on the community's adopted FEMA/NFIP map shall require an approved special use permit. The special use permit shall be valid for a period not to exceed 180 days.
  - b. Special use permits applications, for a temporary structure to be located in special flood hazard areas, shall conform to the standard public hearing process prior to any community action on the permit request.
  - c. An emergency plan for the removal of the temporary structure that includes specific removal criteria and time frames from the agency or firm responsible for providing the manpower, equipment, and the relocation and disconnection of all utilities shall be required as part of the special use permit application for the placement of any temporary structure.
  - d. On or before the expiration of the end of the 180 day special use permit period, the temporary structure shall be removed from the site. All utilities, including water, sewer, communication, and electrical services shall be disconnected.
  - e. To ensure the continuous mobility of the temporary structure for the duration of the permit, the temporary structure shall retain its wheels and tires, licenses, and towing appurtenance on the structures at all times.
  - f. Under emergency flooding conditions, the temporary structure shall be removed immediately or as directed by the community and as specified in the emergency removal plan.
  - g. Location of any temporary structure within the regulatory floodway requires the provision of a "no-rise" certificate by a registered professional engineer.
  - h. Violation of or non-compliance with any of the stated conditions of the special use permit during the term thereof, shall make the permit subject to revocation by resolution of the governing body of the community. Issuance of permit revocation notice shall be made to the landowner, the occupant of the land, and to the general public.
  - i. Any deviation from the approved site plan shall be deemed a violation of the special use permit approval and the uses allowed shall automatically be revoked. The subsequent use of the land shall be as it was prior to the special permit approval. In event of any violation, all permitted special uses shall be deemed a violation of this article and shall be illegal, non-conforming uses and shall be summarily removed and abated.
  - j. If the temporary structure is to be returned to its previously occupied site, the process for issuing a special use permit must be repeated in full. Any subsequent permit shall be valid for 180 days only.

(Ord. 2032; Ord. 2169, Sec. 13, 2008; Ord. 2194, Sec. 1, 2009)

14-305. PENALTIES FOR VIOLATION

- A. Violation of the provisions of this article or failure to comply with any of its requirements (including violations of conditions and safeguards established in connection with granting of variances) shall constitute a misdemeanor. Any person who violates this article or fails to comply with any of its requirements shall, upon conviction therefore, be assessed a penalty in accordance with Article 1-116, and in addition, shall pay all costs and expenses involved in the case. Each day such violation continues, shall be considered a separate offense. Nothing herein contained shall prevent the City of Prairie Village or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

(Ord. 2032; Ord. 2169, Sec. 13, 2008; Ord. 2194, Sec. 1, 2009)

14-306. AMENDMENTS

- A. The regulations, restrictions and boundaries set forth in this article may from time to time be amended, supplemented, changed, or repealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall be published in newspaper of general circulation in the City of Prairie Village. At least twenty (20) days shall elapse between the date of this publication and the public hearing. A copy of such amendments will be provided to the Region VII office of the FEMA Region VII office. The regulations of this article are in compliance with the NFIP regulations.

(Ord. 2032; Ord. 2169, Sec. 13, 2008; Ord. 2194, Sec. 1, 2009)

14-307. DEFINITIONS

- A. Unless specifically defined below, words or phrases used in this article shall be interpreted so as to give them the same meaning they have in common usage and to give this article its most reasonable application.

**“100-year Flood”** see *“base flood”*.

**“Accessory Structure”** means the same as *“appurtenant structure”*.

**“Actuarial Rate”** see *“risk premium rates”*.

**“Administrator”** means the Federal Insurance Administrator.

**“Agency”** means the Federal Emergency Management Agency (FEMA).

**“Appeal”** means a request for review of the Floodplain Administrator’s interpretation of any provision of this article or a request for a variance

**“Appurtenant Structure”** means a structure that is on the same parcel of property as the principle structure to be insured and the use of which is incidental to the use of the principal structure.

**“Area of Shallow Flooding”** means a designated AO or AH zone on a community’s Flood Insurance Rate Map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one (1) to three (3) feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

**“Area of Special Flooding”** is the land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year.

**“Base Flood”** means the flood having a one percent chance of being equaled or exceeded in any given year.

**“Basement”** means any area of the structure having its floor sub-grade (below ground level) on all sides.

**“Building”** see *“structure”*.

**“Chief Engineer”** means the chief engineer of the division of water resources, Kansas Department of Agriculture.

**“Community”** means any State or area or political subdivision thereof, which has authority to adopt and enforce floodplain management regulations for the areas within its jurisdiction.

**“Development”** means any man-made change to improved or unimproved real estate, including but not limited to, buildings or other structures, levees, levee systems, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or materials.

**“Elevated Building”** means for insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, posts, pier, pilings, or columns.

**“Eligible Community” or “Participating Community”** means a community for which the Administrator has authorized the sale of flood insurance under the National Flood Insurance Program (NFIP).

**“Existing Construction”** means for the purposes of determining rates, structures for which the *“start of construction”* commenced before the effective date of the FIRM or before January 1, 1975, for FIRMs effective before that date.

**“Existing Manufactured Home Park or Subdivision”** means a manufactured home park or subdivision for which the construction of facilities for servicing the lots on which the manufactured homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the effective date of the floodplain management regulations adopted by a community.

**“Expansion to an Existing Manufactured Home Park or Subdivision”** means the preparation of additional sites by the construction facilities for servicing the lots on which the manufactured homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

**“Flood” or “Flooding”** means a general and temporary condition of partial or complete inundation of normally dry land areas from: (1) the overflow of inland; (2) the unusual and rapid accumulation of runoff of surface waters from any source; and (3) the collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a nature body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood, or by some similarly unusual and unforeseeable event which results in flooding as defined above in item (1).

**“Flood Hazard Boundary Map (FHBM)”** means an official map of a community, issued by the Administrator, where the boundaries of the flood areas having special flood hazards have been designated as (unnumbered or numbered) A Zones.

**“Flood Hazard Map”** means the document adopted by the governing body showing the limits of: (1) the floodplain; (2) the floodway; (3) street; (4) stream channel; and (5) other geographic features.

**“Flood Insurance Rate Map (FIRM)”** means an official map of a community, on which the Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community.

**“Flood Insurance Study (FIS)”** means an examination, evaluation and determination of flood hazards and, if appropriate, corresponding water surface elevations.

**“Floodplain Development Permit”** means a Drainage Permit issued by the City of Prairie Village, Kansas

**“Floodplain or Flood-Prone Area”** means any land area susceptible to being inundated by water from any source (*see flooding*).

**“Floodplain Management”** means the operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

**“Floodplain Management Regulations”** means zoning ordinances, subdivision regulations, building codes, health regulations, special purposes ordinances (such as floodplain and grading ordinances) and other applications of police power. The term describes such state or local regulations, in any combination thereof, that provide standards for the purpose of flood damage prevention and reduction.

**“Flood proofing”** means any combination of structural and nonstructural additions, change or adjustments to structures that reduce or eliminate flood damage to real estate or improved real property, water and sanitary facilities, or structures and their contents.

**“Floodway” or “Regulatory Floodway”** means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one (1) foot.

**“Freeboard”** means a factor of safety usually expressed in feet above a flood level for purposes of floodplain management. *“Freeboard”* tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as bridge openings and the hydrological effect of urbanization of the watershed.

**“Functionally Dependent Use”** means a use that cannot perform its intended purpose unless it is located or carried out in close proximity to water. This term includes only docking facilities and facilities that are necessary for the loading and unloading of cargo or passengers, but does not include long-term storage or related manufacturing facilities.

**“Governing Body”** means the duly elected City Council of the City of Prairie Village, Kansas.

**“Highest Adjacent Grade”** means the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

**“Historic Structure”** means any structure that is (a) listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register; (b) certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district; (c) individually listed on a state inventory of



historic places in states with historic preservation programs which have been approved by the Secretary of the Interior; or (d) individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either (1) by an approved state program as determined by the Secretary of the Interior or (2) directly by the Secretary of the Interior in state without approved programs.

**“Lowest Floor”** means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access, or storage, in an area other than a basement area, is not considered a building’s lowest floor, **provided** that such enclosure is not built so as to render the structure in violation of the applicable flood proofing design requirements of this article.

**“Manufactured Home”** means a structure, transportable in one or more sections, that is built on a permanent chassis and is designed for use with or without a permanent foundation when attached *to the required utilities*. *The term “manufactured home” does not include a “recreational vehicle”.*

**“Manufactured Home Park or Subdivision”** means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

**“Map”** means the Flood Hazard Boundary Map (FHBM), Flood Insurance Rate Map (FIRM), or the Flood Boundary and Floodway Map (FBFM) for a community issued by the Federal Emergency Management Agency (FEMA).

**“Market Value or Fair Market Value”** means an estimate of what is fair, economic, just and equitable value under normal local market conditions.

**“Mean Sea Level”** means, for purposes of the National Flood Insurance Program (NFIP), the National Geodetic Vertical Datum (NGVD) of 1929 or other datum, to which base flood elevations shown on a community’s Flood Insurance Rate Map (FIRM) are referenced.

**“New Construction”** means, for the purposes of determining insurance rates, structures for which the *“start of construction”* commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *“new construction”* means structures for which the *“start of construction”* commenced on or after the effective date of the floodplain management regulations adopted by a community and includes any subsequent improvements to such structures.

**“New Manufactured Home Park or Subdivision”** means a manufactured home park or subdivision for which the construction of facilities for servicing the lot on which the manufactured homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the effective date of floodplain management regulations adopted by the community.

**“(NFIP)”** means the National Flood Insurance Program (NFIP).

**“Participating Community”** also known as an *“eligible community”*, means a community in which the Administrator has authorized the sale of flood insurance.

**“Permit”** means a signed document from a designated community official authorizing development in a floodplain, including all necessary supporting documentation such as: (1) the site plan; (2) an elevation certificate; and (3) any other necessary or applicable approvals or authorizations from local, state, or federal authorities.

**“Person”** includes any individual or group of individuals, corporation, partnership, association, or any other entity, including Federal, State, and local governments and agencies.

**“Principally Above Ground”** means that at least 51 percent of the actual cash value of the structure, less land value, is above ground.

**“Reasonably Safe From Flooding”** means base flood waters will not inundate the land or damage structures to be removed from the SFHA and that any subsurface waters related to the base flood will not damage existing or proposed buildings.

**“Recreational Vehicle”** means a vehicle which is (a) built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projections; (c) designed to be self-propelled or permanently towed by a light-duty truck; and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel or seasonal use.

**“Remedy a Violation”** means to bring the structure or other development into compliance with Federal, State, or local floodplain management regulations; or, if this is not possible, to reduce the impacts of its noncompliance.

**“Risk Premium Rates”** means those rates established by the Administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with Section 1307 of the National Flood Disaster Protection Act of 1973 and the accepted actuarial principles. *“Risk premium rates”* include provisions for operating costs and allowances.

**“Special Flood Hazard Area”** see *“area of special flood hazard”*.

**“Special Hazard Area”** means an area having special flood hazards and shown on an FHBM, FIRM or FBFM as zones (unnumbered or numbered) A, AO, AE, or AH.

**“Start of Construction”** includes substantial improvements, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvements were within 180 days of the permit date. The *actual start* means either the first placement of permanent construction of a structure on a site, such as the pouring of slabs or footings, the installation of piles, the construction of columns, any work beyond the state of excavation, or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling, the installation of streets and/or walkways, excavation for a basement, footings, piers, foundations, the erection of temporary forms, nor installation on the property of accessory structures such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the *actual start of construction* means the first alteration of any wall, ceiling, floor, or other structural part of a building, whether or not that alteration affects the external dimensions of the building.

**“State Coordinating Agency”** means the Division of Water Resources, Kansas Department of Agriculture, or other office designated by the governor of the state or by state statute at the request of the Administrator to assist in the implementation of the National Flood Insurance Program (NFIP) in that state.

**“Structure”** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground and affixed to a permanent site, as well as a manufactured home on a permanent foundation or a travel trailer, without wheels on a permanent foundation. For the latter purpose, the term included a building while in the course of construction, alteration or repair, but does not include building materials or supplies intended for use in such

construction, alteration or repair, unless such materials or supplies are within an enclosed building on the premises.

**"Substantial Damage"** means damage of any origin sustained by a structure whereby the cost of restoring the structure to pre-damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

**"Substantial Improvement"** means any reconstruction, rehabilitation, addition, or other improvement of the structure, the cost of which equals or exceeds 50 percent of the market value of the structure before "*start of construction*" of the improvement. This term includes structures which have incurred "*substantial damage*", regardless of the actual repair work performed. The term does not, however, include either (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications that have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions, or (2) any alteration of a "*historic structure*", provided that the alteration will not preclude the structure's continued designation as a "*historic structure*".

**"Temporary Structure"** means a structure permitted in a district for a period not to exceed 180 days and is required to be removed upon the expiration of the permit period. Temporary structures may include recreational vehicles, temporary construction offices, or temporary business facilities used until permanent facilities can be constructed, **but at no time shall it include manufactured homes as residents.**

**"Variance"** means a grant of relief by the community from the terms of a floodplain management regulation. Flood insurance requirements remain in place for any varied use or structure and cannot be varied by the community.

**"Violation"** means the failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required by this article is presumed to be in violation until such time as that documentation is provided.

**"Water Surface Elevation"** means the height, in relation to the National Geodetic Vertical Datum (NGVD) of 1929 (or other datum where specified) of floods of various magnitudes and frequencies in the floodplain.

(Ord. 2032; Ord. 2169, Sec. 13, 2008; Ord. 2194, Sec. 1, 2009)

**ARTICLE 4. STORMWATER UTILITY**

## 14-401. PURPOSE AND FINDINGS.

- A. Pursuant to K.S.A. 12-3101, et seq., as modified by CITY Charter Ordinance No. 23, the CITY does hereby create a STORMWATER MANAGEMENT PROGRAM and does hereby establish a STORMWATER UTILITY and declares its intention to operate the same.
- B. A STORMWATER MANAGEMENT PROGRAM will provide both general and specific benefits to all property within the CITY and will include the provision of adequate systems of collection, conveyance, detention, retention, treatment and release of Stormwater; the reduction of hazards to property and life resulting from Stormwater runoff; improvement in general health and welfare through reduction of undesirable Stormwater conditions; improvement of water quality in the STORMWATER SYSTEM and its receiving waters; the provision of a planned and orderly system for managing and mitigating the effects of new development on Stormwater and appropriate balancing between development and preservation of the natural environment.
- C. The STORMWATER MANAGEMENT PROGRAM will also initiate innovative and proactive approaches to Stormwater management within the CITY to address problems in areas of the CITY that currently are prone to frequent major flooding, protect property in the CITY from stream bank erosion and the attendant loss of natural resources and the reduction of property values, conserve natural stream assets within the CITY, enhance water quality, and assist in complying with the mandates of the National Pollutant Discharge Elimination System as created under the Federal Clean Water Act and associated state and federal laws and their supporting regulations.
- D. Both standard and innovative stormwater management is necessary in the interest of the public health, safety and general welfare of the residents, businesses and visitors of the City.
- E. Implementation of the STORMWATER MANAGEMENT PROGRAM will require the expenditure of significant amounts of public money.
- F. All DEVELOPED PROPERTY in the CITY will benefit from the STORMWATER MANAGEMENT PROGRAM.
- G. The CITY desires to distribute fairly costs of the STORMWATER MANAGEMENT PROGRAM implementation among all DEVELOPED PROPERTY.
- H. The CITY has determined that the establishment of a STORMWATER UTILITY is an appropriate method of funding the costs of implementing the STORMWATER MANAGEMENT PROGRAM.
- I. The CITY has adopted Charter Ordinance No. 23, which grants to the CITY the authority to adopt, by ordinance, rules and regulations providing for the management and operation of a STORMWATER UTILITY, fixing a STORMWATER SERVICE FEE, requiring security for the payment thereof, providing methods and rules relating to the calculation and collection of the fees and for credits against the fees, and providing for the disposition of the REVENUES derived therefrom.
- J. The STORMWATER SERVICE FEE imposed by this Ordinance, is calculated by calculating the IMPERVIOUS AREA on the property multiplied by square

footage rate, and such fee is neither a tax nor a special assessment, but a charge (in the nature of tolls, fees or rents) for services rendered or available.

- K. The CITY has researched collection options and hereby determines that in order to promote efficiency, eliminate duplication of services, and utilize the most economically feasible method of fee collection, the STORMWATER SERVICE FEE should be included on City of Prairie Village ad valorem real property tax bills issued by Johnson County, in accordance with an agreement to be negotiated with the County, which will be placed on file in the office of the CITY clerk.

(Ord. 2171, Sec. 1, 2008)

14-402. DEFINITIONS.

- A. In addition to the words, terms and phrases elsewhere defined in this ordinance, the following words, terms and phrases, as used in this ordinance, shall have the following meanings:
- a. "BONDS" means obligations of the CITY, for which the principal of and the interest on is paid in whole or in part from special assessments, service fees, sales tax, general ad valorem taxes, or any available CITY or STORMWATER UTILITY Fund REVENUES heretofore or hereafter issued to finance the COSTS OF CAPITAL IMPROVEMENTS.
  - b. "BUILDING PERMIT" means a permit issued by the Building Official of the City of Prairie Village that permits structure construction.
  - c. "CERTIFICATE OF OCCUPANCY" means a certificate issued by the Building Official of the City of Prairie Village that permits a newly constructed or a new addition to real property to be occupied.
  - d. "CITY" means the City of Prairie Village, Kansas.
  - e. "COSTS OF CAPITAL IMPROVEMENTS" means costs incurred by the STORMWATER UTILITY in providing capital improvements as part of the STORMWATER MANAGEMENT PROGRAM, including, without limitation, alteration, enlargement, extension, improvement, construction, reconstruction, and development of the STORMWATER SYSTEM, professional services and studies connected therewith; principal and interest on BONDS heretofore or hereafter issued, including payment of any delinquencies; studies related to the operation of the system; costs related to water quality enhancements, costs related to complying with federal, state or local regulations; acquisition of real and personal property by purchase, lease, donation, condemnation or otherwise; and for the costs associated with purchasing equipment, computers, furniture and all other items necessary or convenient for the operations of the STORMWATER UTILITY.
  - f. "DEBT SERVICE" means an amount equal to the sum of all issuance costs, any interest payable on BONDS during any FISCAL YEAR or years, and any principal installments payable on the BONDS during such FISCAL YEAR or years.
  - g. "DEVELOPED PROPERTY" means real property, other than Undeveloped Land.
  - h. "DIRECTOR" means the Director of Public Works Department of the City of Prairie Village or the DIRECTOR's designee.
  - i. "EXTENSION AND REPLACEMENT" means cost of extensions, additions and capital improvements in, or the renewal and replacement of capital units of, or purchasing and installing of equipment for, the STORMWATER

- MANAGEMENT PROGRAM, or land acquisition for the STORMWATER MANAGEMENT PROGRAM and any related costs thereto, or paying extraordinary maintenance and repairs, including the COSTS OF CAPITAL IMPROVEMENTS or any other expense that is not costs of operation and maintenance or DEBT SERVICE.
- j. "FISCAL YEAR" means a twelve-month period commencing on the first day of January of any year.
  - k. "GOVERNING BODY" means the governing body of the City of Prairie Village.
  - l. "IMPERVIOUS AREA" means the total number of square feet of hard surface on a given property that either prevents or retards the entry of water into the soil matrix, and/or causes water to run off the surface in greater quantities or at an increased rate of flow, than it would enter under conditions similar to those on UNDEVELOPED LAND. IMPERVIOUS AREA includes but is not limited to, roofs, roof extensions, driveways, pavement, swimming pools and athletic courts.
  - m. "NON-SINGLE FAMILY RESIDENTIAL PROPERTY" means all property that is not classified as SINGLE FAMILY RESIDENTIAL PROPERTY by the Johnson County, Kansas Appraiser's Office.
  - n. "OPERATING BUDGET" means the annual budget established for the STORMWATER UTILITY for the succeeding FISCAL YEAR.
  - o. "OPERATIONS AND MAINTENANCE" means, without limitation, the current expenses, paid or secured, of operation, maintenance and repair and replacement of the STORMWATER MANAGEMENT PROGRAM or for implementing the STORMWATER MANAGEMENT PROGRAM as calculated in accordance with generally accepted accounting practices, and includes, without limiting the generality of the foregoing, insurance premiums, administrative expenses including professional services, equipment costs, labor costs, and the cost of materials and supplies used for current operations.
  - p. "PERSON" shall mean any person, firm, corporation, association, partnership, political unit, or organization.
  - q. "REVENUES" means all rates, fees, assessments, rentals, or other charges or other income received by the STORMWATER UTILITY in connection with the management and operation of the STORMWATER MANAGEMENT PROGRAM, including amounts received from investment or deposit of monies in any fund or account, as calculated in accordance with sound accounting practices.
  - r. "SERVICE FEE RATE" means the fee rate per square foot of IMPERVIOUS AREA as determined by the resolution of the GOVERNING BODY.
  - s. "SEWER", "SEWER SYSTEM" shall mean STORMWATER SYSTEM that exist at the time of this Charter Ordinance is adopted or that are hereafter.
  - t. "SINGLE FAMILY RESIDENTIAL PROPERTY" means property used primarily for one-family intended for occupancy as separate living quarters for one (1) family, with a kitchen plus sleeping and sanitary facilities in single family detached residential unit located thereon within the CITY limits, as established by the GOVERNING BODY of the CITY.
  - u. "STORMWATER MANAGEMENT PROGRAM" means all aspects of work necessary to perform and provide storm and surface water services in the CITY, including but not limited to administration, planning, engineering,

operations, maintenance, best management practices, control measures, public education, citizen participation, regulation and enforcement, protection, and capital improvements, plus such non-operating expenses as reserves and bond DEBT SERVICE coverage as are associated with provision of the Stormwater Management Program.

- v. "STORMWATER SERVICE FEE" means a fee authorized by Charter Ordinance 23 and this ordinance, charged to owners of property served and benefited by the STORMWATER UTILITY, and shall be the product of multiplying the IMPERVIOUS AREA by the SERVICE FEE RATE.
- w. "STORMWATER SYSTEM" means surface water and storm SEWERS and all appurtenances necessary in the maintenance, operation, regulation, and improvement of the same, including, but not limited to, pumping stations; enclosed storm SEWERS; outfall SEWERS; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; detention and retention of facilities; and other flood control facilities and works for the collection, conveyance, pumping, infiltration, treating, controlling, managing and disposing of water carried pollutants or storm or surface water.
- x. "STORMWATER UTILITY" means the utility created by this ordinance for the purpose of implementing and funding the STORMWATER MANAGEMENT PROGRAM.
- y. "UNDEVELOPED LAND" means land that has not been built upon or altered from its natural condition in a manner that disturbed or altered the topography or soils on the property to the degree that the entrance of water into the soil matrix is prevented or retarded.

(Ord. 2171, Sec. 1, 2008)

14-403.

ADMINISTRATION.

- A. The Public Works DIRECTOR shall manage the STORMWATER UTILITY. Public Works DIRECTOR shall be responsible for developing and implementing stormwater management plans and solely managing facilities, STORMWATER SYSTEMS and storm SEWERS. This utility shall charge a STORMWATER SERVICE FEE based on individual contribution of runoff to the system, benefits enjoyed and service received. The STORMWATER UTILITY shall be administered by the Stormwater Coordinator under the direction and supervision of the DIRECTOR and shall have the power to undertake the following activities to implement the STORMWATER MANAGEMENT PROGRAM:
  - a. Advise the GOVERNING BODY on matters relating to the STORMWATER MANAGEMENT PROGRAM and to make recommendations to the GOVERNING BODY concerning the adoption of ordinances, resolutions, policies, guidelines and regulations in furtherance of the objectives of the STORMWATER MANAGEMENT PROGRAM.
  - b. Undertake studies, acquire data, prepare master plans, analyze policies or undertake such other planning and analyses as may be needed to address concerns related to Stormwater with the CITY and to further the objectives of the STORMWATER MANAGEMENT PROGRAM, and to undertake activities designed to communicate, educate and involve the public and citizens in addressing these issues or in understanding and abiding by the elements of the STORMWATER MANAGEMENT PROGRAM.

- c. Acquire, design, construct, operate, maintain, expand, or replace any element or elements of the STORMWATER SYSTEM, including funding the acquisition of easements by eminent domain, and obtaining title or easements (or real property) other than by eminent domain, over any real or personal property that is part of, will become part of or will protect the STORMWATER SYSTEM, or is necessary or convenient for the implementation of the STORMWATER MANAGEMENT PROGRAM.
  - d. Regulate, establish standards, review, and inspect the design, construction or operation and maintenance of any STORMWATER SYSTEM that is under the control of private owners, whether or not such systems are required or intended for dedication to the Public Storm SEWER SYSTEM, when such systems have the potential to impact, enhance, damage, obstruct or affect the operation and maintenance of the STORMWATER SYSTEM or the implementation of the STORMWATER MANAGEMENT PROGRAM.
  - e. Regulate, establish standards, review and inspect land use or property owner activities when such activities have the potential to affect the quantity, timing, velocity, erosive forces, quality, environmental value or other characteristics of Stormwater which would flow into the STORMWATER SYSTEM or in any way effect the implementation of the STORMWATER MANAGEMENT PROGRAM.
  - f. Undertake any activities related to stormwater management when such activities are recommended by applicable federal, state or local agencies or when such activities are required by any permit, regulation, ordinance, or statute governing Stormwater or water quality concerns.
  - g. Analyze the cost of services and benefits provided by the STORMWATER UTILITY and the structure of fees, service charges, credits, and other REVENUES on an annual basis and make recommendations to the GOVERNING BODY regarding the same.
  - h. Undertake expenditures as required to implement these activities, including all COSTS OF CAPITAL IMPROVEMENTS, OPERATIONS AND MAINTENANCE, DEBT SERVICE, and other costs as required.
- (Ord. 2171, Sec. 1, 2008)

14-404. BUDGET.

- A. The CITY shall, as part of its annual budget process, adopt capital and OPERATING BUDGET for the STORMWATER UTILITY. The OPERATING BUDGET shall conform to State law, CITY policy and generally accepted accounting practices. The initial OPERATING BUDGET will commence January 1, 2009.

(Ord. 2171, Sec. 1, 2008)

14-405. STORMWATER SERVICE FEE.

- A. Subject to the provisions of this ordinance, a STORMWATER SERVICE FEE is imposed on all real property located within the CITY. CITY owned property and CITY maintained property that is constructed and/or located on public right-of-way, public trails, public streets, public alleys, and public sidewalks will be exempt from the imposition of the STORMWATER UTILITY Fee. The GOVERNING BODY, upon recommendation of the DIRECTOR, shall, from time to time, by resolution establish SERVICE FEE RATE for each square foot of IMPERVIOUS AREA consistent with the benefits to be provided.



- B. The STORMWATER SERVICE FEE for SINGLE FAMILY RESIDENTIAL PROPERTY shall be the product of the SERVICE FEE RATE multiplied by the number of impervious square feet calculated by the sum of the building roofs, roof extensions and driveways.
  - C. STORMWATER SERVICE FEE for NON-SINGLE FAMILY RESIDENTIAL PROPERTY shall be the product of the SERVICE FEE RATE multiplied by the number of impervious square feet calculated by the sum of the building roofs, roof extensions, driveways, parking lots, swimming pools, athletic courts and other impervious area.
  - D. In the event of a newly constructed unit, the charge for the STORMWATER SERVICE FEE attributable to that unit shall commence upon the issuance of the BUILDING PERMIT for that unit, or additional development to property that is already developed, or if construction is at least fifty percent (50%) complete and is halted for period of three (3) months, then that unit shall be deemed complete and the STORMWATER SERVICE FEE shall commence at the end of the three-month period.
  - E. Any increase or decrease in the impervious square feet associated with new or remodeling construction shall commence upon the issuance of the CERTIFICATE OF OCCUPANCY. The STORMWATER SERVICE FEE shall be based on the status of the property on May 31.
  - F. In performing this calculation, the numerical factor for the impervious square feet shall be rounded to the nearest hundred square feet.
  - G. For common property, the DIRECTOR shall calculate and allocate the STORMWATER SERVICE FEE pro-rata among the owners of record of the common property.
  - H. The DIRECTOR shall make initial calculations in accordance with the methods established in this section to determine the number of impervious square feet is located on all property and may from time to time change this calculation from the information and data deemed pertinent. With respect to new construction, the DIRECTOR may require that the applicant for development approval submit square footage IMPERVIOUS AREA calculations.
  - I. The GOVERNING BODY may establish a system of credits, which may reduce the STORMWATER SERVICE FEE that is imposed above.
  - J. If the owner of property, for which a STORMWATER SERVICE FEE has been imposed, disagrees with the calculation of the STORMWATER SERVICE FEE imposed upon such owner's property, the owner may request a recalculation of the fee to the DIRECTOR.
- (Ord. 2171, Sec. 1, 2008)

## 14-406.

## APPEAL PROCEDURE.

- A. Owners of property, for which a STORMWATER SERVICE FEE has been imposed, who disagree: (1) with the calculation of the STORMWATER SERVICE FEE; or (2) with the decision that their property is entitled to a credit or the continuation of a credit or on the amount of a credit, may appeal the calculation or finding to the CITY Administrator.
- B. The appellant, who must be the property owner, must file a written notice of appeal, including the basis of the appeal, with the CITY Clerk within 30 days following distribution of Johnson County ad valorem tax bills. The appellant shall provide information including a land survey prepared by a surveyor registered in the State of Kansas showing total property square foot area, type of

surface material, and impervious square foot area. Based on the information provided, the CITY Administrator shall make a determination as to whether the STORMWATER SERVICE FEE should be adjusted or eliminated for the subject property. The CITY Administrator shall notify the appellant in writing of the decision.

- C. A PERSON shall have the right to appeal the decision of the CITY Administrator to the CITY Council. Such appeal shall be made within 10 days of the date of the CITY Administrator's written decision and shall be presented in the same manner as the original appeal. The CITY Council shall consider the appeal and issue a written decision on the appeal within 30 days of the receipt of the presented appeal.
- D. The burden of proof shall be on the appellant to demonstrate, by clear and convincing evidence, that the determination of the STORMWATER SERVICE FEE is erroneous.
- E. The filing on a notice of appeal shall not stay the imposition, calculation or duty to pay the fee. The appellant shall pay the STORMWATER SERVICE FEE to Johnson County as stated in the billing. If either the CITY Administrator or the CITY Council determines that the appellant should pay a fee, pay a fee amount less than the amount appealed, or receive a credit, the CITY shall issue a check to the appealing party in the appropriate amount within 10 days of the date of the applicable written decision.
- F. The decision of the CITY Council shall be final and any further appeal of this decision shall be to the Tenth Judicial Court of the State of Kansas by way of the K.S.A. 60-201 et seq.  
(Ord. 2171, Sec. 1, 2008)

14-407. STORMWATER SERVICE FEE COLLECTION.

- A. The STORMWATER SERVICE FEE shall be billed by the Johnson County Clerk and collected by the Johnson County Treasurer. The STORMWATER SERVICE FEE shall be shown as a separate item on the County's annual ad valorem real property tax statement, in accordance with the procedures established in an agreement, pursuant to K.S.A. 12-2908, between the CITY and the County, as hereby authorized. The payment of STORMWATER SERVICE FEE bills for any given property shall be the responsibility of the owner of the property.
- B. To the extent permitted by applicable law, A STORMWATER SERVICE FEE shall be subject to interest for late payment at a rate that is the same as the rate prescribed in K.S.A. 79-2004, as amended and K.S.A. 79-2968, as amended, shall constitute a lien on the applicable property, and shall be collected in the same manner as ad valorem real property taxes collected by the County, regardless of whether the STORMWATER SERVICE FEE was incurred when a property owner was in possession of the property or a non-owner was in possession of the property.  
(Ord. 2172, Sec. 1, 2008)

14-408. STORMWATER UTILITY FUND.

- A. STORMWATER SERVICE FEES, dedicated ad valorem taxes and other available REVENUES shall be paid into a fund that is hereby created and shall be known as the "STORMWATER UTILITY Fund." This fund shall be used for the purpose of paying the COSTS OF CAPITAL IMPROVEMENTS,

EXTENSION AND REPLACEMENT, OPERATIONS AND MAINTENANCE, DEBT SERVICE and any other costs associated with the implementation and operation of the STORMWATER MANAGEMENT PROGRAM.  
(Ord. 2172, Sec. 1, 2008)

14-409. FLOODING LIABILITY.

A. Floods from stormwater runoff may occur which exceed the capacity of the storm drainage facilities constructed, operated, or maintained by funds made available under this Chapter. This Chapter shall not be construed or interpreted to mean that property subject to the fees and charges established herein will always (or at any time) be free from stormwater flooding or flood damage, or the STORMWATER SYSTEMS capable of handling all storm events can be cost-effectively constructed, operated, or maintained. Nor shall this Chapter create any liability on the part of, or cause of action against, the CITY, or any official or employee thereof, for any flood damage that may result from such storms or stormwater runoff. Nor does this Chapter purport to reduce the need of the necessity for obtaining flood insurance by individual property owners.  
(Ord. 2171, Sec. 1, 2008)

14-410. SEVERABILITY.

A. If any section, subsection, sentence, clause, phrase, or portion of this ordinance is for any reason held invalid or unconstitutional by any court or administrative agency of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision and such holding shall not affect the validity of the remaining portions hereof.  
(Ord. 2171, Sec. 1, 2008)

## ARTICLE 5. EROSION AND SEDIMENT CONTROL

## 14-501. PURPOSE OF ORDINANCE

A. The purpose of this Ordinance is to set forth procedures for controlling erosion and sedimentation caused by land disturbance activities, thereby providing for the protection and enhancement of the water quality of watercourses, water bodies, and wetlands. This ordinance seeks to meet this purpose through the following objectives:

1. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels;
2. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality, particularly if receiving water bodies are classified as impaired on the current version of the 303d listing of impaired waters in Kansas as identified by the Kansas Department of Health and Environment (KDHE);
3. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management best management practices (BMPs) and to ensure that these BMPs are properly maintained and pose no threat to public safety.

(Ord. 2180, Sec. 1, 2008)

## 14-502. DEFINITIONS For the purposes of this Ordinance, the following terms, phrases, words and their derivations shall have the meaning given herein:

A. "Best Management Practice", or "BMP" mean physical facilities, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which, when properly designed, installed and maintained, will be effective to prevent or reduce the discharge of water or air pollution associated with Land Disturbance activities regulated by this Ordinance.

B. "Certified Professional in Erosion and Sediment Control (CPESC)" means an individual who is currently holding such certification as issued by CPESC, Inc., or other Person holding a state license authorizing them to prepare and submit an Erosion and Sediment Control Plan as Professional Engineer or Landscape Architect registered in the State of Kansas.

C. "Code" means the City of Prairie Village Municipal Code.

D. "Director" means the Director of Public Works or the Director's authorized representative.

E. "Erosion" means the wearing away of land by the action of wind, water, gravity or ice or a combination thereof.

F. "Erosion and Sediment Control Plan", means a Plan for the control of soil erosion and sedimentation resulting from land disturbing activity, and may include, without being limited to, the drawings, specifications, construction documents, schedules, or other related documents which establish the Best Management Practices (BMP) on a project. The Plan shall include any information required to review the design of the BMP and to ensure proper installation, maintenance, inspection, and removal of the BMP, along with the details required to construct any portion of the final storm sewer system that was impeded by a BMP.

G. "Erosion and Sediment Control Standards" means the Erosion and Sediment Control design criteria and specifications adopted in writing by the Director.

H. "Land Disturbance" means any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.

I. "Perennial Vegetation" means grass or other appropriate natural growing vegetation that provides substantial land cover, erosion protection and soil stability and that is capable of sustained and healthy growth over multiple years under the constraints of shade, temperature, and moisture that will be prevalent on the site. For the purposes of this Ordinance, annual grasses that do not regenerate after winter, ornamental plants or shrubs that do not offer effective erosion and sediment protection, and plants that are not suitable for the expected growing conditions on the site shall not be considered perennial vegetation.

J. "Permit" means a Drainage Permit.

K. "Permit Holder" means the owner or contractor who is issued a permit.

L. "Person" means any individual, business, partnership, corporation, association, organization or legal entity of any kind including governmental entities.

M. "Sediment" means any solid material, organic, or inorganic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, ice or gravity as result of soil erosion. Sedimentation is the process by which eroded material is transported and deposited by the action of wind, water, ice or gravity.

N. "Storm Sewer System" means any conveyance or system of conveyances for storm water, including road with drainage systems, streets, catch basins, curbs, gutters, ditches, man-made channels, or storm drains, as well as any system that meets the definition of a municipal separate storm sewer system or "MS4" as defined by the Environmental Protection Agency in 40 CFR 122.26.

O. "Storm Water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.

P. "Water Bodies" means surface waters including rivers, streams, lakes and wetlands, including all areas designated by the federal government as water of the United States.

(Ord. 2180, Sec. 1, 2008)

#### 14-503. ADMINISTRATION

A. **Authority.** The Director shall be responsible for the administration and enforcement of this Ordinance. The Director shall have the authority to adopt regulations, policies and procedures as necessary for the enforcement of this Ordinance. The Director may waive the requirements for maps, plans, reports or drawings, if the Director finds that the information otherwise submitted or to be submitted will be sufficient to show that the proposed work will conform to the requirements of this Ordinance.

B. **Right of entry.** Whenever the Director has cause to believe that there exists, or potentially exists, in or upon any premises, any condition which constitutes a violation of this Ordinance, the Director is authorized to enter the premises at reasonable times to inspect or to perform the duties imposed by this Ordinance. If entry is refused, the Director shall have recourse to the remedies provided by law to secure entry.

C. **Erosion and Sediment Control Standards.** The Director shall adopt and maintain Erosion and Sediment Control Standards at the Public Works Office to assist in the

administration of this Ordinance. The Erosion and Sediment Control Standards shall be based on, but not limited to, the following principles:

1. Fit the development to existing site conditions
2. Minimize the extent of exposure
3. Minimize duration of exposure
4. Break work activities into phases when possible
5. When possible, protect disturbed areas from any unnecessary run-on of stormwater from adjacent sites, at least during the construction period
6. Stabilize disturbed areas
7. Keep runoff velocities low
8. Retain Sediment on the site
9. Inspect and maintain control measures
10. Use performance measures and outcomes
11. Timely employment and maintenance of all measures

D. **Time Requirement.** Where land disturbance activities have temporarily or permanently ceased on a portion of a project site for over 21 consecutive days, the disturbed areas shall be protected from erosion by stabilizing the areas with mulch or other similarly effective soil stabilizing BMP, unless the timeframe for compliance is extended by the Director. Where implementation of stabilization measures is precluded by snow cover, stabilization measures shall be initiated as soon as practicable.

E. **Other Pollutants.** In addition to sediment, the Erosion and Sediment Control Plan shall provide for the control of other pollutants related to the land disturbance activity that might cause an adverse impact to water quality, including, but not limited to, discarded building materials, concrete truck washout, fuel, hydraulic fluids, chemicals, litter, and sanitary wastes.

(Ord. 2180, Sec 1, 2008)

#### 14-504. LAND DISTURBANCE PERMIT

A. **Requirements.** Any Person undertaking land disturbance activities, including the clearing, grading, excavating, filling, storing, and disposing of soil and earth materials, shall comply with the requirements and standards for obtaining a Drainage Permit as set forth in Chapter XIV Article 2 of the Code

B. **Responsible Person.** The responsible Person is the person to whom the permit is issued and the owner of the property upon which a land disturbance takes place and any person performing a land disturbance activity. When a drainage permit is issued, the owner is responsible for land disturbance activities from permit issuance to closure, unless the City approves a transfer of responsibility to a new owner.

#### 14-505. EROSION AND SEDIMENT CONTROLS PLANS

A. **Applicability.** Any land disturbance activity requires a drainage permit for any land disturbance activity of 1,000 square feet or more and/or is located within 50 feet of any drainage component, including channels, BMP detention facility, or stormwater inlet, shall comply with the spirit and intent of this Ordinance. At a minimum, such persons shall employ BMP methods for Erosion and Sediment Control in proportion to the scale of the activity to reduce the amount of Sediment or other pollutants in stormwater discharges associated with those activities.

B. **Plan Requirements.** All proposed land disturbance activity requiring a permit shall be depicted on a site-specific Erosion and Sediment Control Plan. The Erosion

and Sediment Control Plan shall be submitted to the Director for review. The Plan shall include, at a minimum, the following information:

1. Proposed site map.
2. Areas to be disturbed.
3. Proposed Erosion and Sediment Control BMP to be employed.
4. Phasing of Erosion and control measures.
5. Final stabilization plan for each phase.
6. Details and specifications for any sections of the final storm sewer system that must be constructed after the removal of BMP such as temporary sediment basins.
7. Work schedule.
8. Maintenance and inspection requirements.

The Director may require any additional information or data deemed appropriate to ensure compliance with the intent, purpose and provisions of this Section of the Code.

C. **Review and Approval of Erosion and Sediment Control Plans.** The Erosion and Sediment Control Plan shall be of sufficient clarity to indicate the location, manner, nature and extent of the work proposed. The Plan shall clearly show that the proposed work will conform to the provisions of this Code, and other relevant laws, ordinances, policies, rules and regulations as determined by the Director. The Director shall review the submitted documents to determine compliance with the Erosion and Sediment Control Standards. If the Director finds that the Plan is in compliance, the Applicant shall be advised that they may request a Permit. If the Director finds that the Plan is not in compliance, the Director shall advise the applicant which elements of the Plan are not in compliance.

D. **Preparation of Plans.** Erosion and Sediment Control Plans submitted to the City for review must be prepared under the supervision of and sealed by a licensed professional engineer or landscape architect or by a Certified Professional in Erosion and Sediment Control (CPESC). The engineer or landscape architect must be licensed to practice in the State of Kansas.

E. **Amended Plans.** Work shall be installed and maintained in accordance with the approved Plan. Changes made during construction that are not in compliance with the approved Plan shall be resubmitted for approval as an amended set of construction documents. Minor modifications of the approved Plan may be authorized by the Director without formal review provided those modifications are consistent with the Erosion and Sediment Control Standards and standard industry practice.

(Ord. 2180, Sec. 1, 2008)

#### 14-506. INSPECTION

A. **Initial Inspection.** The Permit Holder shall notify the Director when initial Erosion and Sediment Control measures are installed in accordance with the Erosion and Sediment Control Plan. No Land Disturbance activities shall begin prior to approval from the Director that all pre-construction Erosion and Sediment Control measures are correctly installed per the approved Plan.

B. **Maintenance of Control Measures.** All prescribed Erosion and Sediment Control measures shall be maintained in good order and in compliance with the Erosion and Sediment Control Plan at all times.

C. **Routine Inspection.** It shall be the duty of the Permit Holder to routinely inspect the construction site and maintain effective Erosion and Sediment Control measures. Routine inspections shall be performed once per month or more frequently if required

on the Plan and within 24 hours following each rainfall event of ½-inch or more within any 24 hour period. A log shall be kept of these inspections by the Permit Holder. Any deficiencies shall be noted in a report of the inspection and include the action taken to correct the deficiency. Inspection reports shall be submitted to the Director upon request. The inspection report shall include the following minimum information:

1. Inspectors name.
2. Date of inspection.
3. Observations relative to the effectiveness of the Erosion and Sediment Control measures.
4. Actions necessary to correct deficiencies.
5. Signature of Person performing the inspection.

D. **Compliance Verification.** The Director may also perform inspections of the Land Disturbance site to verify compliance with the Erosion and Sediment Control Plan. Should it be found that Erosion and control methods are ineffective or are not being maintained properly, the Director may take enforcement actions described within this Chapter.

E. **Closure of Land Disturbance Activities.** Once the site is stabilized a final inspection shall be requested. The site shall be considered stabilized when Perennial Vegetation, pavement, buildings or structures using permanent materials, cover all areas that have been disturbed. Perennial Vegetation shall be considered established and completed for stabilization when it has established a healthy and growing stand with a density of at least 80 percent of undisturbed areas at the site.

F. **Removal of Temporary Erosion and Sediment Control Measures.** Subsequent to a satisfactory final inspection of the Land Disturbance, all temporary Erosion and Sediment Control measures must be removed and the segments of the storm sewer system shall be inspected for any sediment removal. Such removal shall be complete prior to closure of the Permit which authorized the Land Disturbance.  
(Ord. 2180, Sec. 1, 2008)

#### 14-507. ENFORCEMENT

A. **General.** The Director shall handle enforcement of the provisions of this Chapter through routine activities that include receiving inspection reports from the Permit Holder when requested, inspections, and communication with contractors. However, if these methods fail, the Director may proceed with any or all of the following enforcement measures:

B. **Refusal of Inspection.** Request for an inspection of any permitted construction activity may be denied if it is found that Erosion and Sediment control measures have not been implemented, or are found to be ineffective or are not maintained. If an inspection is refused, a notice of violation or a stop work order may be issued. No further inspections will be performed until the Erosion and control measures have been implemented or violations abated.

C. **Notice of Violation.** The Director is authorized to serve a Notice of Violation or order on any Person found to be doing work in violation of the provisions of this Code. Such order shall direct the discontinuance of the illegal action or condition and order the abatement of the violation by the responsible Person.

D. **Stop Work Order.** The Director is authorized to issue a stop work order for any or all construction activity without an approved permit or within the established boundary of the Permit. The stop work order shall be in writing and shall be mailed by certified mail to the owner of the property involved, or the owner's agent or to the Person doing the



work. In addition, notice of the stop work order shall be posted on the site. Upon issuance of a stop work order, the cited work shall immediately cease. The stop work order shall state the reason for the order and the conditions under which the cited work will be permitted to resume. Any Person, who shall continue to work after having been served with a stop work order, except such work as that Person is directed by the City to perform to remove a violation or unsafe condition, is guilty of a public offense and may be subject to penalties as in the Code.

E. **Abatement.** Should any Person fail to comply with the provisions of this Code, the Director is authorized to correct or abate such violation. This action can be taken in lieu of, or in conjunction with, any action taken, or enforcement actions set forth in this Chapter.

F. **Abatement Costs by City.** City expenditures to correct or abate a violation shall be assessed as a fee against the Permit issued for work at the same site. The City will keep a record of the abatement costs. The fee shall be paid prior to recommencement of work on the site and prior to any further inspections. If the fee is not paid within 30 days of the date the invoice is sent to the Permit Holder, the Director is authorized, as the Director deems appropriate, to expend additional abatement funds to provide permanent soil stabilization on the site. Such additional expenditures shall also be assessed as a fee against the Land Disturbance, or other Permit issued for work on the same site.

G. **Recovery of City Abatement Costs.** Should the Permit become suspended, revoked, or expired with the fee not paid, all City expenditures to correct or abate the violation may be assessed as a lien and special assessment against the lot or parcel of land on which the permitted activity took place. The same abatement and collection procedure shall apply if work is done without the issuance of a Permit. After thirty calendar days of receipt of abatement notice, the City Clerk, at the time of certifying other City taxes, shall certify the unpaid portion of the costs and the County Clerk shall extend the same on the tax rolls of the county against the lot or parcel of land.

H. **Surety.** Prior to approval of a Permit that authorizes the disturbance of one acre or more of land, the Director shall require surety in the form of a bond, cash deposit or letter of credit, approved by the City, to be used to offset the costs of abatement of erosion and sediment caused by the land disturbance, including removal of the temporary BMP and where applicable, their replacement. The surety amount, established and reviewed by the Director, shall be based on the estimated cost to the City of providing temporary Erosion control and establishing Perennial Vegetation on typical project sites and may be increased to include costs associated with removing temporary BMP and repairing or cleaning segments of the storm sewer system. The surety amount will be proportioned based on the acreage of the site. If the surety is furnished in the form of a letter of credit, the amount shall equal the surety amount or five thousand dollars (\$5,000), whichever is greater. Amounts not used for abatement shall be returned to the Permit Holder after final inspection and approval to close the Permit.

(Ord. 2180, Sec. 1, 2008)

#### 14-508. VIOLATIONS AND PENALTIES

A. **Failure to Comply.** Any Person who violates a provision of this Ordinance, fails to comply with any of the requirements thereof or fails to comply with a directive issued by the Director is guilty of a public offense and shall be subject to penalties as provided in the City Code.

B. **Citation of Owner.** The City Code Enforcement Officer shall be permitted to cite the owner, or any/all Persons identified on a Permit as being legally responsible to the City for any violations of the Ordinance pertaining to that Permit.  
(Ord. 2180, Sec. 1, 2008)

14-509. MISCELLANEOUS

A. **Other Laws.** Neither this Ordinance nor any administrative decision made under it exempts the Permit Holder or any other Person from other requirements of this Code, state and federal laws, or from procuring other required Permits, including any state or federal stormwater Permits authorized under the National Pollutant Discharge Elimination System (NPDES), or limits the right of any Person to maintain, at any time, any appropriate action at law or in equity, for relief or damages against the Permit Holder or any Person arising from the activity regulated by this Ordinance.

B. **Disclaimer of Liability.** The performance standards and design criteria set forth herein establish minimum requirements, which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the City, or its officers and employees, of the adequacy or safety of any best management practice or use of land, nor shall the approval and issuance of a Permit imply that land uses permitted will be free from damages caused by Storm Water. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records and engineering and scientific methods of study. Larger storms may occur or Storm Water runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder.

C. **Severability.** If any section, subsection, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.  
(Ord. 2180, Sec. 1, 2008)

**ARTICLE 6. POST-CONSTRUCTION STORMWATER RUNOFF CONTROL**

## 14-601. PURPOSE

A. The purpose of this Code shall be to establish post-construction minimum stormwater management requirements and controls on any new development or redevelopment projects that disturb greater than one acre. This Code also will establish requirements for long-term maintenance of structural controls within the City for drainages into the municipal separate storm sewer system and/or into surface waters. This Code seeks to meet this purpose through the following objectives:

1. Minimize increases in stormwater runoff from any development in order to reduce flooding, siltation, and stream bank erosion and maintain the integrity of stream channels
2. Minimize increases in nonpoint source pollution caused by stormwater runoff from development which would otherwise degrade local water quality, particularly if receiving water bodies are classified as impaired on the current version of the 303d listing of impaired waters in Kansas as identified by the Kansas Department of Health and Environment (KDHE)
3. Minimize the total annual volume of surface water runoff which flows from any specific site during and following development to not exceed the pre-development hydrologic regime to the maximum extent practicable
4. Reduce stormwater runoff rates and volumes, soil erosion and nonpoint source pollution, wherever possible, through stormwater management best management practices (BMPs) and to ensure that these BMPs are properly maintained and pose no threat to public safety.

(Ord. 2181, Sec. 1, 2008)

## 14-602. DEFINITIONS

A. For the purposes of this Code, the following terms, phrases, words and their derivations shall have the meaning given herein:

1. "Applicant" means any person who makes application for an approved drainage permit for an activity involving building or development that results in land disturbance as required by this Code.
2. "Approved plan" means a set of representational drawings or other documents that have been approved by the City as complying with the provisions of this Code submitted by an applicant (either as an independent submittal or a part of another development application(s) required by the City Code as a prerequisite to obtaining a drainage permit and that contain the information and specifications required by the to minimize storm water runoff.
3. "As-Built plan" means a record drawing or plan prepared and certified by a licensed Professional Engineer or Land Surveyor that represents the actual dimensions, contours, elevations, etc., of the completed land disturbance activity.
4. "Best Management Practice", or "BMP" mean physical facilities, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices which, when properly designed, installed and maintained, will be effective to prevent or reduce the discharge of water or air pollution associated with Land Disturbance activities regulated by this Code.
5. "Certified Professional in Erosion and Sediment Control (CPESC)" means an individual who is currently holding such certification as issued by CPESC, Inc., or other Person holding a state license authorizing them to prepare and submit an Erosion and Sediment Control Plan.

6. "Channel" means a natural or artificial watercourse with a definite bed and banks that conducts continuously or periodically flowing water.
7. "City" means the City of Prairie Village, Kansas
8. "Code" means the City of Prairie Village Municipal Code.
9. "Detention Facility" means a detention basin or alternative structure designed for the purpose of temporary storage of stream flow or surface runoff and gradual release of stored water at controlled rates.
10. "Detention" means the temporary storage of storm runoff in a stormwater management practice with the goals of controlling peak discharge rates and providing gravity settling of pollutants.
11. "Director" means the Director of Public Works or the Director's authorized representative.
12. "Drainage Easement" means a legal right granted by a landowner to a grantee allowing the use of private land for stormwater management purposes
13. "Erosion and Sediment Control Plan", means a Plan for the control of soil erosion and sedimentation resulting from land disturbing activity, and may include, without being limited to, the drawings, specifications, construction documents, schedules, or other related documents which establish the Best Management Practices (BMP) on a project. The Plan shall include any information required to review the design of the BMP and to ensure proper installation, maintenance, inspection, and removal of the BMP, along with the details required to construct any portion of the final storm sewer system that was impeded by a BMP.
14. "Erosion and Sediment Control Standards" means the Erosion and Sediment Control design criteria and specifications adopted in writing by the Director.
15. "Erosion" means the process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and/or land disturbance activities.
16. "Floodplain" means the floodway and floodway fringe as identified by the Federal Insurance Administration through its latest report entitled "The Flood Insurance Study for the City of Prairie Village, Kansas," or such other designation of the floodplain as is subsequently adopted by the City, in Chapter XIV Article 3 and representing the regulated 100-year water surface and corresponding elevations.
17. "Hotspot" means an area where land use or activities generate highly contaminated runoff, with concentrations of pollutants in excess of those typically found in stormwater.
18. "Impervious Cover" means those surfaces that cannot effectively infiltrate rainfall (e.g., building rooftops, pavement, sidewalks, driveways, etc.).
19. "Infiltration" means the process of percolating stormwater into the subsoil.
20. "Infiltration Facility" means any structure or device designed to infiltrate retained water to the subsurface. These facilities may be above or below grade.
21. "Jurisdictional Wetland" means an area that is inundated or saturated by surface water or ground water at a frequency and duration sufficient to support a prevalence of vegetation typically adapted for life in saturated soil conditions, commonly known as hydrophytic vegetation.
22. "Land Disturbance" means any activity that changes the physical conditions of landform, vegetation and hydrology, creates bare soil, or otherwise may cause erosion or sedimentation. Such activities include, but are not limited to, clearing, removal of vegetation, stripping, grading, grubbing, excavating, filling, logging and storing of materials.

23. "Landowner" means that legal or beneficial owner of land, including those holding the right to purchase or lease the land, or any other person holding proprietary rights on the land.
24. "Licensed land surveyor" means an individual who is duly licensed by the Kansas State Board of Technical Professions, pursuant to K.S.A 74-7001 et seq. to practice surveying.
25. "Maintenance Agreement" means a legally recorded document that Codes as a property deed restriction, and which provides for long-term maintenance of storm water management practices.
26. "Maximum Extent Practicable" means the use of those best management practices, which, based on sound engineering and hydro-geological principals, will, to the greatest degree possible, given all relevant considerations, including technology, climate, and site conditions, minimize storm water runoff from a site during and after construction.
27. "Nonpoint Source Pollution" means pollution from any source other than from any discernible, confined, and discrete conveyances, and shall include, but not be limited to, pollutants from agricultural, silvicultural, mining, construction, subsurface disposal and urban runoff sources.
28. "Off-Site Facility" means a stormwater management measure located outside the subject property boundary described in the permit application for land development activity.
29. "On-Site Facility" means a stormwater management measure located within the subject property boundary described in the permit application for land development activity.
30. "Perennial Vegetation" means grass or other appropriate natural growing vegetation that provides substantial land cover, erosion protection and soil stability and that is capable of sustained and healthy growth over multiple years under the constraints of shade, temperature, and moisture that will be prevalent on the site. For the purposes of this Code, annual grasses that do not regenerate after winter, ornamental plants or shrubs that do not offer effective erosion and sediment protection, and plants that are not suitable for the expected growing conditions on the site shall not be considered perennial vegetation.
31. "Permit Holder" means the owner or contractor who is issued a permit.
32. "Permit" means a Drainage Permit.
33. "Person" means any individual, business, partnership, corporation, association, organization or legal entity of any kind including governmental entities.
34. "Professional Engineer" is an engineer duly licensed by the Kansas State Board of Technical Professions, pursuant to K.S.A. 74-7001 et seq. to practice engineering.
35. "Recharge" means the replenishment of underground water reserves.
36. "Responsible personnel" means any foreman, superintendent, or project engineer designated in the permit or in an approved plan, as the person in charge of on-site land disturbance activities or stormwater runoff associated with land disturbance activities.
37. "Sediment" means any solid material, organic, or inorganic, that has been deposited in water, is in suspension in water, is being transported or has been removed from its site of origin by wind, water, ice or gravity as result of soil erosion. Sedimentation is the process by which eroded material is transported and deposited by the action of wind, water, ice or gravity.

38. "Site" any lot or parcel of land or a series of lots or parcels of land adjoining or contiguous or joined together under one ownership on which land disturbance activity is proposed.
39. "Stop Work Order" means an order issued which requires that all construction activity on a site be stopped.
40. "Storm Water" means storm water runoff, snowmelt runoff, and surface runoff and drainage.
41. "Storm Water Management" means the use of structural or non-structural practices that are designed to reduce storm water pollutant loads, discharge volumes, and/or peak flow discharge rates.
42. "Stormwater Runoff" means flow on the surface of the ground, resulting from precipitation.
43. "Water Bodies" means surface waters including rivers, streams, lakes and wetlands, including all areas designated by the federal government as water of the United States.
44. "Water Quality Volume" means the storage needed to capture and treat 90% of the average annual stormwater runoff volume. Numerically (WQ<sub>v</sub>) will vary as a function of long term rainfall statistical data.
45. "Watercourse" means a permanent or intermittent stream or other body of water, either natural or man-made, which gathers or carries surface water.

(Ord. 2181, Sec. 1, 2008)

#### 14-603. PERMIT REQUIRED

A. **Drainage Permit** No person shall receive any of the building, or disturb any land without first obtaining a drainage permit from the City.

B. **Conflict with other laws** This code shall not be construed to be in conflict with any state law intended to control post construction storm water runoff. In those instances where state law imposes a duty or requirement with respect to a matter covered by this code, the more environmentally stringent duty or requirement shall control.

C. **Permit Not Required** Neither a drainage permit nor an approved post-construction storm water plan is required under this code solely for:

1. Any land disturbance activity that:

- a. Disturbs less than one acre of surface area
- b. Landscaping or home gardening
- c. Re-establishment of lawn areas
- d. Any emergency activity that is immediately necessary for the protection of life, property, or natural resources.

D. **Permit Authorization** The issuance of a permit shall constitute authorization to do only that work described or shown on the approved plan, all in strict compliance with the requirement of this code, unless each and every modification or waiver is specifically listed and approved by the Director.

E. **Permit Responsibility** The permittee and/or agent of the permittee, property owner, contractors, and employees shall carry out the proposed work in accordance with the approved plan, and the permit, and in compliance with all applicable requirements or conditions.

(Ord. 2181, Sec. 1, 2008)

#### 14-604. POST CONSTRUCTION PLAN

- A. **Plan Submittal** Where land disturbance activity is to be performed, the owner of the site or the site owner’s authorized representative shall submit the engineered post construction plans to the Director when applying for a drainage permit.
- B. **Right to Inspect** In making an application covered by this Code, the applicant or the landowner performing or allowing the work consents to the City right to enter the site for the purpose of inspecting compliance with the approved plan or for performing any work necessary to bring the site into compliance with the approved plan.
- C. **Information Required** The following information shall be submitted to the Director:
  - 1. A site map in compliance
  - 2. A post construction stormwater runoff management concept plan
  - 3. A post construction stormwater BMP maintenance
  - 4. A work schedule
  - 5. An engineering soils report in compliance, when required by the City.
- D. **Concept and Maintenance Agreement** The post construction stormwater runoff management concept and stormwater BMP maintenance agreement plans must be prepared and certified by a Professional Engineer.
- E. **Additional Information** The City may require any additional information or data deemed appropriate and/or may impose conditions thereto as the Director may deem necessary to ensure compliance with the provisions of this Code and to preserve public health and safety.
- F. **Waiver of Requirements** The Director may waive the requirements for maps, plans, reports, or drawings, if the Director finds that the information otherwise is submitted or to be submitted will be sufficient to show that the proposed work will conform to the requirements of this Code.
- G. **Information Submitted** The applicant is bound by information submitted and by this Code.
- H. **Permit Issuance** Land disturbance activity may not take place in the City until a permit has been issued, and the Director has determined that an acceptable performance guaranty has been obtained.  
(Ord. 2181, Sec. 1, 2008)

14-605. SITE MAP AND EXISTING CONDITIONS

- A. **Site Location** The applicant shall submit a site map clearly showing the location of the proposed land disturbance site in relation to the surrounding area’s watercourses, water bodies, and other significant geographic and natural features, and street and other significant features.
- B. **Site Map Details** The site map also should
  - 1. Identify any watercourses or water bodies where drainage on the site may flow to waters that are known to be impaired as defined by the Clean Water Code 303d listing as identified by the Kansas Department of Health and Environment or known to have any special designation, such as habitat for a protected species. Also, if impaired waters or special designations are present, list impairments and special designations
  - 2. Show the existing and proposed topography of the entire site with contour lines drawn with one chosen interval in accordance with the following table:

Ground Slope	Contour Interval (in feet)
Flat: 0-2%	0.5 or 1
Rolling: 2-8%	1 or 2

Steep: 8%+	2, 5, or 10
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3. Show on and off-site drainage, including the sub-watershed as well as the entire drainage basin
4. Show the site’s property lines shown in true location of all existing and proposed natural and man-made drainage facilities
5. Present a graphic representation of the location of and legend of soil types if applicable to proposed runoff controls (including source of information)
6. Show a clear and definite delineation of any wetlands, natural or artificial water storage detention areas, and drainage ditches on this site, or a statement that there are no wetlands, detention areas or drainage ditches located on the property
7. Show a clear and definite delineation of any drainage, sanitary, utility, or other easement(s) on or near the site
8. Detail a clear and definite delineation of applicant’s determination, based on the best available information and sound engineering principles of the existence of a regulatory 100-year floodplain, as defined in Chapter XIV Article 3 and of any fully urbanized floodplain on or near the site as determined by a Johnson County watershed study or a statement that there are no such floodplains located on the property;
9. Locate and present a legend of existing vegetative cover and the location and legend of vegetative cover to be left undisturbed;
10. Show location of existing surface runoff and detention control measures;
11. Show the signature and seal of a Professional Engineer or Landscape Architect registered in the State of Kansas.  
(Ord. 2181, Sec. 1, 2008)

14-606. PRELIMINARY POST-CONSTRUCTION CONCEPT PLAN

- A. **Requirements** A stormwater management concept plan shall be required with all permit applications and will include sufficient information (i.e., maps, hydrologic calculations, BMP level of service calculations, etc.) to evaluate the environmental characteristics of the project site, the potential impact of all proposed development of the site, both present and future, on the water resources, and the effectiveness and acceptability of the measures proposed for managing stormwater generated at the project site. The stormwater management concept plan shall present:
  1. A map (or maps) indicating the location of existing and proposed buildings, roads, parking areas, utilities, structural stormwater management and sediment control facilities. The map(s) also will clearly show proposed land use with tabulation of the percentage of surface area to be adapted to various uses; drainage patterns; locations of utilities, roads, and easements; the limits of clearing and grading; a written description of the site plan and justification of proposed changes in natural conditions.
  2. Sufficient engineering analysis to show that the proposed stormwater management BMP(s) are capable of controlling and treating runoff from the water quality storm at the site in compliance with this Code.
  3. A written or graphic inventory of the natural resources at the site and surrounding area as it exists prior to the commencement of the project and a description of the watershed and its relation to the project site. This description should include a discussion of soil conditions, forest cover, topography, wetlands, and other native vegetative areas on the site. Particular attention should be paid to environmentally sensitive features, including water body impairments listed in the Clean Water Code



303d listing and identified by the Kansas Department of Health and Environment, which provide particular opportunities or constraints for development.

4. Identification and preliminary plan for control of any stormwater “hot spots” that could pose an environmental hazard such as, but not limited to; fuel dispensing facilities, above ground storage of liquid materials, solid waste storage areas, exterior storage of bulk materials, material transfer areas and loading docks, equipment and vehicle washing facilities, covered parking areas, and high-use vehicle and equipment traffic areas, parking, and vehicle storage.
5. A written description of the required maintenance burden for any proposed structural and non-structural stormwater BMP.
6. A schedule for required maintenance as well as identification of party responsible for the maintenance.
7. For development or redevelopment occurring on a previously developed site, the applicant is required to include within the plan measures for controlling existing stormwater runoff discharges from the site in accordance with the standards of this Code to the maximum extent practicable.

(Ord. 2181, Sec. 1, 2008)

#### 14-607. FINAL POST CONSTRUCTION PLAN

A. **Requirements** After review of the preliminary stormwater management concept plan, and modifications to that plan as deemed necessary by the Public Works Director, a final post-construction stormwater management plan must be submitted for approval. The final stormwater management plan, in addition to the information from the concept plan, shall include all of the following information:

1. The name, address, and telephone number of all persons having a legal interest in the property and the tax reference number and parcel number of the property or properties affected.
2. A 1"=200' topographic base map of the site which extends a minimum of 100 feet beyond the limits of the proposed development and indicates existing surface water drainage including streams, ponds, culverts, ditches, and wetlands; current land use including all existing structures; locations of utilities, roads, and easements; and significant natural and manmade features not otherwise shown.
3. Hydrologic and hydraulic design calculations for the pre-development and post-development conditions for the design storms specified in this Code. Such calculations shall include (i) description of the design storm frequency, intensity, and duration, (the design storm for water quality BMPs is the water quality storm, which is the storm event that produces less than or equal to 90 percent volume of all 24-hour storms on an annual basis) (ii) time of concentration, (iii) Soil Curve Numbers or runoff coefficients, (iv) peak runoff rates and total runoff volumes for each watershed area; (v) infiltration rates, where applicable, (vi) culvert capacities, (vii) flow velocities, (viii) data on the increase in rate and volume of runoff for the design storms, (ix) pre- and post-development percent imperviousness of the site, and (x) documentation of sources for all computation methods and field test results.
4. If a stormwater management control BMP depends on the hydrologic properties of soils (i.e., infiltration basins), then a soils report shall be submitted. The soils report shall be based on on-site boring logs or soil pit profiles. The number and location of required soil borings or soil pits shall be determined based on what is needed to determine the suitability and distribution of soil types present at the location of the control measures.

5. A Maintenance and Repair Plan showing the design and planning of all storm water management structural and non-structural BMPs shall include detailed maintenance and repair procedures to ensure their continued function. These plans will identify the parts or components of a storm water management BMP that need to be maintained and the equipment and skills or training necessary. Provisions for the periodic review and evaluation of the effectiveness of the maintenance program and the need for revisions or additional maintenance procedures shall be included in the plan.
6. Landscaping plan presented by the applicant detailing a plan for management of vegetation at the site after construction is finished, including who will be responsible for the maintenance of vegetation at the site and what practices will be employed to ensure that adequate vegetative cover is preserved. This plan must be prepared by a registered landscape architect or by the local soil conservation district.
7. Maintenance Easements prepared by the applicant to ensure access to all stormwater BMPs at the site for the purpose of inspection and repair by securing all the maintenance easements needed on a permanent basis. These easements will be recorded with the plan and in the land records of the Johnson County and will remain in effect even with transfer of title to the property.
8. Erosion and Sediment Control Plans prepared by the applicant must prepare detailing the erosion and sediment control for all construction activities related to implementing any on-site stormwater management practices as required.

B. **Other Environmental Permits** The applicant shall assure that all other applicable environmental permits have been acquired for the site prior to approval of the final stormwater design plan.

(Ord. 2181, Sec. 1, 2008)

#### 14-608. MAINTENANCE AGREEMENT

A. **Binding Maintenance Agreement** Prior to the issuance of any building permit for which stormwater management is required, the City shall require the applicant to execute an inspection and maintenance agreement binding on all subsequent owners of land served by a private stormwater management facility. Such agreement shall provide for access to the facility at reasonable times for regular inspections by the City or its authorized representative to ensure that the facility is maintained in proper working condition to meet design standards.

B. **Land Records** The agreement shall be recorded by the applicant and/or owner in the land records of the Johnson County.

C. **Violation Correction** The agreement shall also provide that, if after notice by the City to correct a violation requiring maintenance work, satisfactory corrections are not made by the owner(s) within a reasonable period of time (30 days maximum), the City may perform all necessary work to place the facility in proper working condition. The owner(s) of the facility shall be assessed the cost of the work and any penalties. This may be accomplished by placing a lien on the property, which may be placed on the tax bill and collected as ordinary taxes by the City.

(Ord. 2181, Sec. 1, 2008)

#### 14-609. MAINTENANCE RESPONSIBILITY

A. **Good Condition** The owner of the property on which work has been done pursuant to this Code for private stormwater management facilities, or any other person or agent in control of such property, shall maintain in good condition and promptly repair and restore all grade surfaces, walls, drains, dams and structures, vegetation, erosion

and sediment control measures, and other protective devices. Such repairs or restoration and maintenance shall be in accordance with approved plans.

B. **Plan** A maintenance schedule shall be developed for the life of any stormwater management facility and shall state the maintenance to be completed, the time period for completion, and who shall perform the maintenance. This maintenance schedule shall be printed on the approved stormwater management plan.

(Ord. 2181, Sec. 1, 2008)

14-610. WORK SCHEDULE

A. **Schedule** The applicant shall submit a chronological construction and maintenance schedule for each BMP, structural or non-structural, approved in the final post-construction stormwater management plan.

B. **Inspection** Stormwater BMP(s) are subject to inspection throughout construction at the discretion of the Public Works Director.

(Ord. 2181, Sec. 1, 2008)

14-611. MINIMUM CONTROL REQUIREMENTS

A. All stormwater management practices will be designed so the water quality storm frequency storage volumes are treated and controlled.

B. In addition, if hydrologic or topographic conditions warrant greater control than that provided by the minimum control requirements, the Public Works Director reserves the right to impose any and all additional requirements deemed necessary to control the volume, timing, and rate of runoff.

(Ord. 2181, Sec. 1, 2008)

14-612. PLAN MODIFICATION

A. **Modification** Modification of the approved plan must be submitted to the City, and shall be reprocessed in the same manner as the original plan, where:

1. Field inspection or evaluation has revealed the inadequacy of the approved plan to accomplish the control the post construction runoff according to the design criteria; or
2. The person responsible for carrying out the approved plan finds that, because of changed circumstances or for other reasons, the approved plan cannot be effectively carried out.

B. **Field Modification** Field modifications of a minor nature may be authorized by the Public Works Director; provided those modifications are consistent with the post construction runoff criteria of this Code and the Post-Construction Stormwater Runoff Management manual. The Public Works Director may establish a list of allowable field modifications for this purpose that shall be included in the manual.

(Ord. 2181, Sec. 1, 2008)

14-613. AS BUILT PLANS

A. All applicants are required to submit actual "as built" plans for any stormwater management practices located on-site after final construction is completed. The plan must show the final design specifications for all stormwater management facilities and must be certified by a professional engineer. A final inspection by the City is required before the release of any performance guaranty can occur.

(Ord. 2181, Sec. 1, 2008)

14-614. PERMIT EXPIRATION AND RENEWAL

- A. **Validity** The drainage permit shall be valid for three years from the time that it is issued until a final certificate of completion has been issued.
- B. **Sale of Property** If the permittee sells the property before the expiration of the permit, the permit may be assigned to the new owner of the site if the assignment is approved in writing by the Director.
- C. **Out of Compliance** If the permittee violates the conditions of the permit and does not comply with the required remedial work within ninety days, the permit will be terminated.  
(Ord. 2181, Sec. 1, 2008)

14-615. MISCELLANEOUS

- A. **Other Laws.** Neither this Ordinance nor any administrative decision made under it exempts the Permit Holder or any other Person from other requirements of this Code, state and federal laws, or from procuring other required Permits, including any state or federal stormwater Permits authorized under the National Pollutant Discharge Elimination System (NPDES), or limits the right of any Person to maintain, at any time, any appropriate action at law or in equity, for relief or damages against the Permit Holder or any Person arising from the activity regulated by this Ordinance.
- B. **Disclaimer of Liability.** The performance standards and design criteria set forth herein establish minimum requirements, which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the City, or its officers and employees, of the adequacy or safety of any best management practice or use of land, nor shall the approval and issuance of a Permit imply that land uses permitted will be free from damages caused by Storm Water. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records and engineering and scientific methods of study. Larger storms may occur or Storm Water runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder.
- C. **Severability.** If any section, subsection, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.  
(Ord. 2181, Sec. 1, 2008)

**ARTICLE 7. STREAM SETBACK REQUIREMENTS AND CONTROLS**

## 14-701. PURPOSE

A. It is the intent of this Article to reasonably regulate uses and activities within Stream Corridors and to thereby preserve, conserve, manage disturbance, and attempt to restore the City's natural stream corridor, so that the following objectives may be achieved:

1. Regulate the land use, location, and engineering of all development within the Stream Corridor to ensure accepted conservation and Best Management Practices, and to work within the carrying capacity of existing natural resources;
2. Assist in the implementation of pertinent federal, state, and local laws concerning clean water, pollutant discharges, storm and surface water management, erosion and sediment control and flood control;
3. Improve surface and ground water quality by reducing the amount of nutrients, sediment, organic matter, pesticides, and other harmful substances that reach watercourses, wetlands and subsurface and surface water bodies by using proven processes including filtration, deposition, absorption, adsorption, plant uptake, and de-nitrification, and by improving infiltration, encouraging sheet flow and stabilizing concentrated flows;
4. Manage development within floodplains, on land adjacent to stream segments with greater than 15% slopes, and other environmentally sensitive areas to minimize hazards to life, property, and stream features;
5. Recognize that natural features contribute to the welfare and quality of life of the residents of the City;
6. Provide natural, scenic, and recreation areas within and adjacent to Stream Corridor for the community's benefit.

(Ord. 2182, Sec. 1, 2008)

## 14-702. DEFINITIONS

A. These words and phrases have the following meaning:

1. "Best Management Practices or BMPs" The utilization of methods, techniques or products that have been demonstrated to be the most effective and reliable in minimizing adverse impacts on water bodies and their adjacent Stream corridor.
2. "Clearing" Any act by which vegetative cover, structures or surface material is removed, including, but not limited to, surface layer, root mat or topsoil removal.
3. "Development" Any human-made change to improved or unimproved real estate including, but not limited to buildings, other structures or land disturbance such as mining, dredging, filling, grading, site clearance, paving, excavation, drilling operations and storage of equipment and materials.
4. "Drainage Permit" as defined in Chapter XIV Article 2 of the Municipal Code of the City of Prairie Village.
5. "Edge of the Stream" A line formed by the outer boundary of the stream as delineated by the bank-full or channel-forming flow caused by approximately the two-year rainfall event.
6. "Enhancement" A process undertaken to rehabilitate or improve an existing degraded stream segment by increasing native plant diversity or removing exotic plant species and increasing water quality, wildlife habitat or erosion controls.
7. "Erosion" The process by which the ground surface is worn away by the action of the wind, water, ice, gravity, or artificial means, and /or land disturbance.

8. **“Filling”** Any act by which soil, rock, organic material or any other material is deposited, placed, pushed, pulled or transported and includes the conditions that result from that act.
9. **“Floodplain”** The floodway and floodway fringe as identified by the Federal Insurance Administration through its report entitled "The Flood Insurance Study of the City of Prairie Village, Kansas, " as amended, or such other designation of the floodplain as is subsequently adopted by the City, and representing the regulated 100-year water surface and corresponding elevations.
10. **“Intermittent Stream”** A stream of mixed character, behaving as a perennial stream at certain times of the year and an ephemeral stream at other times. Depending on seasonal conditions these streams may feed to and from the groundwater.
11. **“Grading”** Any act by which soil is cleared, stripped, moved, leveled, stockpiled, or any combination thereof, and includes the conditions that result from that act.
12. **“Native Vegetation”** Vegetation comprised of plant species that are indigenous to the area in question.
13. **“Public Works Director”** The individual appointed by the City as the Public Works Director or authorized designee.
14. **“Restoration”** The act of improving, enhancing, and reestablishing a once viable and now degraded Stream Segment to a state in which its stability, functions, and values approach its unaltered state.
15. **“Slopes”** The inclined surface of a fill, excavation or natural terrain expressed as a ratio of horizontal distance to vertical distance over a measured inclined surface.
16. **“Stream”** A body of running water moving over the earth’s surface in a channel or bed, such as a creek, rivulet or river that flows at least part of the year, including perennial and intermittent streams. Streams are dynamic in nature and their structure is maintained through build-up and loss of sediment.
17. **“Structure”** Anything constructed or erected that requires location on the ground or attachment to something having a location on the ground, including, but not limited to signs, conventional television or satellite antennas and excepting customary utility poles, retaining walls and boundary fences.
18. **“Utility”** Buildings, structures or any constructed portion of a system that provides for the production, transmission, conveyance, delivery or furnishing of services including, but not limited to, heat, light, water, power, natural gas, sanitary sewer, storm water, telephone and cable television.  
(Ord. 2182, Sec. 1, 2008)

#### 14-703. APPLICABILITY

- A. No Development shall be approved that proposes development on any parcel of land wholly or partially within the defined Stream Corridor unless the proposed development is in compliance with the applicable provisions of this Article.  
(Ord. 2182, Sec. 1, 2008)

#### 14-704. STREAM CORRIDOR

- A. The Stream Corridor is an area surrounding an identified Stream Segment, including adjacent floodplains and lands with slope greater than 15%. The Stream Corridor is a protective zone for the adjacent stream.
- B. Where manmade ponds interrupt streams, the Stream Corridor as herein defined shall stop at the pond and resume on the other side thereof. Where ponds are removed or filled in as part of development, the stream shall be restored through that

area and the Stream Corridor buffer shall be created used the typology for adjacent stream sections.

(Ord. 2182, Sec. 1, 2008)

14-705. PROHIBITIONS

A. Any use or activity not identified as permitted by this Article.

(Ord. 2182, Sec. 1, 2008)

14-706. REGULATED USES

A. No development shall be undertaken on land in a Stream Corridor unless a Drainage Permit has been approved authorizing the applicant to perform the Development proposed therein; provided that, no Drainage Permit shall be approved unless the Development proposed therein is, in all respects, in conformity with the requirements of this Article.

B. Uses and activities permitted:

1. Conservation uses, wildlife sanctuaries, nature preserves, forest preserves, fishing areas, and passive areas of parklands.
2. Unpaved and unpaved recreational trails and greenways.
3. Education/scientific research.
4. Stream bank stabilization and other storm water BMPs approved by the Public Works Director.
5. Activities associated with the Restoration and Enhancement of Stream Corridor.
6. Excavation and fill required to plant any new trees or vegetation.
7. Installation of water and wastewater facilities, provided that, the owner of the facilities provides information to the City that is sufficient to allow the Public Works Director to determine that the installation of the facilities is unfeasible in another location. Feasibility will be determined through consideration of factors, such as geology, topography and the presence of unique habitat in the Stream Corridor. When installation of such facilities does occur, such installation and construction activities must comply with the recommendations of the Public Works Director. Water and wastewater facilities will be permitted to cross the Stream Corridor, as necessary, provided that, the number of crossings is minimized to the greatest extent possible.
8. Public infrastructure.

C. The rear yard of a single-family residential use may extend into the Stream Corridor; provided, however, that the rear of the actual residential structure may not be located nearer than 50 feet from the outer edge of the stream corridor and no ancillary structure may be located in the stream corridor unless permitted by the Public Works Director.

D. Uses Subject to Federal and/or State Approval.

E. The following in-stream activities are regulated and require approval from United States Corp of Engineers or Environmental Protection Agency, the Kansas Department of Health and Environment or other appropriate federal and state agencies:

1. dredging,
2. filling,
3. excavation,
4. draining, and
5. clearing;

Provided, that the requisite state and/or federal approvals are provided to the City.

(Ord. 2181, Sec. 1, 2008)

14-707. ACTIVITIES PERMITTED

A. The following activities are allowed within the Stream Corridor:

1. Maintenance/repair of public right-of-way, streets, public structures;
2. Site investigation work necessary for initial land use applications, such as surveys, soil logs and percolation tests, and special studies, provided, however, that the land must be restored to its pre-investigation condition;
3. Reconstruction, remodeling or maintenance of existing structures, provided that the activity does not expand the existing use beyond the previously approved use so as to physically extend into or adversely affect the Stream Corridor;
4. Routine maintenance of existing landscaping within the boundary of a lot, including pruning, removal of diseased trees or other diseased vegetation and replacement of individual plants when necessary to maintain a unified landscape theme;
5. Control of vegetation defined as state noxious weeds by K.S.A. 2-1314 et seq., by the recommended methods or alternative methods established by the State Board of Agriculture, Noxious Weed Division;
6. Emergency action necessary to prevent imminent threat or danger to public health or safety, or to public or private property, or serious environmental degradation may be taken at any time without advance notice to the Public Works Director; provided that, the notice, as herein above required, shall be given at the earliest opportunity thereafter.

(Ord. 2182, Sec. 1, 2008)

14-708. PERMIT

A. All persons required to submit a Drainage Permit Application. Stream Corridor and location information must be accurately delineated on a property survey.

B. When considering any Drainage Permit Application, the City may:

1. Require a reduction in the yard and setback requirements established by the underlying zoning district, of up to 25%, to maintain the width of Stream Corridor;
2. Alter the outer boundary of the mapped Stream Corridor allowing the width to become narrower than as mapped at some points within the property, as long as the Stream Corridor is not altered by the narrowing, and no new structures are built within the Floodplain.

C. The decision to approve or deny a request for a deviation from requirements applicable to lands within Stream Corridor shall be based on the following considerations:

1. Sensitivity of the stream segment and affected critical habitats;
2. Sensitivity of land use adjacent to the stream segment proposed for reduced Stream Corridor width;
3. Impact on Floodplain and stream functions.

D. A Stream Corridor deviation shall not be approved when the reduction would result in the Stream Corridor being narrower than the Floodplain or a width that does not include adjacent land with a slope of greater than 15%

(Ord. 2182, Sec. 1, 2008)

14-709. APPEALS



A. If an applicant believes that the requirements of this Article will result in an unnecessary hardship, the applicant may seek an appeal through the procedures from the Board of Code Appeals.

B. The appeal shall be in writing on form approved by the City and a copy shall be simultaneously provided to the Public Works Director. The written appeal shall identify the specific grounds for the appeal, including the exact locations of the Stream Corridor that the applicant disputes. The notice shall also be accompanied by a Stream Corridor Report that shall include:

1. A surveyed site plan covering all property that is the subject of the appeal application, which shows the property's topography;
2. Drainage flow on the property;
3. The location of streams, flow, width, quality, critical habitat, value and function;
4. The ordinary high-water mark of the stream;
5. A tree and native vegetation inventory;
6. A delineation of areas with slope greater than 15% (with the percentage slope shown);
7. Critical habitat contiguous to the streams;
8. Designation of the Floodplain;
9. All other information required by the Board of Code Appeals to be submitted for its consideration.

C. On appeal, the burden will be on the appellant to establish, by clear and convincing evidence, that the Drainage Application is consistent with the Stream Corridor.

D. The Board of Code Appeals, after considering all evidence presented by the applicant in support of the appeal and any evidence presented by the City in rebuttal or otherwise presented in relation to the appeal, shall render a written decision. If the Board of Code Appeals determines that applicant has not met the requisite burden of proof, it shall affirm, wholly or partly, the decision of the Public Works Director. If the Board of Code Appeals determines that the applicant has met the requisite burden of proof, it may reverse or modify the decision of the Public Works Director and make a decision respecting Development Application as it determines is appropriate. In making this new decision, the Board of Code Appeals may attach any condition it deems necessary to further the purposes of this Article.

(Ord. 2181, Sec. 1, 2008)

**14-710. APPEAL TO DISTRICT COURT**

A. Any person or persons jointly or severally aggrieved by any final decision on appeal may present to the District Court of Johnson County, Kansas, a petition duly verified appealing the decision. The petition shall set forth that the decision is illegal, in whole or in part, and specify the ground of its illegality. The petition shall be presented to the court within thirty (30) days after the decision is issued or it shall be barred.

(Ord. 2182, Sec. 1, 2008)

**14-711. NOTIFICATION AND RECORDING**

A. The owner of any property within a Stream Corridor, upon the approval of a Drainage Permit covering property containing a Stream Corridor (which does not involve the approval of a final plat) shall record a notice of presence for each Stream Corridor with the Johnson County Register of Deeds. This recording shall contain notice of the Stream Corridor, the application of this Article to the property, and the

limitations on actions in or affecting such Stream Corridor. The applicant must submit proof that the notice has been legally recorded before the Drainage Permit is issued. The notice shall run with the land and failure to provide this notice to any purchaser prior to transferring any interest in the property shall be in violation of this Article. The notice shall be substantially as set forth below:

1. Legal Description:
2. Present Owner:
3. Notice: This property is located within or contains the following Stream Corridor, as defined and regulated in the City of Prairie Village,
4. Restrictions on the use or alteration of land within the Stream Corridor may apply.
5. Application #\_\_\_ filed on (Date).
6. Signature of owner(s).
7. Notarization:

B. For all subdivision proposals within the Stream Corridor, the applicant shall include a notice on the face of the plat. The notice shall be substantially as set forth below:

1. Notice: This site lies within a protected Stream Corridor, as defined and regulated in City of Prairie Village,
2. Restrictions on the use or alteration of the Stream Corridor may apply.  
(Ord. 2182, Sec. 1, 2008)

#### 14-712. ENFORCEMENT

A. The Public Works Director is authorized and empowered to enforce the requirements of this Article in accordance with the procedures set forth herein and shall have all the enforcement powers and may employ all or any of the remedies set forth in the Municipal Code of the City of Prairie Village, Kansas.  
(Ord. 2182, Sec. 1, 2008)

#### 14-713. MISCELLANEOUS

A. **Other Laws.** Neither this Ordinance nor any administrative decision made under it exempts the Permit Holder or any other Person from other requirements of this Code, state and federal laws, or from procuring other required Permits, including any state or federal stormwater Permits authorized under the National Pollutant Discharge Elimination System (NPDES), or limits the right of any Person to maintain, at any time, any appropriate action at law or in equity, for relief or damages against the Permit Holder or any Person arising from the activity regulated by this Ordinance.

B. **Disclaimer of Liability.** The performance standards and design criteria set forth herein establish minimum requirements, which must be implemented with good engineering practice and workmanship. Use of the requirements contained herein shall not constitute a representation, guarantee or warranty of any kind by the City, or its officers and employees, of the adequacy or safety of any best management practice or use of land, nor shall the approval and issuance of a Permit imply that land uses permitted will be free from damages caused by Storm Water. The degree of protection required by these regulations is considered reasonable for regulatory purposes and is based on historical records and engineering and scientific methods of study. Larger storms may occur or Storm Water runoff heights may be increased by man-made or natural causes. These regulations therefore shall not create liability on the part of the City or any officer with respect to any legislative or administrative decision lawfully made hereunder.

C. **Severability.** If any section, subsection, paragraph, sentence, clause or phrase in this Ordinance or any part thereof is held to be unconstitutional, invalid or ineffective by any court of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance.  
(Ord. 2182, Sec. 1, 2008)

## CHAPTER XV. UTILITIES

- Article 1. Sewers
- Article 2. Solid Waste
- Article 3. Open
- Article 4. Franchises

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### ARTICLE 1. SEWERS

#### 15-101. **SANITARY CODE; ADOPTED.**

The Johnson County Environmental Sanitary Code, 2004 Edition, as published by the Board of County Commissioners of Johnson County, Kansas, 111 South Cherry Street, Olathe, Kansas, 66061, is hereby adopted by reference made a part of this Article as fully as if set forth herein. (Ord. 1877, Sec. 1; Ord. 2362, Sec. 1)

#### 15-102. **SAME; MARKED COPIES ON FILE.**

At least three copies of the code adopted by reference in Section 15-101 of this article shall be kept on file in the office of the City Clerk, to which there shall be attached a copy of the incorporating ordinance, shall be marked or stamped "Official Copies as Incorporated by Ordinance No. 2362" with all sections or portions thereof intended to be omitted clearly marked to show any deletion or changes adopted by the Governing Body. These copies shall be made available to the public at all reasonable hours. The police department, municipal judges and all administrative departments of the city who are charged with the enforcement of the code adopted by this article shall be supplied, at the cost of the city, such number of official copies as may be deemed expedient. (Ord. 1877, Sec. 1; Ord. 2362, Sec. 1)

#### 15-103. **ADMINISTRATION AND PROSECUTION.**

(a) The Director of the Johnson County, Kansas, environmental department and/or his or her designees, shall have the primary authority and responsibility for the administration of this code.

(b) The Johnson County, Kansas, County Counselor shall have the authority to prosecute all violations of this Article. Prosecution shall be in accordance with the Johnson County Kansas, Code for Prosecution and Enforcement, Resolution No. 116-88 or any amendments or subsequent enactments and shall be commenced in the County codes section of the District Court of Johnson County, Kansas. (Ord. 1877, Sec. 1; Ord. 2362, Sec. 1)

## ARTICLE 2. SOLID WASTE

### 15-201. DEFINITIONS.

For the purposes of this Article, the following terms, phrases, words and their derivation, whether or not capitalized, shall have the meanings given in this section:

- (a) Agricultural Waste -- Solid waste resulting from the production of farm or agricultural products.
- (b) Approved Container -- Solid waste container, recycling container or container for storage and collection of yard waste or compostables approved by the director and that meets the minimum specifications set forth in Section 15-204.
- (c) Bulk Items -- Items either too large or too heavy to be loaded in solid waste collection vehicles with safety and convenience by haulers, with the equipment available therefor, including but not limited to appliances, furniture, large auto parts or trees.
- (d) Collection -- The removal and transportation of solid waste from its place of storage to its place of processing or disposal.
- (e) Commercial Solid Waste -- Solid waste resulting from the operation of any commercial, industrial, institutional or agricultural establishment and multiple housing facilities with four or more dwelling units.
- (f) Compostables -- All forms of botanical waste, including yard waste.
- (g) Compost Pile -- A mixture created by the owner or tenant in possession of residential premises consisting of yard waste, dirt and other organic matter permitted under the terms of this Article. Such compost piles are stored in an enclosure and planned and properly developed pursuant to the terms of this article for the intent of salvaging organic materials for gardening purposes.
- (h) Compost Plant -- A facility where yard waste or other compostables are consolidated and progressively decomposed or otherwise processed as required by applicable laws and regulations.
- (i) Construction and Demolition Waste -- Waste building material and rubble resulting from construction, remodeling or repair operations on houses, commercial buildings, other structures and pavements.
- (j) County -- Johnson County, Kansas.
- (k) County Solid Waste management Plan -- The plan approved by the Department and adopted by the County for the purpose of governing solid waste management in the County, and which is entitled and sometimes referred to as the *Johnson County Code of Regulations for Solid Waste Management, 2010 Edition* (as may be amended from time to time).
- (l) Department -- The Kansas State Department of Health and Environment.
- (m) Director -- The director of solid waste management for the City, appointed by the Mayor and approved by the Governing Body of the City, to administer the storage, collection, processing and disposal of solid waste generated in the city in accordance with this Article, or in the event that a regular City officer is designated by the Mayor and approved by the City Council as the responsible officer for the administration and enforcement thereof, the person duly holding such City office shall be Director of the Solid Waste Management.
- (n) Disease vector -- Rodents, flies, mosquitoes, or other pests capable of transmitting disease to humans.
- (o) Disposal -- The discharge, deposit, injection, dumping, spilling, leaking or

placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any water including groundwater.

- (p) Dwelling Unit -- Any room or group of rooms located within a structure and forming a single habitable unit with facilities which are used or are intended to be used, for living, sleeping, cooking and eating.
- (q) Garbage -- The animal and vegetable waste resulting from the handling, processing, storage, packaging, preparation, sale, cooking and serving of meat, product and other foods, including unclean containers.
- (r) Hauler -- Any person, public or private, engaged in the collection of solid waste.
- (s) Hazardous Waste -- Solid and liquid materials which require special handling and disposal to protect and conserve the environment and human health including pesticides, acids, caustics, pathological materials, radioactive materials, flammable or explosive materials, oils and solvents and similar organic and inorganic chemicals and materials, containers and materials that have been contaminated with hazardous materials. Hazardous wastes shall include those materials determined to be hazardous waste as specified by the Department.
- (t) Mixed Refuse -- A mixture of solid waste containing putrescible and nonputrescible materials.
- (u) Nuisance -- Anything which is (1) injurious to health or is offensive to the senses or is an obstruction to the free use of property so as to interfere with the comfortable enjoyment of life or property, and (2) affects at the same time an entire community or neighborhood or any considerable number of persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal, and (3) occurs during or as a result of the storage, collection or disposal of solid waste.
- (v) Occupant -- Any person who, alone or jointly or severally with others, shall be in actual possession of any dwelling unit or any other improved real property, either as an owner, guest or as a tenant, either with or without the consent of the owner thereof.
- (w) Owner -- Any person who, alone or jointly or severally with others, has legal title to, or sufficient proprietary interest in, or has charge, care or control of any dwelling unit or any other interest in, or property, as title holder, as employee or agent of the title holder, or as landlord or manager or as trustee or guardian of the estate or person of the title holder.
- (x) Person -- An individual, partnership, co-partnership, firm, company, public or private corporation, association, joint stock company, trust, estate, political subdivision or any agency, board, environmental department or bureau of the state or federal government or any other legal entity whatsoever which is recognized by law as the subject of rights and duties.
- (y) Processing -- Incinerating, compacting, baling, shredding, salvaging, and other processes whereby solid waste characteristics are modified or solid waste quantity is reduced.
- (z) Putrescible Wastes -- Solid waste that contains organic matter capable of being decomposed by microorganisms and that is capable of attracting or providing food for birds and disease vectors.
- (aa) Recyclables -- Materials that will be used or reused, or prepared for use or reuse, as an ingredient in an industrial process to make a product, or as an effective substitute for a commercial product; recyclables includes, but is not limited to paper, glass,

- plastic and metal, but does not include yard waste.
- (bb) Recycling Container -- A container designed and manufactured specifically for the storage and collection of recyclables.
  - (cc) Refuse -- Unwanted or discarded material resulting from residential, commercial, industrial and agricultural operations and from normal community activities. Refuse includes in part the following: garbage, rubbish, ashes and other residue after burning, street refuse, dead animals, animal waste, junked or abandoned motor vehicles, agricultural, commercial and industrial wastes, construction and demolition wastes, and wastewater treatment residue.
  - (dd) Residential Solid Waste -- Solid waste resulting from the maintenance and operating of dwelling units. The term residential solid waste includes those items approved by the Director to be treated as recyclable under the terms of this Article and the provisions of this Article shall apply to such recyclables, where applicable in addition to any provisions contained in this Article specifically dealing with recyclables.
  - (ee) Rubbish -- Nonputrescible solid wastes consisting of combustible and/or noncombustible waste materials from: dwelling units, commercial, industrial, institutional and agricultural establishments, including yard wastes and items commonly referred to as trash.
  - (ff) Solid Waste -- Unwanted or discarded waste materials in a solid or semi-liquid state, including but not limited to refuse, garbage, ashes, street refuse, rubbish, dead animals, animal and agricultural wastes, yard wastes, discarded appliances, special wastes, industrial wastes, demolition and construction waste and digested sludges resulting from the treatment of domestic sewage or a combination thereof. The term solid waste includes, for purposes of the provisions of this Article, those items approved by the Director to be treated as recyclable and the provisions of this Article shall apply, where applicable, to such recyclables in addition to any specific provisions contained in this Article pertaining to the collection of recyclables, but does not include materials defined as hazardous waste under the terms of this Article.
  - (gg) Solid Waste Container -- A container designed and manufactured specifically for the storage and collection of solid waste, including recycling containers.
  - (hh) Storage -- Keeping, maintaining or storing solid waste from the time of its production until the time of its collection.
  - (ii) Yard Waste -- All forms of botanical waste, including but not limited to grass clippings, leaves, tree trimmings and garden wastes.  
(Code 1973, 7.24.020; Ord. 1724, Sec. 2; Ord. 1743, Sec. 1; Ord. 1782, Sec. 1; Ord. 2362, Sec. 2)

**15-202. DIRECTOR; APPOINTMENT AND DUTIES.**

- (a) The Mayor of the City shall, with the approval of the City Council, appoint a Director of Solid Waste Management as defined in Section 15-201(m).
- (b) The Director shall administer the storage, collection, processing and disposal of solid waste generated in the City as provided by this Article and further, shall be the principal enforcement officer of this Article.  
(Code 1973, 7.24.030; Ord. 2362; Sec. 2)

**15-203. STORAGE**

- (a) The owner or occupant of every dwelling unit and of every institutional, commercial or business, industrial or agricultural establishment producing solid waste within the corporate limits of the City, shall store solid waste in

- accordance with this Article.
- (b) Residential solid waste shall be stored upon the residential premises.
  - (c) Commercial solid waste shall be stored upon private property, unless the owner shall have been granted written permission from the City to use public property for such purposes. The storage sites shall be well drained, fully accessible to collection equipment, public health personnel and fire inspection personnel.
  - (d) All storage areas shall be screened or otherwise located so as to not be in the view of persons using public streets or walkways, except when placed in position for pickup. Normally three-sided screening is necessary for compliance for dwelling units. If a dwelling unit is on a corner lot, the containers must be screened in such a way that they are not visible from any street fronting or adjacent to the dwelling unit. Screens shall not be comprised of:
    - (1) deciduous trees, shrubs, or bushes that shed their foliage in the fall/winter;
    - (2) air conditioning units;
    - (3) chain link fences without barrier weaving;
    - (4) vehicles;
    - (5) tarps;
    - (6) flower pots; or
    - (7) similar items.
  - (e) Solid waste shall:
    - (1) be stored in approved containers, other than bulk items, agricultural solid waste, or as otherwise required under this Article;
    - (2) not be stored in a manner allowed to attract, provide shelter, or to create a breeding place for disease vectors;
    - (3) not be stored in a manner which will create a fire, health or safety hazard;
    - (4) not be stored in an unreasonably unsightly manner;
    - (5) not be stored in a manner which will cause offensive odors off-site; or
    - (6) be allowed to remain uncovered in the rain or snow except for bulk items and agricultural solid wastes.
    - (7) Containers shall not be placed at the curb for collection for more than a 24-hour period.
  - (f) Temporary exceptions to these screening requirements maybe granted by the Director on a case-by-case basis, such as for elderly or disabled residents or during extraordinary inclement weather. The Director, or designee, may assist the resident to seek available assistance through outside resources to comply with the screening requirement.
  - (g) Where inspections of property by the Director, or his or her authorized representative, reveal violations of this Section 15-203, the Director shall issue notice to the owner or occupant of the property for each such violation, stating the violation found, the time and date of the violation and the corrective measures to be taken, together with the time in which such corrections shall be made. If corrective measures have not been taken within the time specified in the notice, the Director shall execute a complaint in the municipal court of the city charging the owner or occupant with a violation of this Section 15-203. If the Director confirms that the specified corrective measures have been taken prior to the municipal court hearing date, the Director may withdraw the complaint. If the complaint is not withdrawn and the violator pleads guilty or is otherwise found guilty of violation of this section, the court shall assess a penalty of \$25.00 for



each violation. If any subsequent complaints are issued against the violator pursuant to this section within three (3) years of the initial complaint, a court appearance is mandatory for each subsequent complaint, and the penalty shall increase by \$25.00 per repeat violation in such time period (for example for the second violation in three (3) years the penalty shall be \$ 50.00, for the third \$75.00, etc.)

(Ord. 2362, Sec. 2, 2017)

15-204. APPROVED CONTAINERS.

- (a) The minimum standards for approved containers for the storage of garbage, putrescible wastes and mixed refuse shall be one of the following:
  - (1) Rigid containers that are durable, rust resistant, nonabsorbent, water tight and rodent proof. The container shall be easily cleaned, fixed with close-fitting lids, fly-tight covers and provided with suitable handles or bails to facilitate handling;
  - (2) Rigid containers equipped with disposable liners made of reinforced kraft paper or polyethylene or other similar material designed for storage of garbage;
  - (3) Nonrigid disposable bags designed for storage of garbage. The bag shall be provided with a wall hung or free standing holder which supports and seals the bag; prevents insects, rodents and animals from access to the contents; and prevents rain and snow from falling into the bag; or
  - (4) Other types of containers meeting the requirements of K DHE regulations and that are acceptable to the hauler.
- (b) Recyclables shall be stored in recycling containers.
- (c) Yard waste shall be stored in a container suitable for composting or such other containers as approved by the Director, or shall be appropriately bundled and tied.
- (d) The Director has the authority to collect and dispose of or order the collection and disposal of any nonconforming container and its contents without or without notice to the owner thereof.

(Code 1973, 7.24.210; Ord. 2362, Sec. 2)

15-205. COLLECTION; RESIDENTIAL.

- (a) The City shall provide for the collection of all residential solid waste and residential recyclables and residential yard waste in the City. The City may provide for the collection service by contracting with a hauler for the benefit of the entire City, or portion thereof, as deemed to be in the best interest of the City and its inhabitants.
- (b) Collection of residential solid waste shall be weekly and collection of residential recycling and yard waste shall be at least as frequently as required by the County Solid Waste Management Plan.
- (c) The Director may, after obtaining the approval of the Governing Body of the City, after specific application has been made to the Director, exempt dwelling units within a homeowners association from City solid waste, recycling and yard waste collection services, provided such exemption will be approved only if the applicant demonstrates to the Director and the Governing Body that all dwelling units included in the application for exemption are provided with solid waste, recycling and yard waste collection services by a City licensed hauler at a

standard equal to or higher than that provided by the City and required by this Article, the County Solid Waste Management Plan and Department regulations governing solid waste.

- (d) Any homeowners association which applies for an exemption pursuant to subsection © of this section shall provide the Director with a list of names and addresses of those owners of homes for which it will provide solid waste, recycling and yard waste collection services. Once an exemption has been granted by the Director and the Governing Body to such homeowners association, it shall be required to continue to provide the solid waste, recycling collection and yard waste collection services to all homes included on the list submitted to the Director throughout the contract year.
- (e) The Director is authorized, after obtaining the approval of the Governing Body of the City, to exempt individuals from City-provided solid waste recycling collection services in cases where mandatory City service would create a medical or financial hardship to the resident, provided that such individual satisfies the Director that adequate provisions have been made for the disposal of their solid waste and recyclables in a manner that does not constitute a nuisance or health hazard inconsistent with the ordinances of the City pertaining to health and sanitation and statutes of the state, and the terms and conditions of this Article can otherwise be met by such resident.

(Code 1973, 7.24.110; Ord. 1724, Sec. 4; Ord. 1782, Sec. 2; Ord. 1869, Sec. 1; Ord. 2362, Sec 2)

**15-206. COLLECTION; NONRESIDENTIAL.**

- (a) The City will not provide solid waste collection services for commercial solid waste.
- (b) All commercial solid waste, commercial recyclables and commercial yard waste shall be stored in accordance with this Article and collected by a City licensed hauler at least once weekly or at more frequent intervals as may be fixed by the Director upon a determination that more frequent intervals are necessary for the preservation of the health and/or safety of the public and general appearance of the area.
- (c) The regulatory and penalty provisions of this Article shall apply to the nonresidential properties and it shall be the duty of the owner to provide for collection of all solid waste, recyclables and yard waste produced upon all such premises at a standard at least equal to that prescribed by this Article.

(Code 1973, 7.24.120; Ord. 2362, Sec. 2)

**15-207. HAULER LICENSE AND VEHICLE PERMIT REQUIREMENTS.**

- (a) No person shall engage in the business of the collection of solid waste, recyclables or yard waste generated in the City without first obtaining a hauler license and a separate hauler vehicle permit for each collection or transportation vehicle to be operated within the City.
- (b) Applications for hauler licenses and hauler vehicle permits shall be made on forms approved by the Director, and the information to be provided by the hauler shall include (1) the addresses of all collection locations to be served, (2) the nature of the collection service to be conducted (storage, collection of solid waste, recyclables or yard waste); (3) the characteristics of the solid waste, recyclables or yard waste to be collected and transported; (4) the number of solid waste, recycling collection or yard waste collection vehicles and pieces of

equipment to be operated in the City; (5) the precise location or locations of solid waste processing or disposal site(s), reclamation center(s), recycling plants(s) or compost plant(s) to be used; and (6) such other information as may be required by the Director.

- (c) The hauler and hauler vehicle permit fee schedule shall be as approved by the Governing Body, and those fees shall be paid in full upon application.
- (d) No hauler or hauler vehicle permit shall be issued to any person who has not first obtained any necessary or applicable license or permit from the County in accordance with the County Solid Waste Management Plan. In addition, the expiration, revocation or other termination of any such County license or permit shall have the effect of terminating any hauler or hauler vehicle permit provided for herein.
- (e) The license and permits issued to a contractor shall be issued for a period of one year and must be renewed annually. The Director may revoke any license or permit if a hauler fails to comply with the requirements of the hauler's license and Permit or otherwise fails to comply with the requirements of this Article, the County Solid Waste Management Plan, Department regulations or federal or state law.

(Code 1973, 7.24.200; 7.24.140; Ord. 1665, Sec. 2; Ord. 1724, Sec. 6; Ord. 1782, Sec. 4; Ord. 2362, Sec. 2)

**15-208. SAME; NON-ISSUANCE, APPEAL, HEARING**

- (a) If the application shows that the applicant will collect and transport solid waste without hazard to the public health or damage to the environment and in conformity with the County Solid Waste Management Plan, Department regulations, the laws of the State of Kansas and this Article, the City shall issue the license and permits authorized by this Article. If such showing is not made by the applicant, the Director shall disapprove the application and the City Clerk shall not issue the license and/or permit(s). If the Director disapproves any application, he or she shall give the reasons therefore in writing, file the same with the City Clerk and mail 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 Director files his or her statement of reasons for the disapproval.
- (b) A hearing on such appeal shall be held by the Governing Body of the City no more than 30 days after the applicant files such notice of appeal. The Governing Body, after a hearing, may by a majority vote reverse or affirm the decision of the Director.
- (c) Nothing in this Section shall prejudice the right of the applicant to reapply at a later date for a license and/or permit(s).

(Code 1973, 7.24.150; Ord. 2362, Sec. 2)

**15-209. PERMIT: NOT REQUIRED WHEN.**

Permits shall not be required for vehicles for their removal, hauling or disposal of demolition or construction wastes; however, all such wastes shall be conveyed in tight vehicles, trucks or receptacles, so constructed and maintained to prevent the material being transported from spilling upon the public highways.

(Code 1973, 7.24.160; Ord. 2363, Sec. 2)

**15-210. LICENSE; PERMIT; INSURANCE REQUIRED FOR ISSUANCE.**

Before a valid license and permit(s) shall be issued by the City, the applicant must

furnish the City a certificate of insurance showing a minimum general liability insurance coverage of at least \$1,000,000 per occurrence for bodily injury and property damage, \$2,000,000 annual aggregate per occurrence. The certificates of insurance shall provide that in the event the insurance is canceled during the term of the license and permit(s), the insurance carrier shall notify the City in writing no less than 10 days prior to the effective date of such cancellation, and further, the insurance policy shall contain written provision which shall place the responsibility for the 10 day written notice upon the company issuing the policy in order that the coverage be considered proper.  
(Code 1973, 7.24.170; Ord. 2362, Sec. 2)

**15-211. RULES AND REGULATIONS PROMULGATION.**

- (a) The Director, by and with the consent of the Governing Body of the City, may define and promulgate rules and regulations governing the solid waste management system, which rules and regulations shall be filed in the office of the City Clerk. The rules and regulations shall include, but not be limited to:
- (1) Time and day schedules of, and routes for, collection of solid waste, except as prohibited by this Article;
  - (2) Specifications for solid waste and yard waste containers, including the type, material and size thereof;
  - (3) Identification of solid waste containers and yard waste containers, covers and related equipment;
  - (4) Collection points of solid waste containers and yard waste containers;
  - (5) Handling of special wastes such as hazardous wastes, sludge's, ashes, agricultural wastes, construction wastes, oils, greases or bulky wastes.
- (b) The Director may classify certain wastes as hazardous wastes which will require special handling and which should be disposed of only in a manner which meets all City, County, state and federal regulations.  
(Code 1973, 7.24.180; Ord. 2362, Sec. 2)

**15-212. PROCESSING FACILITY OR DISPOSAL SITE.**

No solid waste shall be disposed of at the processing facility or disposal site except at a facility or site designated and approved by the appropriate governmental agency empowered to regulate such sites and in a manner consistent with all applicable federal, state and local laws and ordinances pertaining to the handling, transport, processing and disposal of said items.  
(Code 1973, 7.24.190; Ord. 2362, Sec. 2)

**15-213. COLLECTION VEHICLES.**

All collection vehicles shall be maintained in a safe, clean and sanitary condition and shall be so constructed, maintained and operated as to prevent spillage of solid waste therefrom. All vehicles to be used for collection of solid waste shall be constructed with watertight bodies and with covers which shall be an integral part of the vehicle or shall be a separate cover of suitable material with fasteners designed to secure all sides of the cover to the vehicle and shall be secured whenever the vehicle is transporting waste, or, as an alternate, the entire bodies of thereof shall be enclosed, with only loading hoppers exposed. No material shall be transported in the loading hoppers.  
(Code 1973, 7.24.220; Ord. 2362, Sec. 2)

**15-214. PERMIT NUMBERS TO BE DISPLAYED.**

All motor vehicles operating under any permit required by this Article shall display the

permit number or numbers on each side in colors which contrast with that of the vehicle. Such numbers must be clearly legible and not less than three inches high. (Code 1973, 7.24.030; Ord. 2362, Sec. 2)

**15-215 HOURS OF COLLECTION; RESTRICTION.**

Collections on streets defined in this code as arterial streets shall be prohibited between the hours of 7:00 a.m. and 9:00 a.m. and between the hours of 4:00 p.m. and 5:00 p.m. on any weekday. (Code 1973, 7.24.240; Ord. 2362, Sec. 2)

**15-216 SOLID WASTES BECOME PROPERTY OF HAULER.**

All solid waste collection shall, upon being loaded into collection equipment, become the property of the licensed hauler. (Code 1973, 7.24.250; Ord. 2362, Sec. 2)

**15-217 RIGHT OF ENTRY.**

Solid waste haulers, employed by the City or solid waste collection agencies operating under contract with the City or solid waste haulers collecting from those dwelling units specifically exempted under Section 15-205 are authorized to enter in and upon private property for the purpose of collecting solid waste therefrom as required by this Article. (Code 1973, 7.24.260; Ord. 2362, Sec. 2)

**15-218 COSTS DETERMINATION; ASSESSMENT.**

The Governing Body of the City shall determine a proper amount to be charged for the storage, collection, processing and disposal of solid waste. The costs shall be based upon the cost of providing the service, including the costs of administration and collection. The costs for services provided by the City or provided under a contract pursuant to the terms of this Article shall be paid by the owner or owners of the premises and the City Clerk shall, at the time of certifying other City taxes, certify such charges to the County Clerk and the County Clerk shall extend the same on the tax rolls of the County against the lot or parcel of land. (Code 1973, 7.24.280; Ord. 1724, Sec. 7; Ord. 2362, Sec. 2)

**15-219 DIRECTOR; ENFORCEMENT AUTHORITY; RIGHT OF ENTRY.**

The Director is authorized to exercise such powers as may be necessary to carry out and effectuate the purposes and provisions of this Article. Included in the powers is the right to inspect all phases of management of solid waste generated in the City. The Director has the right to enter upon the premises for the purpose of making examinations and inspections, provided that such entry shall be made in such manner as to cause the least possible inconvenience to the persons in possession and in the event entry is denied or resisted, the Director shall obtain for this purpose an order from a court of competent jurisdiction. (Code 1973, 7.24.290; Ord. 2362, Sec. 2)

**15-220 SAME; NOTICE FOR VIOLATION; EXECUTING COMPLAINT IN COURT.**

In all instances where inspections by the Director reveal violations of this Article, the Director shall issue notice to the violating person for each such violation, stating the violation or violations found, the time and date of the violation and the corrective measures to be taken, together with the time in which such corrections shall be made. If corrective measures have not been taken within the time specified in the notice, the

Director shall execute a complaint in the municipal court of the City charging the person or persons with a violation or violations of this Article. In those cases where an extension of time will permit correction and there is no public health hazard created by the delay, one extension of time not to exceed the original time period may be granted by the Director before he or she executes the complaint. (Code 1973, 7.24.300; Ord. 2362, Sec. 2)

**15-221 SAME; EMPLOYEE APPOINTMENT.**

The Director further has the power to appoint and fix the duties of such officers, agents and employees as he or she deems necessary to carry out the directions of this Article and further, to delegate any of his or her functions and powers under this Article to such officers, agents and employees as he or she may designate.  
(Code 1973, 7.24.310; Ord. 2362, Sec. 2)

**15-222 PENALTY FOR VIOLATION.**

- (a) It is unlawful for any person to store, collect, transport, process or dispose of any solid wastes in any manner that does not conform to rules and regulations established in this Article.
- (b) Any person violating this Article (other than violations of Section 15-203 which shall be governed by Section 15-203(g) and Section 15-224 which shall be governed by Section 50224(h)) shall upon conviction thereof be punished for each such violation by a fine not to exceed \$100 or a jail sentence of not more than 30 days for each violation or by both such fine and jail sentence. Each day of violation shall constitute a separate violation of this Article.  
(Code 1973, 7.24.320; Ord. 2362, Sec. 2)

**15-223 ANTI-SCAVENGER; RECYCLABLE ITEMS.**

It shall be unlawful for any person which does not have a license from the City as a residential trash hauler to remove any items (except bulk items placed lawfully on the curb for collection), including but not limited to newspapers, aluminum cans, glass and plastic containers which have been placed on or stored at any location within the City for the purpose of having it collected by the licensed contractor which is authorized to collect and remove recyclable materials from the City.  
(Code 1973, 7.24.330; Ord. 2362, Sec. 2)

**15-224 COMPOST PILE; CONTENT, SIZE, LOCATION, OPERATION AND USE.**

Policy Statement. It is the policy of the City to encourage environmentally sound practices and to reduce the flow of items to landfills which might be recycled. It is the policy of the City to reduce the flow of items to landfills which might be recycled. It is the policy of the City to encourage the proper composting of yard materials and to establish appropriate standards for the maintenance of compost piles.

- (a) Fire Hazards. No owner as defined in Section 15-201 or the tenant in possession of residential premises shall maintain a compost pile in a manner which creates a fire hazard pursuant to the Uniform Fire Code, as incorporated by referenced in Section 7-201. The mere presence of a properly maintained compost pile of yard waste matter defined in such code as combustible or flammable shall not in itself constitute a violation of the City code. The provisions of this Section shall control over any provisions of the Uniform Fire Code to the contrary.
- (b) Nuisances Prohibited, Compliance with Laws and Regulations. No owner or tenant in possession of premises shall maintain a compost pile in a manner which creates

a nuisance or which violates the health, building or zoning regulations of the State of City or any other laws or regulations relating to the use of land and use and occupancy of buildings and improvements.

- (c) Compost Piles; Permitted Materials. Acceptable materials for composting are limited to: manure, straw, sawdust, hay, grass clippings, leaves and weeds, wood chips and small trigs, evergreen cones and needles, garden refuse, uncooked fruits and vegetables, and commercial ingredients designed to speed or enhance composting. Meat and dairy products are prohibited.
- (d) Compost Piles; Permitted Locations. Compost piles may be located only in the rear yards of residential premises as defined in the "Zoning Regulations of the City of Prairie Village" shall not be located in the front or side yards of such premises. In the event residential premises are so situated that it is difficult to determine what constitutes the rear yard, the determination of the code enforcement officer shall be final. Compost piles shall be located so as not to constitute a fire hazard and in no event shall they be placed less than 15 feet from any other building on such premises. In no event shall compost piles be placed less than five feet from a side lot line. No compost piles shall be located in a right-of-way.
- (e) Compost Piles; Permitted Size. Compost piles should be at least 3x3x3 (feet) in size unless it is a commercially fabricated bin designed for composting, and in no event shall compost piles exceed one hundred fifty (150) cubic feet. No compost pile shall exceed four feet in height. No more than one compost pile shall be placed on any residential premises of up to one acre in size. On residential premises of more than one acre in size, no more than two compost piles may be placed. However, owners of residential premises shall be permitted to compost permitted materials in an unlimited number of storage bins, constructed for the purpose of composting material and approved by the code enforcement officer.
- (f) Compost Piles; Standards, Enclosures. Compost piles shall be deemed to be in compliance with the terms of this Article if the following criteria are met:
  - (1) Compost piles shall consist of layers of permitted materials set out in this Article in layers of six to eight inches and quantities of commercial garden fertilizer or manure or one to two inches in depth with the sequence of layers then repeated.
  - (2) The compost pile should feel damp to the touch.
  - (3) A compost pile shall be enclosed by an enclosure on at least three sides, the enclosure not to exceed four feet in height. Permitted enclosure materials include woven wire or wood slat fence, cement blocks or bricks and boards of lumber, including redwood or cypress.
  - (4) A compost pile shall be placed in an area where water will not stand.
- (g) Penalty. Where inspections of property by the Director, or his or her authorized representative, reveal violations of this Section 15-224, the Director shall issue notice to the owner or occupant of the property for each such violation, stating the violation found, the time and date of the violation and the corrective measures to be taken, together with the time in which such corrections shall be made. If corrective measures have not been taken within the time specified in the notice, the Director shall execute a complaint in the municipal court of the City charging the owner or occupant with a violation of this Section 15-224. If the Director confirms that the specified corrective measures have been taken prior to the municipal court hearing date, the Director may withdraw the complaint. If the complaint is not withdrawn and the violator pleads guilty or is otherwise found guilty of violation of this section the court shall assess a penalty of \$25.00 for each violation. If any

subsequent complaints are issued against the violator pursuant to this section within three (3) years of the initial complaint, a court appearance is mandatory for each subsequent complaint, and the penalty shall increase by \$25.00 per repeat violation in such time period (for example for the second violation in three (3) years the penalty shall be \$50.00, for the third \$75.00, etc.)  
(Ord. 1880, Sec. 1; Ord. 2362, Sec. 2)

### ARTICLE 3. (Open)

### ARTICLE 4. FRANCHISES

15-401. TITLE. This Ordinance shall be referred to and cited as the “Master Franchise Code.” (Throughout this Article the Master Franchise Code may be referred to as “this Code.”)  
(Ord. 2220, Sec. 1, 2009)

15-402. DEFINITIONS. For the purposes of this Code, the following words and phrases shall have the meanings given herein:

(a) City – shall mean the City of Prairie Village, Kansas. Any reference to “within the City” shall mean within the corporate city limits of the City of Prairie Village, Kansas.

(b) Entity – shall mean any individual person(s), governmental entity, business, corporation, partnership, firm, limited liability corporation, limited liability partnership, unincorporated association, joint venture or trust and shall include all forms of business enterprise not specifically listed herein.

(c) Facilities – shall mean lines, pipes, mains, laterals, wires, cables, conduit, ducts, poles, towers, cabinets, vaults, pedestals, boxes, appliances, antennae, transmitters, gates, meters, Gas Distribution System and Gas Distribution Facilities, together with all necessary appurtenances or other equipment thereto, or any part thereof, for the purpose of providing or otherwise facilitating any Service.

(d) Franchise – shall mean the grant, right, privilege and franchise by the City to provide, distribute, transport or sell a Service within the City and/or to install, construct, maintain, extend or operate Facilities along, across, upon, under or within the Right-of-Way. The grant, right, privilege and franchise shall be in accordance with the provisions of K.S.A. 12-2001, et seq., as amended, the City’s Home Rule power, and applicable City ordinances.

(e) Franchisee or Grantee – shall mean any Entity that has a Franchise granted by the City pursuant to this Code, K.S.A. 12-2001, et seq., as amended, and/or the City’s Home Rule power.

(f) Franchise Fee – shall mean consideration paid in the form of a charge upon a Franchisee as prescribed in the Ordinance granting the Franchise. Any such Franchisee Fee shall be subject to any applicable provisions of federal or state law.

(g) Gas Consumer – shall mean, without limitation, an Entity that receives natural gas or Other Energy within the City through a Gas Distribution System or Gas Distribution Facilities.

(h) Gas Distribution System or Gas Distribution Facilities – shall mean a pipeline or



system of pipelines, including without limitation, mains, pipes, boxes, reducing and regulating stations, laterals, conduits and services extensions, together with all necessary appurtenances thereto, or any part thereof, for the purpose of distribution or supplying natural gas or Other Energy for light, heat, power and all other purposes.

(i) MCF – shall mean a measurement of natural gas equal to one thousand (1,000) cubic feet. It is assumed for purposes of this Code that one MCF equals one million (1,000,000) British Thermal Units (BTUs).

(j) Other Energy – shall mean any energy provided in a gaseous, liquid, or slurry mixture form through pipelines for light, heat, power, and all other purposes as an alternative or replacement for natural gas, but specifically, it shall not include electrical energy.

(k) Reseller – shall mean a provider of Service within the City whereby the provider purchases and resells the Service of a duly authorized Franchisee, but only where the duly authorized Franchisee is already paying fees for the resold Service under its Franchise with the City. (For example, the resale of local exchange service as contemplated by K.S.A. 12-2001(n).)

(l) Right-of-Way – shall mean present and future streets, alleys, rights-of-way, and public easements, including easements dedicated to the City in plats of the City for streets and alleys. The “Right-of-Way” shall not include property owned by the City outside of said streets, alleys, rights-of-way, and easements, or public easements limited in their dedication of purpose or otherwise not intended for placement of Facilities (for example, a public easement dedicated only for stormwater purposes).

(m) Service – shall mean any utility or similar service to be provided, distributed, transported or sold to an Entity by means of a delivery or distribution system that is comprised of Facilities within the City, including without limitation, telecommunication, cable, broadband, Internet, Open Video Systems, steam, electric, water, telegraph, data transmission, natural gas, Other Energy, or any other similar service.

(Ord. 2220, Sec. 1, 2009)

15-403. **FRANCHISE REQUIREMENT.** No Entity shall provide, distribute, transport or sell a Service within the City or shall install, construct, maintain, extend or operate Facilities along, across, upon, under or within the Right-of-Way without a Franchise authorizing the same, unless applicable federal or state law prohibits City enforcement of such requirement. This franchise requirement includes:

- (1) Entities with Facilities within the City in order to provide, distribute, transport or sell Service within the City;
- (2) Entities with Facilities within the City in order to provide, distribute transport or sell Service outside, but not within the City; and
- (3) Entities without their own Facilities within the City that lease or otherwise use the Facilities of other Entities in order to provide, distribute, transport or sell Service within the City.

Provided, this franchise requirement shall not include a Reseller, or include a governmental entity that has entered into an agreement with the City pursuant to K.S.A. 12-2901 *et seq.* regarding the use and occupancy of the Right-of-Way. (Ord. 2220, Sec. 1, 2009)

15-404. **GAS DISTRIBUTION SYSTEMS AND GAS DISTRIBUTION FACILITIES.** It

shall be unlawful for any Entity to install, construct, maintain, extend or operate a Gas Distribution System or Gas Distribution Facilities or to provide, distribute, transport or sell natural gas or Other Energy within the City without first obtaining a Franchise authorizing the same and requiring a Franchise Fee. This franchise requirement applies to any provision, distribution, transportation or sale to a Gas Consumer within the City whether or not the portion of the Entity's Gas Distribution System is in the Right-of-Way. Provided, in the event the Gas Distribution System or Gas Distribution Facilities of a Franchisee are used by an Entity without its own Gas Distribution System or Gas Distribution Facilities within the City for the transportation or sale of said Entity's natural gas or Other Energy to a Gas Consumer, said Entity shall be exempt from the requirement of obtaining a Franchise if it reports, calculates and pays (either directly or through the Franchisee) a sum to be submitted to the City for such Services that is equivalent to the calculation of the Franchisee's Franchise Fee. In such event, if gross receipts are not or cannot be reported, a sufficient volumetric rate multiplied by the number of MCF of the transported natural gas or Other Energy may be used in making such calculation.  
(Ord. 2220, Sec. 1, 2009)

15-405. PRESERVATION OF POLICE POWER AUTHORITY AND APPLICABILITY OF REGULATIONS. Any rights granted pursuant to this Code or pursuant to any Franchise are subject to the authority of the City to adopt and enforce ordinances and regulations necessary to the health safety and welfare of the public. All Entities subject to this Code shall also be subject to and comply with all applicable federal and state laws, statues and regulations, and all applicable rules, regulations, policies and ordinances enacted by the City, including without limitation, the City's Ordinance relating to the Use and Occupancy of the Public Right-of-Way (codified as Article 5 of Chapter XIII of the Code of the City of Prairie Village, Kansas, and amendments thereto). Provided, nothing in this Code shall be deemed to waive a right, if any, that an Entity might have to seek judicial or regulatory review as provided by law.  
(Ord. 2220, Sec. 1, 2009)

15-406. NATURE OF RIGHTS GRANTED BY ANY FRANCHISE. Franchises shall not convey title, equitable or legal, in the Right-of-Way or any other public property, but shall give only the right to occupy the Right-of-Way for the purposes and period stated within the Franchise. No Franchise shall grant the right to use Facilities owned or controlled by the City or a third-party, without the consent of such party, nor shall a Franchise excuse a Franchisee from obtaining appropriate access or attachment agreements before locating its Facilities on the Facilities owned or controlled by the City or a third-party. Any Franchise granted by the City shall be nonexclusive.  
(Ord. 2220, Sec. 1, 2009)

15-407. INDEMNIFICATION OF THE CITY. Any Entity installing, constructing, maintaining, extending or operating Facilities within the City or otherwise providing, distributing, transporting or selling a Service within the City shall hold the City harmless from any and all damages or claims arising or accruing from: the exercise of any right or privilege granted under this Code or a Franchise; the installation, construction, maintenance, extension, operation of its Facilities within the City; and

the negligence or intentional acts or omissions of its employees, agents, or servants, (including contractors and subcontractors) in the exercise of said installation, construction, maintenance, extension, operation, provision, distribution, transportation or sale. Failure of said Entity to obtain or maintain a Franchise shall in no manner waive this requirement and obligation.  
(Ord. 2220, Sec. 1, 2009)

15-408. LIABILITY INSURANCE AND BOND REQUIREMENT.

- (a) Each Franchisee shall file with the City evidence of liability insurance with an insurance company licensed to do business in Kansas. The amount will be not less than \$1, 000,000 per occurrence and \$2, 000,000 in aggregate. The insurance will protect the City from and against all claims by any Entity whatsoever for loss or damage from personal injury, bodily injury, death, or property damage to the extent caused or alleged to have been caused by the negligent or wrongful acts or omissions of the Franchisee. The Franchisee shall also have coverage for automobile liability in an amount of not less than \$1,000,000 per occurrence and \$2,000,000 in aggregate. The City shall be an additional insured on all policies of Franchisee, to the extent permitted by law, unless waived in writing by the City. If the Franchisee is self-insured, it shall provide the City proof of compliance regarding its ability to self insure and proof of its ability to provide coverage in the above amounts, and shall agree to indemnify and hold the City harmless for any losses as associated with Franchisee's activities in the Right-of-Way. All contractors actually performing work for any Franchisee shall be subject to the same insurance requirements set forth herein. A copy of the liability insurance certificate or proof of self insurance must be on file with the City Clerk.
- (b) To the extent any Franchisee installs, constructs, maintains, extends or operates any Facilities in the Right-of-Way, it shall maintain a performance and maintenance bond as set forth in the City's Ordinance relating to the Use and Occupancy of the Public Right-of-Way (codified as Article 5 of Chapter XIII of the Code of the City of Prairie Village, Kansas, and amendments thereto) or as set forth in the Franchise Ordinance of Franchisee. To the extent any Franchisee installs, constructs, maintains, extends or operates any Facilities anywhere else within the City, the City may require a bond in the Franchise when reasonably deemed necessary. A copy of any required bond must be on file with the City Clerk.  
(Ord. 2220, Sec. 1, 2009)

15-409. FRANCHISE APPLICATIONS AND RENEWALS.

- (a) Applications. All applications for a Franchise shall be on forms provided or approved by the City. Any application fee shall be paid prior to processing by the City, unless otherwise agreed to by the City. Upon receipt of a completed application and any applicable fee, the designated city official shall prepare a report and make a recommendation respecting such application to the Governing Body. Each Service subject to a Franchise shall require a separate application.
- (b) Application Fee. An application fee shall be paid at the time of the application in the amount established by the City; provided, the City may agree to defer submission of part or all of the application fee until all costs have been determined. As incurred by the City in drafting, negotiating, adopting, and

publishing the Franchise. Provided, nothing herein shall prevent the City from having any publication or other reasonable costs billed directly to the applicant. Said fee and costs shall not be considered or credited against the collection of applicable Franchise Fees.

- (c) Franchise Renewal. Franchise renewals shall be in accordance with applicable law. The City and any Franchisee, by mutual consent or as otherwise provided in such Franchisee's Franchise, may enter into renewal negotiations. The City may require such Franchisee to update any application information and, subject to Kansas Statute or any provisions in such Franchisee's Franchise, submit an application fee.

(Ord. 2220, Sec. 1, 2009)

- 15-410. **APPLICABILITY**. The provisions of this Code shall apply to the full extent of the terms herein, and said provisions shall be deemed incorporated into each Franchise.

(Ord. 2220, Sec. 1, 2009)

- 15-411. **FEDERAL AND STATE LAW**. The requirements set forth in this Code shall be subject to the provisions of K.S.A. 12-2001 *et seq.*, as may be amended, and any other applicable federal or State law.

(Ord. 2220, Sec. 1, 2009)

- 15-412. **FAILURE TO ENFORCE**. The failure of the City to insist upon the strict adherence to the requirements of this Code or of any Franchise shall not be construed as a waiver or relinquishment for the future of the rights of the City to enforce this Code or any Franchise or any term or provision thereof.

(Ord. 2220, Sec. 1, 2009)

- 15-413. **VIOLATIONS**. Any Entity violating this Code shall be subject to a fine of up to \$500 per day. The payment of such fine notwithstanding, all such violators shall be subject to all other applicable provisions of this Code to fullest extent allowed by law, including, but not limited to, the payment of a Franchise Fee or the equivalent thereof, and indemnification of the City.

(Ord. 2220, Sec. 1, 2009)

- 15-414. **SEVERABILITY**. The provision of this Code shall be liberally construed to effectively carry out its purposes, which are hereby found and declared to be in furtherance of the public health, safety, welfare, and convenience. If any clause, sentence or section of this Code shall be held to be invalid, it shall not affect the remaining provisions of this Code.

(Ord. 2220, Sec. 1, 2009)

**CHAPTER XVI. ZONING AND PLANNING**

- Article 1. City Planning Commission/Board of Zoning Appeals
- Article 2. Zoning Regulations
- Article 3. Subdivision Regulations
- Article 4. Fees
- Article 5. Repealed
- Article 6. Removed
- Article 7. Reserved
- Article 8. Sign Regulations

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**ARTICLE 1. CITY PLANNING COMMISSION/  
BOARD OF ZONING APPEALS**

- 16-101. APPOINTMENT; TERMS; COMPENSATION. There is hereby created a city planning commission which shall consist of seven persons, two of whom may reside outside but within three miles of the city limits. All members of the city planning commission shall be appointed by the mayor, by and with the consent of the city council. The members of the city planning commission first appointed shall serve respectively for terms of one, two and three years, divided equally between the one, two and three years each. Thereafter, members shall be appointed for terms of three years each. Any member failing to attend three consecutive meetings or failing to attend five meetings in any calendar year may be removed by the mayor. Vacancies shall be filled by appointment for the unexpired terms only. Members of the commission shall serve without compensation for their services. (Code 1973, 2.32.010; Ord. 1801, Sec. 3)
- 16-102. MEETINGS; OFFICERS; RECORDS. The members of the city planning commission shall meet at least once a month at such time and place as they may fix by resolution. They shall elect one of their number to serve as chairperson and one as vice-chairperson who shall serve for one year and until their successor has been selected. A secretary shall also be elected who may, or may not, be a member of the commission. Special meetings may be called at any time by the chairperson or in his or her absence by the vice-chairperson. A majority of the commission constitutes a quorum for the transaction of business. The commission shall adopt bylaws for the transaction of business and hearing procedures and shall cause a proper record to be kept of its proceedings. Unless otherwise specifically provided in this code, no action by the planning commission shall be taken except by a majority vote of the membership thereof. (Code 1973, 2.32.020; Ord. 1801, Sec. 4)
- 16-103. SECRETARY; DUTIES. The secretary shall attend all meetings of the planning commission, keep an accurate account of the proceedings of each meeting and shall perform such other duties as the planning commission or the city governing body may require. (Code 1973, 2.32.030; Ord. 1801, Sec. 5)

- 16-104.        **COMPREHENSIVE PLAN.** (a) The planning commission is authorized to adopt or amend by single or successive resolutions a comprehensive plan for the development of the city or parts thereof. In the preparation of such plan, the planning commission shall make or cause to be made comprehensive surveys and studies of past and present conditions and trends relating to land use, population and building intensity, public facilities, transportation and transportation facilities, economic conditions, natural resources, and may include any other element deemed necessary to the comprehensive plan. Such proposed plan, may, in addition to a written presentation, include maps, plats, charts and other descriptive matter, shall show the commission's recommendations for the development or redevelopment of the territory including:
- (1) The general location, extent and relationship of the use of land for agriculture, residence, business, industry, recreation, education public buildings and other community facilities, major utility facilities both public and private and any other use deemed necessary;
  - (2) Population and building intensity standards and restrictions and the application of the same;
  - (3) Public facilities including transportation facilities of all types whether publicly or privately owned which relate to the transportation of persons or goods;
  - (4) Public improvement programming based upon a determination of relative urgency;
  - (5) The major sources and expenditure of public revenue including long range financial plans for the financing of public facilities and capital improvements, based upon a projection of the economic and fiscal activity of the community, both public and private;
  - (6) Utilization and conservation of natural resources; and
  - (7) Any other element deemed necessary to the proper development or redevelopment of the area.
- (b) The planning commission, by an affirmative vote of a majority of its members, may approve the recommended comprehensive plan as a whole by a single resolution or by successive resolutions. Such resolution shall specifically identify any written presentations, maps, plats, charts or other materials made a part of such plan. Before adopting or amending any such plan or part thereof, the planning commission shall hold a public hearing thereon, notice of which shall be published once in the official city newspaper at least 20 days prior to the date fixed for hearing. Upon the approval of any such plan or part thereof, a certified copy of the same, together with a written summary of the hearing thereon, shall be submitted to the governing body of the city. No such plan shall be effective unless approved by the governing body as set forth in this code.
- (c) The planning commission shall at least once each year, and may at any time, review or reconsider the plan or any part thereof and may propose amendments, extensions or additions to the same. The procedure for the adoption of any such amendment, extension or addition to any plan or part thereof shall be the same as that required for the adoption of the original plan or part thereof. The planning commission shall make a report to the governing body regarding the annual review on or before the first day of June each year.
- (Code 1973, 2.32.060; Ord. 1801, Sec. 6)

- 16-105. GOVERNING BODY ACTION ON ADOPTING OR AMENDING THE COMPREHENSIVE PLAN. (a) After receipt of the recommended certified comprehensive plan or together with a written summary of the public hearing thereon from the planning commission, the governing body may:
- (1) Approve such recommendations by ordinance;
  - (2) Override the planning commission's recommendations by a 2/3 majority vote; or
  - (3) May return the same to the planning commission for further consideration, together with a statement specifying the basis for the governing body's failure to approve or disapprove.
- (b) If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefore or submit new and amended recommendations. If the planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly.
- (c) Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by ordinance or it may take no further action thereon.
- (d) An attested copy of the comprehensive plan and any amendments thereto shall be sent to all other taxing subdivisions in the planning area which request a copy of such plan.
- (Code 1973, 2.32.065; Ord. 1801, Sec. 30)
- 16-106. PUBLIC IMPROVEMENTS APPROVAL. (a) Except as provided in subsection (b), whenever the planning commission shall have adopted and certified the comprehensive plan of the community or of one or more major sections or districts thereof, no public improvement, public facility or public utility of a type embraced within the recommendations of the comprehensive plan or portion thereof shall be constructed without first being submitted to and being approved by the planning commission as being in conformity with the plan. If the planning commission does not make a report within 60 days, the project shall be deemed to have been approved by the planning commission. In case the planning commission finds that any such proposed public improvement, facility or utility does not conform to the plan, the commission shall submit in writing the manner in which such proposed improvement, facility or utility does not conform, to the governing body, and such governing body may, overrule the disapproval of the planning commission and the plan for the area concerned shall be deemed to have been amended and the planning commission shall make the necessary changes in the plan to reflect the same.
- (b) Whenever the planning commission has reviewed a capital improvement program and found that a specific public improvement, facility or utility of a type embraced within the recommendations of the comprehensive plan or portion thereof is in conformity with such plan, no further approval by the planning commission is necessary.
- (Code 1973, 2.32.070; Ord. 1801, Sec. 7)

- 16-107. SUBDIVISION REGULATIONS. (a) The city planning commission may adopt and may amend regulations governing the subdivision of land located within the city. Before the adoption of such regulations or any amendments thereto, the planning commission shall cause a notice of a hearing to be held thereon to be published once in the official city newspaper at least 20 days prior to the date of such hearing. No such regulations or changes or amendments thereto adopted by the city planning commission shall become effective unless and until the same have been submitted to and approved by the governing body of the city as provided herein. Such regulations may include, but not be limited to, provisions for the:
- (1) Efficient and orderly location of streets;
  - (2) Reduction of vehicular congestion;
  - (3) Reservation or dedication of land for open spaces or for payment of a fee in lieu of such dedication;
  - (4) Off-site and on-site public improvements;
  - (5) Recreational facilities which may include, but are not limited to, the dedication of land area for park purposes or for payment of a fee in lieu thereof;
  - (6) Flood protection;
  - (7) Building lines;
  - (8) Compatibility of design; and
  - (9) Any other services, facilities and improvements deemed appropriate.
- Such regulations may provide that in lieu of the completion of such work or improvements prior to the final approval of the plan, the governing body may accept a corporate surety bond, cashier's check, escrow account or other like security in an amount to be filed by the governing body and conditioned upon the actual completion of such work or improvements within a specified period, in accordance with such regulations and the governing body may enforce such bond by all equitable remedies.
- (b) The planning commission shall prepare its recommendations and by an affirmative vote of a majority of the entire membership of the commission adopt the same in the form of proposed subdivision regulations and shall submit the same, together with a written summary of the hearing, thereon to the governing body.  
(K.S.A. 12-3015; Code 1973, 2.32.080; Ord. 1801, Sec. 8)
- 16-108. GOVERNING BODY ACTION ON SUBDIVISION REGULATIONS. (a) Upon receipt of proposed subdivision regulations or amendments thereto, the governing body either may:
- (1) Approve such recommendations by ordinance;
  - (2) Override the recommendations by a 2/3 majority vote; or
  - (3) Return the same to the planning commission for further consideration.
- (b) If the governing body returns the planning commission's recommendations, the planning commission, after considering the same, may resubmit its original recommendations giving the reasons therefore or submit new and amended recommendations. If the planning commission fails to deliver its recommendations to the governing body following the planning commission's next regular meeting after receipt of the governing body's report, the governing body shall consider such course of inaction on the part of the planning commission as a resubmission of the original recommendations and proceed accordingly.



- (c) Upon the receipt of such recommendations, the governing body, by a simple majority thereof, may adopt or may revise or amend and adopt such recommendations by ordinance or it may take no further action thereon.  
(Ord. 1801, Sec. 31)
- 16-109. PLATS. (a) The owner or owners of any land located within the area governed by regulations subdividing the same into lots and blocks or plats and parcels for the purpose of laying out any subdivision, suburban lots, building lots, tracts or parcels or any owner of any land establishing any street, alley, park or other property intended for public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto, shall have a plat drawn as may be required by subdivision regulations. Such plats shall accurately describe the subdivision, lots, tracts or parcels of land giving the location and dimensions thereof and the location and dimensions of all streets, alleys, parks or other properties intended to be dedicated to public use or for the use of purchasers or owners of lots, tracts or parcels of land fronting thereon or adjacent thereto and every such plat shall be verified by the owner or owners thereof. All such plats shall be submitted to the city planning commission.
- (b) The planning commission shall determine if the plat conforms to the provisions of the subdivision regulations. If such determination is not made within 60 days after the first meeting of such commission following the date of the submission of the plat to the secretary thereof, such plat shall be deemed to have been approved and a certificate shall be issued by the secretary of the planning commission upon demand. If the planning commission finds that the plat does not conform to the requirements of the subdivision regulations, it shall notify the owner or owners of such fact. If the plat conforms to the requirements of such regulations there shall be enforced thereon the fact that it has been submitted to and approved by the city planning commission.
- (c) The governing body may establish a scale of reasonable fees to be paid in advance to the secretary of the planning commission by the applicant for approval for each plat filed with the planning commission.
- (d) The governing body shall accept or refuse the dedication of land for public purposes within 30 days after the first meeting of the governing body following the date of the submission of the plat to the clerk thereof. The governing body may defer action for an additional 30 days for the purpose of allowing for modifications to comply with the requirements established by the governing body. No additional filing fees shall be assessed during that period. If the governing body defers or refuses such dedication, it shall advise the planning commission of the reasons therefore.
- (e) No building permit shall be issued for the construction of any structure upon any lot, tract or parcel of land located within the area governed by the subdivision regulations that has been subdivided, resubdivided or replatted after the date of the adoption of such regulations by the governing body but which has not been approved in the manner provided by this act and the register of deeds shall not file any plat as provided by law until such plat shall bear the endorsement hereinbefore provided and the land dedicated for public purposes has been accepted by the governing body.  
(Code 1973, 2.32.100; Ord. 1801, Sec. 9)
- 16-110. MAJOR STREET SYSTEM. Whenever the city has a part of its comprehensive plan adopted, a plan for its major street or highway system, after consultation with the

Secretary of Transportation and the county engineer and any planning commission of the county or counties within which such system lies, the governing body of the city is authorized and empowered to establish building or setback lines on such existing and proposed major streets or highways and to prohibit any new building being located within such building or setback lines within the plat approval jurisdiction of the city. Such ordinance may incorporate by reference an official map, which may include supplementary documents, setting forth such plan which shall show with reasonable survey accuracy the location and width of existing or proposed major streets or highways and any building or setback lines. The governing body of the city shall provide for the method by which this section shall be enforced; provided, that such official map shall not be enforced until after a certified copy of such map and adopting ordinance shall have been filed with the register of deeds of the county or counties in which such system lies. The board of zoning appeals shall have power to modify or vary the building restrictions herein authorized in specific cases, in order that unwarranted hardship, which constitutes a complete deprivation of use as distinguished from merely granting a privilege, may be avoided, yet the intended purpose of the regulations shall be strictly observed and the public welfare and public safety protection; provided, however, that the setback regulations or official map shall not be adopted, change or amended by the governing body until a public hearing has been held thereon by the governing body. A notice of the time and place of such hearing shall be published in the official city paper at least 20 days prior to the hearing. The powers of this section shall not be exercised so as to deprive the owner of any existing property of its use or maintenance for the purpose to which it is then lawfully devoted. (Code 1973, 2.32.110; Ord. 1801, Sec. 10)

16-111. SAVING CLAUSE. Any comprehensive plan or part thereof, subdivision regulations, zoning regulations or building or setback lines adopted by the governing body or planning commission prior to January 1, 1992, and which are consistent with the provisions of K.S.A. 12-740 et seq., shall continue in force and effect the same as through adopted under the provisions of K.S.A. 12-740 et seq. until the same is modified or a new comprehensive plan or part thereof, subdivision regulations or building or setback lines are adopted under such act. (Code 1973, 2.32.120; Ord. 1801, Sec. 11)

16-112. BOARD OF ZONING APPEALS. The planning commission is hereby designated to also serve as the city's board of zoning appeals with all the powers and duties as provided for in K.S.A. 12-759. The board shall adopt rules in the form of bylaws for its operation which shall include hearing procedures. Such bylaws shall be subject to the approval of the governing body. Public records shall be kept of all official actions of the board which shall be maintained separately from those of the commission. The board shall keep minutes of its proceedings showing evidence presented, findings of fact, decisions and the vote upon each question or appeal. A majority of the board of zoning appeals membership at the hearing shall be required to decide any appeal. Subject to subsequent approval of the governing body, the board shall establish a scale of reasonable fees to be paid in advance by the appealing party. (Code 2003)

**ARTICLE 2. ZONING REGULATIONS**

16-201. ZONING REGULATIONS INCORPORATED. There are hereby incorporated by reference as if set out fully herein, the zoning regulations as adopted by the governing body and prepared by Butcher, Willis and Ratliff and entitled, "Zoning Regulations of the City of Prairie Village, Kansas." No fewer than three copies of the zoning regulations, marked "Official Copy as Incorporated by the Code of the City of Prairie Village" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable business hours. (Ord. 1882, Secs. 1:3; Code 2003)

**ARTICLE 3. SUBDIVISION REGULATIONS**

16-301. REGULATIONS INCORPORATED. There are hereby incorporated by reference, as if set out fully herein, certain regulations governing the subdivision of land located within the city and certain surrounding area as described therein, as adopted by the governing body of the city and prepared by Butcher, Willis and Ratliff. No fewer than three copies of the subdivision regulations marked "Official Copy as incorporated by the Code of the City of Prairie Village" and to which there shall be a published copy of this section attached, shall be filed with the city clerk to be open for inspection and available to the public at all reasonable hours. (Ord. 2037, Secs. 1:3; Code 2003)

**ARTICLE 4. FEES**

- 16-401. BOARD OF ZONING APPEALS; FEES; DEPOSIT; REFUND. The board of zoning appeals shall require the payment to the secretary of the board by the party appealing, at the time of filing notice of appeal, the sum of \$75 as a deposit to cover expenses incurred for preparation, publication and mailing of notices, and any other expense incurred by the board in connection with such appeal. If the secretary believes that the sum will be or find the sum is inadequate under the circumstances, he or she shall by mailed notice require appropriate additional deposit. Failure to make the deposit herein required or any additional deposit required hereunder, shall preclude any action or further action by the board relating to the appeal until the same is paid. Any funds not required to cover such expense shall upon disposition of the appeal by the board or withdrawal of the appeal be returned to the depositor. (Ord. 1673, Sec. 1)
- 16-402. SIGN PERMIT FEE. Except as provided herein, or as may be provided by other ordinance or resolution of the city, it shall be unlawful for any person to erect, install, alter, move or replace any new or existing sign or signage without first obtaining a permit and paying a fee as adopted by the governing body and on file in the office of the city clerk. A permit is not required for ordinary maintenance and repair of a sign. (Ord. 1669, Sec. 1; Ord. 1813, Sec. 1)
- 16-403. SHORT TERM SPECIAL USE PERMIT FEE. The governing body will adopt a fee charged to the applicant for each short-term special use permit. The fee will be on record in the office of the city clerk. (Ord. 1674, Sec. 1; Ord. 1766, Sec. 2)
- 16-404. SPECIAL USE PERMIT; REZONING FEE. A fee adopted by the governing body and on file in the office of the city clerk shall accompany each application for amendment or special use permit, except as provided by zoning regulation. In addition, the applicant is obligated to pay all costs incurred by the city, including publication costs, consultant's charges for plan review, court reporter costs and cost of the original transcript of the hearing of the planning commission and 18 legible copies of the same. Simultaneously with the fee adopted by the governing body and on file in the office of the city clerk, the applicant shall accompany each application with a cost adopted by the governing body and on file in the office of the city clerk to be used by the city to pay for such costs. If the costs are less than those established by the governing body and on file in the office of the city clerk, the city shall refund the difference to the applicant. If the costs are more than those adopted by the governing body and on file in the office of the city clerk, the city shall so notify the applicant who is obligated to pay such excesses forthwith. (Ord. 1671, Sec. 1; Ord. 1813, Sec. 1)

**ARTICLE 5. REPEALED**  
ORD. 2163, SEC. 1, 2008

**ARTICLE 6. REMOVED**  
**Moved to Chapter XIV, Article 3**  
**(Ord. 2169, Sec. 13, 2008)**

**ARTICLE 7 (Reserved)**



**ARTICLE 8. SIGN REGULATIONS**

- 16-801.       REGULATIONS GENERALLY. Signs shall be permitted in the various districts in accordance with the following regulations which shall apply to all signs that are visible from beyond the lot line. Signs not authorized by the provisions of this article are prohibited. (Ord. 2004, Sec. 2, 2001; Ord. 2138, Sec. 2, 2006)
- 16-802.       PURPOSE. It is determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services, and facilities without difficulty and confusion; to prevent wasteful use of natural resources in competition among businesses for attention; to prevent hazards to life and property; to avoid visual clutter; to assure the continued attractiveness of the community and protect property values. (Ord. 2004, Sec. 2, 2001; Ord. 2138, Sec. 2, 2006)
- 16-803.       DEFINITIONS.
- (a) Awning Sign. A sign that is mounted on, painted on, or attached to an awning.
  - (b) Bulletin Board Sign. A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
  - (c) Business Sign. A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located, or to which it is affixed.
  - (d) Identification Sign. A sign giving the name and address of a building, business, development or establishment. Such signs maybe wholly or partly devoted to a readily recognized symbol.
  - (e) Monument Sign. Any sign placed upon, or supported by, the ground independent of the principal building or structure on the property and is constructed with permanent building materials.
  - (f) Name Plate Sign. A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.
  - (g) Off-Site Sign. A sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial message, which is generally conducted, sold, manufactured, produced, offered or occurs elsewhere than on the premises where such sign is located.
  - (h) On-Site Sign. A site that is other than an off-site sign.
  - (i) Pole Sign. Any sign placed upon, or supported by, the ground independent of the principal building or structure on the property where the bottom edge of the sign is more than five feet above the ground level.
  - (j) Portable Sign. Any sign that is not permanently affixed to a building, structure, or the ground.
  - (k) Projecting Sign. A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.

(l) Real Estate Sign. A sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one more structures, or a portion thereof on which the sign is located.

(m) Temporary Sign. A sign that is intended for a temporary period of posting on public or private property, and is typically constructed from nondurable materials, including paper, cardboard, cloth, plastic and/or wall board and does not constitute a structure subject to the City’s Building Code and Zoning provisions.

(n) Wall Sign. A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building. Wall signs shall not project above the top of the wall on which the sign is attached.

(Ord. 2004, Sec. 2, 2001; Ord. 2138, Sec. 2, 2006)

16-804. PROHIBITED SIGNS. All signs not expressly permitted within this article or exempted herein are prohibited in the city. Such prohibited signs include, but are not limited to:

- (a) Animated Signs;
- (b) Awning Signs;
- (c) Digital Readout or Electronic Graphic Signs;
- (d) Flashing or Blinking Signs;
- (e) Off-Site Signs;
- (f) Pole Signs;
- (g) Portable Signs;
- (h) Projecting Signs;
- (i) Roof Signs;
- (j) Rotating Signs;
- (k) Signs attached to any tree, fence or utility pole except warning signs issued and properly posted by that utility company.

(Ord. 2004, Sec. 2, 2001; Ord. 2138, Sec. 2, 2006)

16-805. REGULATIONS APPLICABLE TO ALL DISTRICTS.

- (a) Sign Permit.
  - (1) Except as provided herein, or as may be provided by other ordinances or resolutions of the city, it shall be unlawful for any person to erect, install, alter, move or replace any new or existing sign or signage without first obtaining a permit and making payment of the sign permit fee as established in the city fee schedule on file in the City Clerk’s Office. A permit is not required for ordinary maintenance and repair of a sign nor is a permit or fee required to post temporary signs.
  - (2) Any person desiring to erect a sign for which a permit is required shall submit to the building official an application upon a form to be provided by the city which shall contain the following information:
    - (A) Name, address, and telephone number of the applicant;
    - (B) Location of building, structure, or lot to which or upon which the sign is to be attached or erected;
    - (C) Position of the sign in relation to nearby building or structures, streets and sidewalks;

- (D) Drawing of sign and specifications describing the sign;
  - (E) Length of time that sign will be displayed;
  - (F) Written consent of the owner of the building, structure or land to which or on which the sign is to be erected;
  - (G) Such other information as the building official shall require to show full compliance with this and all other laws and ordinances of the city.
- (3) It shall be the duty of the building official upon filing of an application for a sign permit, to review the application and to conduct such other investigation as is necessary to determine the accuracy of the application. If it shall appear that the applicant has provided the information requested in the application and that said information is accurate and that the proposed sign when placed will comply with the ordinance of the city, (s)he shall issue a sign permit.
  - (4) If the building official determines that the proposed sign is not in compliance with all requirements of this chapter or any other laws and ordinances of the city, (s)he shall not issue the requested permit and shall advise the applicant of the right to appeal as set out in Section 19.54.025.
  - (5) All rights and privileges acquired under the provisions of this chapter or any amendments thereto, are revocable at any time by the city for cause, and all such permits shall contain this provision.
- (b) Exceptions. A permit as provided for in section 16-805(a) of this chapter shall not be required to erect, install, alter, move or replace the following signs:
    - (1) Street markers, traffic sign and other appropriate signs displayed by the city or other governmental subdivision;
    - (2) Temporary signs;
    - (3) Name plate signs for single family dwellings;
    - (4) Any sign required by the City's Building or Fire Codes for purposes of premises identification.
  - (c) Aesthetic Considerations. All permanent signs shall be well constructed of permanent materials and shall be constructed with similar materials as used in other buildings on the site.
  - (d) Obstruction of Exits. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape.
  - (e) Traffic Hazards. No sign shall be constructed at the intersection of any street in such a manner as to obstruct the free and clear vision of motorists, or any location where, by reason of the position, shape or color, said sign may interfere with, obstruct the view or be confused with any authorized traffic sign, signal or device.
  - (f) Certain Devices and Displays.
    - (1) Movement or the illusion of movement, flashing of lights or reflectors, likeness of human or animal forms, or searchlights are prohibited.
    - (2) Permanent banners may be allowed as an architectural or decorative accessory in shopping centers and other developments provided they are generally uniform throughout the project, and are in harmony with the architectural theme of the development. No such banners shall be installed unless their location and design have first been approved by the Planning Commission.

- (g) Unsafe and Unlawful Signs. If the building official or his/her representative find that any sign regulated herein is unsafe or insecure, or is a menace to the public, or, has been constructed or erected, or is being maintained in violation of the provisions of this chapter, (s)he shall give written notice to the owner of the structure, lot or parcel upon which the sign is installed. If the permittee fails to remove or alter the sign so as to comply with the standards herein set forth within 48 hours after such notice, such sign may be removed or altered to comply by the building official at the expense of the permittee or owner of the property upon which it is located, and the permit shall be revoked. The building official shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The building official may cause any sign, which is an immediate peril to persons or property to be removed summarily and without notice.
- (h) Public Property. Unless otherwise permitted in this Chapter, no sign shall be placed within a public street right-of-way, public park or other public property, or on a utility pole, except that wall-mounted signs may protrude not more than eight inches into a public street right-of-way if the sign is nine feet or more above the sidewalk or the grade abutting said wall. A permanent identification sign for a subdivision or other residential project may be located on street right-of-way if approved as required in section 16-806(e).
- (i) “For Sale Signs.” Only one “For Sale” sign shall be permitted for each project that is being offered for sale in a non-residential area. For purposes of this article, a project shall mean a parcel of property which is uniformly owned or controlled by one person or legal entity, regardless of the size of the parcel and regardless of how many lots or improvements exist on the parcel and whether or not the parcel is divided by one or more public streets. Said sign shall not exceed sixteen (16) square feet in area per face, shall not have more than two faces, and shall not exceed a height of five feet. Such sign shall be located so as to relate to and complement permanent monument signs and be integrated into the landscape features of the site. Such a sign may be posted for a period of up to ninety (90) days, at which time the sign shall be removed or replaced. Any such sign and any supporting or supplemental structures shall be maintained in good condition, adjacent land areas “shall be kept free of weeds and debris, and a neat appearance shall be maintained at all times. The responsibility for such maintenance shall be with the project owner served by said sign.
- (j) Type of Lettering and General Design Allowed.
- (1) The lettering and general design of all signs or signage shall be simple and straightforward. “General design” shall include the background panel, case or cabinet upon which the sign text is located.
  - (2) Exceptions to the above restrictions are all internationally recognized health and safety symbols. Other exceptions are medical, religious, and fraternal organization identifications and governmental seals and logos.

- (3) Logos may be incorporated into a sign and will be subject to all regulations governing signs and be included within the square footage allotments.
- (4) All existing signs affected by the above restrictions shall conform to these restrictions whenever the existing signs are modified, altered, moved or replaced.
- (k) Service stations shall be permitted the following signs:
  - (1) One illuminated or non-illuminated detached post-supported or monument sign may be permitted. Such sign shall not be closer than 50 feet to any boundary of a district, R-1a to C-0 inclusive, and shall not be located in the street right-of-way. Such sign shall not exceed 10 feet in height above the average grade of the lot, and further, shall not exceed 70 square feet in area per face. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three feet on all sides of the sign base. If illuminated, the lighting shall be arranged so that no glare extends to land within Districts R-1a to C-0 inclusive.
  - (2) No more than two illuminated or non-illuminated signs that display fuel prices shall be permitted. Such signs may be detached or wall-mounted but shall not exceed 15 square feet each.
  - (3) Each fuel pump island may have a sign on each end identifying if that island is “full service” or “self-service.” If the service station is completely self-service, a maximum of two “self-service” signs shall be permitted. These signs shall not exceed four square feet in area each.
  - (4) A maximum of two non-illuminated signs displaying credit card information shall be permitted. Such signs shall not exceed one square foot each.
  - (5) Fuel pumps may display signs indicating only the type and brand name of fuel, in addition to signs required by law which shall be of minimum size and quantity.
  - (6) An additional non-illuminated signs not to exceed six square feet in area shall be allowed and may be placed on each side of the pump island canopy.
- (l) Temporary Signs.
  - (1) Purpose and Findings.

The City of Prairie Village is enacting this Ordinance to establish reasonable regulations for the posting of informational signs on public and private property.

Temporary Signs left completely unregulated, can become a threat to public safety as a traffic hazard, a detriment to property values as an aesthetic nuisance.

By implementing these regulations, the City intends to:

    - (A) balance the rights of individuals to convey their messages through temporary signs and the right of the public to be protected against the unrestricted proliferation of signs;
    - (B) further the objectives of the City’s comprehensive plan;

- (C) protect the public health, safety and welfare;
  - (D) reduce traffic and pedestrian hazards;
  - (E) protect property values by minimizing the possible adverse effects and visual blight caused by signs;
  - (F) promote economic development; and
  - (G) ensure the fair and consistent enforcement of the temporary sign regulations specified in the following.
- (2) Regulations. Temporary signs may be posted on property in all Zoning Districts of the City, subject to the following requirements:
- (A) The total square footage for temporary signs in any district, in the aggregate, shall not exceed forty-eight (48) square feet, with no individual sign exceeding sixteen (16) square feet. The total square footage of a sign is measured to include all of the visible display area of only one side of the sign and only the area of one side of a double sided sign is included in the aggregate calculation.
  - (B) Signs shall not exceed five (5) feet in height measured from the average grade at the base of the sign.
  - (C) No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard.
  - (D) No sign shall be illuminated or painted with light-reflecting paint.
  - (E) A sign shall only be posted with the consent of the property owner or occupant. Signs posted in the public right-of-way may only be posted with the permission of the abutting property owner.
  - (F) A temporary sign may be posted for a period of up to ninety (90) days, at which time the sign shall be removed or replaced.
  - (G) Signs shall not be posted on trees, utility poles, and other similar structures within the rights-of-way.
- (3) Removal or Replacement of Informational Signs:
- (A) The person who has posted or directed the posting of the sign is responsible for the removal or replacement of that sign.
  - (B) If that person does not remove or replace the sign in accordance with these regulations, then the property owner or occupant of the building or lot where the sign is posted is responsible for the sign's removal or replacement.
  - (C) "If the Building Official finds that any sign is posted in violation of these regulations on public property, the Building Official is authorized to remove any such signs. If the Building Official finds that any sign posted in violation of these regulations on private property, (s)he shall give written notice to the person who has posted or directed the posting of the sign. If that person fails to remove or replace the sign so as to comply with the standards herein set forth within seventy-two (72) hours after such notice, such sign may be removed by the Building Official."
- (m) Monument Signs. Monument signs shall not exceed five feet in height above the average grade of the base and shall not exceed 20 square feet in area per face; shall be placed on private property, not closer than three feet to the property line

or 12 feet from the back of curb of the street and shall be landscaped at the base. All monument signs shall be constructed with permanent building materials that are similar to or complement existing building materials and colors used on the buildings located in the site. If the sign is not located within the landscape setback area, the sign base shall be located with a landscaped area extending a minimum of three feet on all sides of the sign base and a landscape plan shall be submitted for approval. All monument signs including the landscape plan shall be reviewed and approved by the Planning Commission based on the above requirements prior to obtaining a permit and being installed.

(n) Sign Area Calculations.

- (1) Monument Signs. The area shall include the sign panel but not the sign base on which it is mounted or the structural elements or frames that form the perimeter of the panel.
- (2) Wall Signs. If the wall sign is contained within a panel, the sign area calculation shall be the area of the panel. If the sign consists of individual letter, symbols or words, either painted or mounted on the wall, the area shall be the smallest rectangular figure that can encompass all of the letters, words, logos or symbols.
- (3) Band Signs. The area of a band sign shall be the width of the band times the outside extremities of the letters, words, logos or symbols contained within the band.

(o) Setback.

All signs shall setback a minimum of twelve (12) feet from the back of curb and five (5) feet from any adjacent side or rear property line.

(p) Obscene Materials.

Obscene signs, flags, banners, or any sign of any type are prohibited. "Obscene" is defined as any material that (a) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(q) Substitution of Messages.

Subject to the landowner's consent, a noncommercial message of any type may be substituted for any duly permitted or allowed commercial message or any duly permitted or allowed noncommercial message, provided that the Sign of Sign Structure is legal without consideration of message content. This substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not create a right to increase the total amount of signage on a parcel or land use, nor does it affect the requirement that a sign structure or mounting device be properly permitted. This provision does not allow for the substitution of an offsite commercial message in place of an onsite commercial message.

(Ord. 2004, Sec. 2, 2001; Ord. 2138, Sec. 2, 2006)

- 16-806. REGULATIONS APPLICABLE TO DISTRICTS R-1a THROUGH R-4 INCLUSIVE. No sign may be constructed, erected, or displayed in districts zoned R-1a through R-4 inclusive, except as provided in the this section.
- (a) Public Churches, Synagogues, Schools, and Community Buildings.
- (1) Churches, synagogues, private or public schools, community center buildings, libraries, art galleries, and museums shall be allowed not more than two signs identifying the premises and activities provided therein. Such signs may either be wall mounted or and may be illuminated provided the source of illumination shall not be visible from off the premises. Wall signs shall not exceed five percent of the total area of the facade of the building, on which it is attached and in no event shall exceed 50 square feet in area. Such signs shall be of a design, location and size as to be in harmony with the neighborhood and the building served as determined by the building official. No such sign shall be constructed, installed or replaced until plans have been reviewed and approved by the planning commission and a building permit issued therefore. The copy on the sign may be changed from time to time provided that the design of the sign is not changed from that approved by the Planning Commission.
- (2) In addition to the signs permitted in paragraph 1 above, schools are permitted to display an award sign. The award sign may be either a monument sign or wall mounted sign; however, the sign face for wall mounted signs shall not exceed five percent of the total area of the façade of the building on which it is attached, but in no event shall exceed 50 square feet in area and for monument signs, the sign face shall not exceed 20 square feet in area. Said monument sign shall not exceed five feet in height and shall not be constructed, installed or replaced until plans have been reviewed and approved by the Planning Commission and a building permit issued. There shall be no more than two wall signs or two monument signs with no more than a total of three signs.
- (b) One or more signs which are for the sole purpose of identifying a subdivision or  
a  
residential project may be permitted under the following standards and procedures:
- (1) Detailed plans of the sign and any supporting or supplemental structure shall be submitted for planning commission review. If approved, a construction permit may be procured from the building official and all details of the approved plans and any conditions included by the commission shall be met. Subdivision signs are encouraged to be designed in accordance with the guidelines adopted by the Planning Commission;
- (2) Only the proper name of the subdivision or residential project shall be on the sign; provided, however, that the planning commission may approve further language or information it deems appropriate;
- (3) The sign and any supporting or other supplemental structure may be on private property or on public right-of-way provided the planning



commission shall first determine that a location on public right-of-way will not create a traffic hazard, maintenance problem, nuisance or other condition adverse to the public interest;

- (4) Walls, fences and other architectural features may be used to supplement said signs provided that traffic hazards, maintenance problems or other conditions which may be adverse to the public interest are not present;
- (5) Any such sign and any supporting or supplemental structures shall be maintained in good condition, adjacent land areas kept free of weeds and debris, and a neat appearance displayed at all times. The responsibility for such maintenance shall be with the homeowners' association or the project owner served by said sign, the name, address and phone number of the responsible officer being kept on file in the building official's office. The planning commission may, if long-term maintenance responsibilities are a concern, require that surety, acceptable to the city council, be deposited with the city. The surety amount is to be equal to not less than the cost of one year's maintenance plus the cost of demolition and removal if such action is deemed by the city council to be in the public interest.
- (6) Signs and supporting structure may be illuminated provided the source of illumination shall not be visible from a public street or from any dwelling that is part of said subdivision or project.
- (7) The design, shape, sizes and location of such signs and accompanying structure shall be in harmony with the neighborhood and the project that is served. Materials, lettering style, colors and size shall present a dignified appearance and be such that long term maintenance can be readily and economically accomplished.

(Ord. 1952, Sec. 1, 1998; Ord. 2004, Sec. 2, 2001; Ord. 2138, Sec. 2, 2006)

- 16-807. REGULATIONS APPLICABLE TO DISTRICTS C-0, C-1, C-2, AND C-3. No sign may be constructed, erected, or displayed in districts zoned C-0, C-1, C-2, and C-3 inclusive, except as provided in this section.
- (a) Signs shall be permitted for uses permitted in Districts R-1a through R-4 inclusive in accordance with the regulations established therefore in section 16-806.
  - (b) One illuminated or non-illuminated wall-mounted sign shall be permitted on each principal facade of each building or each shop or office therein provided that the total area of such sign shall not exceed five percent of the total area of the facade of each building or each shop upon which it is mounted and in no event shall such area exceed 50 square feet. Facade shall mean that portion of the building's wall, which is contiguous with the tenant's gross leasable floor area.
  - (c) Monument signs; where allowed.
    - (1) In the case of a building which is not a part of a "shopping center, office park or other grouping" as defined in subsection (1) below, and which is occupied by a single tenant, one monument sign may be permitted in lieu of one of the wall signs permitted in subsection (b) above.

- (2) In the case of a “shopping center, office park or other grouping” as defined in subsection (3) below, and which is occupied by more than one tenant, one detached monument sign of may be permitted in addition to the wall-mounted signs permitted in subsection (b) above. Said sign shall depict only the name and address of the center or grouping of shops or offices and may include an additional line of text that describes services.
- (3) Where all tenants and/or property owners within a building or “shopping center, office park or other grouping” as defined in subsection (1), agree in writing, one tenant may, in lieu of the wall sign permitted in subsection (e) above, have one detached monument sign depicting his business or product. The design and location of this sign shall be in accordance with subsection (c)(2) and shall be subject to approval of the planning commission.

All of the above detached signs shall conform to the following:

Such sign shall not be closer than 50 feet to any boundary of a District R-1a to R-4 inclusive. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three feet on all sides of the sign base. If internally illuminated, the background panel shall be opaque with only the lettering illuminated. If flood lighted, the lighting shall be shielded so that the source is not visible.

- (d) Where canopies are permitted, one sign not to exceed three square feet in area and allowing at least seven feet six inches clearance above the sidewalk shall be securely attached to the canopy and an additional sign not to exceed three square feet may be mounted on the facade beneath the canopy.
- (e) Buildings Under Construction. One non-illuminated sign of not more than 80 square feet in area, inclusive, shall be permitted for each building during its construction, provided, that said sign shall be removed upon completion of the building.
- (f) New Subdivisions or Developments. One non-illuminated sign of not more than one eighty (80) square feet in area shall be permitted for each new subdivision or development project; provided, that the permit shall be issued for a period of not more than one year.
- (g) Off-Street Parking or Loading Facilities. One illuminated or non-illuminated sign with a maximum area of 10 square feet shall be permitted at each entrance to off-street parking or loading facility to identify such facility and present any regulations governing the use thereof.
- (h) Non-illuminated Signs Mounted Against Face of Building. In cases where non-illuminated signs are to be mounted flat against the face of the building, such signs shall not protrude more than three inches from the face of the building and shall not extend above the height of the wall on which it is mounted.
- (i) Regulations Pertaining to Illuminated Signs.
  - (1) There shall be no exposed incandescent or neon or other tube-type lights; provided, that indirect flood lighting shall be permissible.
  - (2) There shall be no flasher-type lighting.
  - (3) If required to be mounted flat against the face of the building, such sign shall not protrude more than eight inches from the face of the building and shall not extend above the height of the wall upon which it is mounted.

- (4) Signs conveying the impression of movement through flashing lights or signs that fluctuate in light intensity shall be prohibited.
- (j) Private Sign Standards Applicable to Office Parks, Shopping Centers, Multi-Tenant Buildings and Planned Business Districts. In the case of a proposed office park, shopping center or other grouping of three or more tenants or establishments (new or remodeled), the developer or owner shall prepare and submit to the planning commission a set of sign standards for all permanent exterior signs. Such standards shall run with all leases or sales of portions of the development. A full and accurate description of all signs shall be included indicating location, placement, materials, graphic design styles, type of illumination, etc. The standards shall generally be within the regulations set out in the codes of Prairie Village; however, the planning commission may approve standards that are unique to a particular development provided that they result in an the or better development. Final development plans or sign permits shall not be approved until the planning commission has approved the sign standards. For purposes of this section the terms “shopping center, office park, or their groupings,” shall mean a project of one or more buildings that has been planned as an integrated unit or cluster of units on property under unified control or ownership. The sale, subdivision, or other partition of the site does not exempt the project or portions thereof from complying with these regulations.
- (k) A time and temperature device, mounted on a building, may be allowed in lieu of one of the above permitted wall or detached signs. The design, size, materials and illumination of such device shall be compatible and in harmony with the building and the degree and type of illumination shall be at such levels as to not unduly detract from traffic safety devices or have adverse effects on nearby residences or places of business. All such time and temperature devices hereafter installed shall be reviewed by the planning commission and approved prior to a permit being issued.
- (l) Certain Devices and Displays.
- (1) Exposed neon tubing shall meet the following conditions:
- (A) Exposed neon tubing may not be placed on any exterior facade of a building.
- (B) Exposed neon tubing may be place on the interior of any windows, doors, or on any interior wall.
- (C) Existing exposed neon tubing signs declared to be nonconforming shall be removed within two years of the effective date of this article.
- (2) Unless otherwise prohibited, signs may be displayed inside windows or doors and the area of such signage shall be in addition to that permitted on the exterior facade, but the aggregate area of all signs within 48 inches of a window or door shall not exceed 20 percent of the window and door area.
- (m) Semi-Permanent Leasing Signs. Only one semi-permanent “For Lease” sign shall be permitted for the purpose of advertising the on-going leasing activities of each Project that is being offered for lease in a non-residential area. For purposes of this article, a “Project” shall mean a parcel of property which is uniformly owned or controlled by one person or legal entity, regardless of the size of the parcel and regardless of how many lots or improvements exist on the parcel and whether or not the parcel is divided by one or more public streets. The

sign area shall not exceed 20 square feet per face, shall not have more than two faces, and shall not exceed a maximum height of five feet. The sign shall be located so as to relate to and complement permanent monument signs and be integrated into the landscape features of the site. Any such sign and any supporting or supplemental structures shall be maintained in good condition, adjacent land areas shall be kept free of weeds and debris, and a neat appearance shall be maintained at all times. The responsibility for such maintenance shall be with the project owner served by said sign. In lieu of a separate leasing sign, said leasing sign may be combined with the project monument sign and the monument sign may be increased to 30 square feet per face.

- (n) If the property is both for lease and for sale, the information shall be combined so that in addition to the permanent monument sign, only one additional sign which complies with all requirements as set forth in sections 16-805(l) and 16-807(m) shall be placed on the project site.
- (o) Where one retail establishment (the "sub-tenant") leases space and conducts business within another retail establishment (the "primary tenant") but does not have an exterior business facade and an exterior door leading directly to the sub-tenant space, one exterior wall sign may be permitted for the sub-tenant if the following conditions are met:
  - (1) The sub-tenant's business establishment occupies at least 100 square feet of floor area, and is staffed and open for business during predetermined hours.
  - (2) The primary tenant's business establishment occupies at least 25,000 square feet of floor area.
  - (3) The sub-tenant's business is a separate legal entity from the primary tenant's business, as opposed to a department, division or subsidiary of the primary tenant's business.
  - (4) A sign criteria for the building or shopping center has been submitted to and approved by the planning commission which specifically provides for sub-tenant signage, including standards for the sign location, size, style, color and content.  
Such sign criteria shall include scale drawings of the facades of all primary tenants where sub-tenant signs are authorized showing the permitted locations for sub-tenant signs.
  - (5) The total area for all signs on the same facade does not exceed the allowable signage area for that district.
  - (6) The provisions of this section for sub-tenant signs shall not apply to businesses within an enclosed shopping mall or to businesses that are conducted primarily by automated machines.

(Ord. 1955, Secs. 2:3, 1998; Ord. 2004, Sec. 2, 2001; Ord. 2138, Sec. 2, 2006)

- 16-808. PROHIBITION OF NONCONFORMING SIGNS. All existing nonconforming signs which exist at the time of adoption of this amendment may remain and further provided that no changes in the basic structure, source of illumination, location of appearance shall be made in such signs and further provided that if the business to which the sign is related should move to another site, which move, in the opinion of the building official, creates in effect an off-site advertising sign, then such device

shall be removed or otherwise brought into full conformance with this title. (Ord. 2004, Sec. 2, 2001; Ord. 2138, Sec. 2, 2006)

## APPENDIX A - CHARTER ORDINANCES

NOTE: The charter ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, publication clauses and signatures have been omitted to conserve space. Complete copies of each charter ordinance as adopted are on file in the office of the city clerk and with the Kansas secretary of state. Date of passage by the governing body of each charter ordinance is shown in parentheses at the end of the text.

### CHARTER ORDINANCE NO. 890

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 13-819 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE POLICE JUDGE PRO TEMPORE. (Repealed by C.O. No. 4)

### CHARTER ORDINANCE NO. 896

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM SECTION 13-513 AND SECTION 13-527, OF THE GENERAL STATUTES OF KANSAS, 1949, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE VACANCY IN THE OFFICE OF MAYOR; APPOINTIVE OFFICERS AND EMPLOYEES; TERMS AND SALARIES; VACANCIES AND FILLING VACANCIES.

Section 1. Vacancy in the Office of Mayor; Filling the Vacancy. When any vacancy shall happen in the office of mayor by death, resignation, removal from city, removal from office, or refusal to qualify, the president of the council, or in the case of the mayor-elect's refusal or failure to qualify, the new president of the council shall become mayor until the next regular city election, and a vacancy shall occur in the office of the councilman becoming mayor. Whenever any temporary absence shall happen in the office of mayor, the president of the council for the time being shall exercise the duties of the office of mayor, with all the rights, privileges and jurisdiction of the mayor until the mayor shall return. (3-15-65)

### CHARTER ORDINANCE NO. 3

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM SECTIONS 7, 8 AND 19, CHAPTER 274, SESSION LAWS OF 1968, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, CONCERNING ELECTIONS, DATES OF CITY ELECTIONS, TERMS OF OFFICE AND MATTERS RELATED THERETO. (Repealed by C.O. No. 11)

### CHARTER ORDINANCE NO. 4

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 890 RELATING TO POLICE JUDGE PRO TEMPORE.

Section 1. An ordinance repealing Charter Ordinance No. 890 relating to police judge pro tempore for the reason that it is obsolete. (2-20-73)

### CHARTER ORDINANCE NO. 5

A CHARTER ORDINANCE AMENDING CHAPTER 1, ARTICLE 3, SECTION 1-301, OF THE REVISED ORDINANCES OF PRAIRIE VILLAGE, 1966, ENTITLED "APPOINTIVE OFFICERS' EMPLOYEES" BY

REPEALING SECTION 1-301 AND ENACTING IN LIEU THEREOF A NEW SECTION OF LIKE NUMBER AND SUBJECT. (Repealed by C.O. No. 8)

**CHARTER ORDINANCE NO. 6**

A CHARTER ORDINANCE AMENDING CHARTER ORDINANCE NO. 944 AND SECTION 1.20.010 OF THE PRAIRIE VILLAGE MUNICIPAL, 1973, ENTITLED OFFICIAL CITY NEWSPAPERS, EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 13-1420 PERTAINING TO THE DESIGNATION OF THE OFFICIAL NEWSPAPERS OF THE CITY.

Section 1. Ordinance No. 944 and Title of the Prairie Village Municipal Code, 1973, entitled General Provisions, is hereby amended by amending Section 1.20.010 of Chapter 1.20 entitled Official Newspapers as follows:

1.20.010. Official City Newspaper. The Johnson County Herald and/or the Sun Publications, Inc. are selected and designated as official newspapers of the City of Prairie Village, Kansas. This ordinance exempts the City of Prairie Village, Kansas from K.S.A. 13-1420. (2-3-75)

**CHARTER ORDINANCE NO. 7**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS PERTAINING TO POLICE DEPARTMENT PENSIONS AS CONTAINED IN ARTICLE 13-14a OF CHAPTER 13 OF KANSAS STATUTES ANNOTATED; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND ADOPTING AS AMENDED POLICE PENSION PLAN AND TRUST.

WHEREAS, The governing body of the City of Prairie Village, has adopted by ordinance as amended and revised police pension fund and trust;

WHEREAS, certain provisions of the said revised retirement plan and trust are contrary to the provisions of Chapter 13 of the Kansas Statutes Annotated and it is proper for the City of Prairie Village, Kansas, to exempt itself from said provisions pursuant to the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas.

Section 1. The City of Prairie Village, Kansas, a city of the first class, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself form and make inapplicable to it, the provision of K.S.A. 13-14a01 through and including K.S.A. 13-14a101 as they may apply to a revised policy pension trust and plan which was adopted by the City of Prairie Village, Kansas on the 20th day of October, 1975, by Ordinance No. 1383. (10-20-75)

**CHARTER ORDINANCE NO. 8**

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 5 AS CODIFIED IN SECTION 2.16.010 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, 1973, ENTITLED APPOINTIVE OFFICERS AND EMPLOYEES -- TERMS AND SALARY -- VACANCIES.

Section 1. Repeal. The City of Prairie Village, Kansas, a city of the first class, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby repeals Charter Ordinance No. 5 and Section 2.16.010 of the Prairie Village Municipal Code, 1973, entitled Appointive Officers and Employees -- Terms and Salary -- Vacancies. (11-17-75)

## CHARTER ORDINANCE NO. 9

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 19-1310 AND SUBSTITUTING ADDITIONAL PROVISIONS TO THE PRAIRIE VILLAGE MUNICIPAL CODE RELATING TO A LICENSE REQUIRED FOR MISCELLANEOUS PROFESSIONS.

Section 1. By virtue of the powers vested in it by Article 12, Section 5, of the constitution of the State of Kansas, the City of Prairie Village, Kansas hereby exempts itself from the provisions of K.S.A. 19-1310.

Section 2. The Prairie Village Municipal Code Section 5.04.010 is hereby amended to read as follows:  
5.04.9010. License Required. No person, firm or corporation, either as principal officer, agent, servant or employee, shall conduct, pursue, carry on, or operate in the city, any business, trade, occupation, or profession, or render or furnish its service hereinafter specified in this chapter without first making application to the city clerk for license therefore, paying to the office of city clerk the license fee hereinafter prescribed and obtaining an occupational license, from the city. Professions shall include, but shall not be limited to accountants, architects, attorneys, auctioneers, dentists, osteopaths and photographers.

Any person, firm or corporation not required to pay an occupation fee in this city prior to the effective date of this ordinance, but who is required to pay said fee after the effective date of this ordinance shall pay said fee for an occupation license on the same basis as a person, firm, or corporation who applies for a license on the effective date of this ordinance, as defined in Section 5.04.060 C of the Prairie Village Municipal Code.

Section 3. Existing Section 5.04.010 of the Prairie Village Municipal Code is hereby repealed.(10-16-78)

## CHARTER ORDINANCE NO. 10

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 79-5011; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AND AUTHORIZING THE LEVYING OF TAXES TO CREATE A SPECIAL FUND FOR THE PURPOSE OF PAYING COSTS FOR CONSTRUCTION AND MAINTENANCE OF STREETS, CURBS, GUTTERS, SIDEWALKS, STORM DRAINAGE FACILITIES, PARKS AND CITY OWNED IMPROVEMENTS.

Section 1. The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 79-5011, and to provide substitute and additional provisions as hereinafter set forth in this charter ordinance. K.S.A. 79-5011 is a part of an enactment of the legislature applicable to this city but not applicable uniformly to all cities.

Section 2. The provisions of K.S.A. 79-5001 to 79-5016, inclusive, shall not apply to or limit the levy of taxes by the City of Prairie Village for the payment of:

- (a) Principal and interest upon bonds and temporary notes;
- (b) No-fund warrants issued with the approval of the state board of tax appeals;
- (c) Legal judgments rendered against the city;
- (d) Rent due under any lease with a public building commission;
- (e) Special assessments charged against the city at large;
- (f) Costs for construction, repair, maintenance and improvement of streets, curbs, gutters, sidewalks, storm drainage facilities, parks and city owned improvements.

Section 3. The provisions of Article 50 of Chapter 79 of Kansas Statutes Annotated shall not apply to any taxes levied by the City of Prairie Village, levied under the provisions of K.S.A. 40-2305, 72-4424, 74-4920, 74-4967, 12-11a01, 12-1617h, 13-14,100, 19-262 and K.S.A. 1977 Supp. 13-14a01, 19-4004, 19-



4011, 19-4102, 19-4443, 71-301 and 72-7074 or to any tax levies required for the payment of employer contributions to any pension and retirement program or to any other taxes authorized by state law to be levied in addition to or exempt from the aggregate levy limitation of the City of Prairie Village.

Amounts produced from any levy specified or authorized in this charter ordinance, including any levy or purpose authorized to be levied in addition to or exempt from the aggregate levy limit of the city, shall not be used in computing any aggregate limitation under Article 50 of Chapter 79 of the Kansas Statutes Annotated.

Section 4. The City of Prairie Village is hereby authorized to levy a tax for the purpose of the payment of costs for the construction, repair, maintenance and improvement of streets, curbs, gutters, sidewalks, storm drainage facilities, parks and city owned improvements. As used in this charter ordinance "costs" for these specific items of construction and maintenance shall mean the city's cost for labor, equipment, materials, commodities and services necessary for their construction, repair, maintenance and improvement. (5-18-81)

### **CHARTER ORDINANCE NO. 11**

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 3 OF THE CITY OF PRAIRIE VILLAGE, KANSAS AND FURTHER EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 25-2107, K.S.A. 25-2108(a) AND K.S.A. 13-304 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS, CONCERNING ELECTIONS, DATES OF CITY ELECTIONS, TERMS OF OFFICE AND MATTERS RELATED THERETO.

(Repealed by C.O. No. 13)

### **CHARTER ORDINANCE NO. 12**

CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM CERTAIN PROVISIONS OF K.S.A. 13-1017, RELATING TO PUBLIC IMPROVEMENTS, ESTIMATE OF THE COST OF SUCH IMPROVEMENTS, CONTRACTS, BIDS, BOND ISSUE, WHEN, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects and exempts itself from and makes inapplicable to it, the provisions of K.S.A. 13-1017, which apply only to certain cities of the first class, and to provide substitute and additionally provisions as hereinafter provided.

Section 2. Before undertaking the construction or reconstruction of any sidewalk, curb, gutter, bridge, pavement, sewer, or any other public improvement of any street, highway, public ground, or public building or facilities, or any other kind of public improvement, shall be commenced or ordered by the governing body, or under its authority, a detailed estimate of the cost of the improvement shall be made under oath by the city engineer (or some other competent person appointed for such purposes by the governing body), and the estimate shall be submitted to the governing body for its action thereon. In all cases where the estimated costs of the contemplated building, facility, or other improvement, amounts to more than \$10,000, sealed proposals for the improvement shall be invited by advertisement, published by the city clerk once in the official city paper. The governing body shall let all such work by contract to the lowest responsible bidder, if there is any whose bid does not exceed the estimate. Notwithstanding the foregoing, the governing body reserves the right to refuse all or any part of any bid when it is felt that such action is in the best interest of the city.

If no responsible person proposed to enter into the contract at a price not exceeding the estimated cost, all bids shall be rejected and the same proceedings as before repeated, until some responsible person by sealed proposal offers to contract for the work at a price not exceeding the estimated costs. If no responsible bid is received within the estimate, the governing body shall have the power to make the

improvement within the estimated cost thereof, and shall further have the power to purchase the necessary tools, machinery, apparatus and materials; employ the necessary labor; and construct the necessary plant or plants for the purpose of carrying into effect the provisions of this act. In no case shall the city be liable for anything beyond the estimated cost or the original contract price for doing such work or making such improvements.

Before any type of public improvement is commenced, the money to pay for the same must be available in the city treasury as provided by law or provision may be made of the issuance of internal improvement bonds to pay for any such improvement as provided by law. Provided that this section shall not be construed to include any repair or maintenance work not amounting to substantial alteration, addition or change in any structure, street or facility. Public improvement as used herein shall not include the making of repairs or the maintenance of any building, street, sidewalk, or other public facility in Prairie Village by employees of Prairie Village or the making of any expenditures from the city budget for such purposes.

(6-5-89 - repealed by Charter Ordinance 19, 04-03-2000)

### **CHARTER ORDINANCE NO. 13**

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 11 OF THE CITY OF PRAIRIE VILLAGE, KANSAS AND FURTHER, EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 25-2107, K.S.A. 13-304 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS, CONCERNING ELECTIONS, DATES OF CITY ELECTIONS, TERMS OF OFFICE AND MATTERS RELATED THERETO.

Section 1. The City of Prairie Village, Kansas, hereby repeals Charter Ordinance No. 11 pertaining to these same matters codified in the Prairie Village Municipal Code, Sections 2.08.020, 2.08.030, and 2.08.040 enacted in 1983.

Section 2. The City of Prairie Village, Kansas, a mayor-council city of the first class by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it K.S.A. 25-2107 and K.S.A. 13-304, and provides substitute and additional provisions therefor as hereinafter provided.

Section 3. In every odd-numbered year, there shall, in the City of Prairie Village, Kansas, be elected a mayor from the city at large, who shall hold office for four years and until a successor is elected and qualified; provided that the mayor elected in 1991 shall have a term expiring in 1995. In case of a vacancy occurring by reason of resignation, death, removal from office or when the mayor no longer resides in the city, the president of the council will fill the vacancy until the next election for that position.

The mayor of the city shall receive such compensation as may be fixed by ordinance. (4-2-90)

### **CHARTER ORDINANCE NO. 14**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 25-2107 AND K.S.A. 13-304 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS, CONCERNING ELECTIONS, DATES OF CITY ELECTIONS, TERMS OF OFFICE AND MATTERS RELATED THERETO.

Section 1. The City of Prairie Village, Kansas, a mayor-council, city of the first class by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and makes in applicable to it K.S.A. 25-2107 and K.S.A. 13-304, and provides substitute and additional provisions therefore as hereinafter provided.

Section 2. In each even numbered year commencing with the year 1992, there shall, in the City of Prairie Village, Kansas, be elected one councilmember from each ward who shall hold office for four years and until a successor is elected and qualified; provided that councilmembers elected in April of 1991 shall have terms expiring in April of 1994. In case of a vacancy occurring by reason of resignation, death, removal from office or when a councilmember no longer resides in the ward in which the councilmember has been elected, the mayor by and with the consent of the remaining councilmembers may appoint some suitable elector residing in such ward to fill the vacancy until the next election for that council position.

The mayor may appoint such other officers as are created by statute and/or ordinance, who shall hold their offices for a period of four years, unless sooner removed by the mayor and council. All officers of the city shall receive such compensation as may be fixed by ordinance.

(4-2-90)

#### **CHARTER ORDINANCE NO. 15**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 25-2113(b) PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, CONCERNING ELECTIONS AND MATTERS RELATED THERETO, BY PROVIDING FOR NON-PARTISAN ELECTIONS.

Section 1. The City of Prairie Village, Kansas, a mayor-council, city of the first class by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it those provisions of K.S.A. 25-2113(b) that may require partisan elections by cities of the first class in counties which have been declared urban areas as authorized by Article 2, Section 17 of the constitution of Kansas and provides substitute and additional provisions therefor as hereinafter provided.

Section 2. City elections for mayor and council shall be non-partisan.

Section 3. The general election of city officers, when required, will be held on the first Tuesday of April.

(4-2-90)

#### **CHARTER ORDINANCE NO. 16**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-4202 (1989 SUPP.), 12-4203 (1982), 12-4204 (1982), 12-4205 (1989 SUPP.) AND 12-4207 (1982), AND ANY AMENDMENTS THERETO WHICH RELATE TO THE FILING AND SERVICE OF COMPLAINTS AND NOTICES TO APPEAR; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself and make inapplicable to it the provisions of K.S.A. 12-4202 (1989 Supp.), 12-4203 (1982), 12-4204 (1982), 12-4205 (1989 Supp.) and 12-4207 (1982) and any amendments thereto. The above referenced provisions are part of the Kansas Code of Procedure for Municipal Courts, an enactment of the legislature which is applicable to the City of Prairie Village but not uniformly applicable to all cities.

Section 2. City Officer shall mean city attorney, assistant city attorney, city prosecutor, building official, animal control officer, community service officer, code enforcement officer, codes administrator and municipal court clerk. Said individuals shall have the authority to investigate violations of city ordinances, order compliance with city ordinances and issue complaints and notices to appear for noncompliance with the same, and to prepare and serve notice to appear by mail forms as set out below in the same manner as a law enforcement officer. Said authority on the part of a city officer does not

include the powers of arrest, search, detention or other power of law enforcement officers, except as provided by law.

Section 3. Complaints; Requirements; Form. A complaint shall be in writing and shall be signed by the complainant. More than one violation may be charged in the same complaint. The complaint shall be deemed sufficient if it is substantially in the form of a complaint set forth in Section 4 herein or substantially in the following form:

IN THE MUNICIPAL COURT OF THE  
CITY OF PRAIRIE VILLAGE, KANSAS

(Form Inserted Here)

the foregoing provisions notwithstanding, and notwithstanding the provisions of K.S.A. 12-4113(g) (1989 Supp.), or any amendments thereof, whenever a law enforcement officer or city officer as defined herein issues a complaint for violation of any city ordinance, and such complaint includes information required by law and is signed by the officer preparing the same, then such complaint shall be deemed lawful for purposes of prosecution under this act, even though the same has not been sworn to before a municipal judge or notary public.

Section 4. Uniform Complaint and Notice to Appear; Contents; Form. A uniform complaint and notice to appear shall describe the offense charged, shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five days after such notice to appear is given. A uniform complaint and notice to appear may be signed by any law enforcement officer or city officer of the city, and shall be deemed lawful for purposes of prosecution, even though the same has not been sworn to before a municipal judge or notary public. A uniform complaint and notice to appear shall be deemed sufficient if in substantially the form of the notice to appear set out below;

UNIFORM COMPLAINT AND NOTICE TO APPEAR

(Form Inserted Here)

Section 5. Complaint and Notice to Appear; Contents; Form. A complaint and notice to appear shall describe the offense charged and shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five days after such notice to appear is given. A complaint and notice to appear may be signed by any law enforcement officer or city officer of the city and shall be deemed lawful for purposes of prosecution even though the same has not been sworn to before a municipal judge or notary public. A complaint and notice to appear shall be deemed sufficient if in substantially the form as set out below:

COMPLAINT AND NOTICE TO APPEAR

(Form Inserted Here)

Section 6. SAME; SERVICE; RETURN. The notice to appear shall be served upon the accused person by delivering a copy to him or her personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person. A notice to appear may be served by any law enforcement officer or city officer and, if mailed, shall be mailed by a law enforcement officer or city officer. Upon service by mail, the law enforcement officer or city officer shall execute a verification to be filed with a copy of the notice to appear. Said verification shall be deemed sufficient if in substantially the following form:

The undersigned hereby certifies that on the \_\_\_ day of \_\_\_\_\_, 19\_\_ a copy of Notice to Appear was mailed to \_\_\_\_\_ at \_\_\_\_\_.

\_\_\_\_\_  
Signature of Law Enforcement  
Officer, or City Officer

Section 7. Same; How Used; Issuance of Warrant; Refusal to Issue; Effect. A copy of the complaint shall be served, together with a notice to appear by a law enforcement officer or city officer upon the accused person, and forthwith, the complaint shall be filed with the municipal court, except that a complaint may be filed initially with the municipal court by any individual, and if so filed, a copy of the complaint shall forthwith be delivered to the assistant city attorney. The assistant city attorney shall cause a notice to appear to be issued unless he or she has good reason to believe that the accused person will not appear in response to a notice to appear, in which case he may request that a warrant be issued. Such warrant will be issued if the complaint is positively sworn to and the municipal judge has probable cause to believe that (a) there has been the commission of a violation of a municipal ordinance, (b) the accused person committed such violation and (c) the accused person will not appear in response to a notice to appear.

If the assistant city attorney fails either to cause a notice to appear or to request a warrant to be issued, on a complaint initially filed with the municipal court, the municipal judge may, upon affidavits filed with him or her alleging the violation of an ordinance, order the assistant city attorney to institute proceedings against any person. Any such municipal judge shall be disqualified from sitting in any case wherein such order was entered and is further prohibited from communicating about such case with the municipal judge pro tem appointed by the municipal judge to preside therein. (12-3-90)

#### **CHARTER ORDINANCE NO. 17**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 25-2303, K.S.A. 25-2309, K.S.A. 25-2315 CONCERNING THE CITY'S RESPONSIBILITIES REGARDING VOTER REGISTRATION PRACTICES AND PROCEDURES.

Section 1. The City of Prairie Village, Kansas, a mayor-council, city of the first class by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it K.S.A. 25-2303, K.S.A. 25-2309, and K.S.A. 25-2315 and amendments thereto, which apply to this city, but do not apply uniformly to all cities. (2-18-97)

#### **CHARTER ORDINANCE NO. 18**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 12-4112, ENTITLED "COSTS," AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE CODE OF PROCEDURE FOR MUNICIPAL COURTS.

Section 1. The City of Prairie Village, Kansas, a mayor-council city of the first class, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it K.S.A. 12-4112 and provides substitute and additional provisions on the same subject as hereinafter provided.

Section 2. If the accused person is unable to pay the costs assessed, the costs shall be and remain a judgment against him/her which may be enforced as judgments for payment of money in civil cases. It shall be the duty of the clerk of the court to issue execution for unpaid fines and costs at least one each year.

Section 3. Such costs shall be assessed as provided in the city fee schedule, which may be amended from time to time by the governing body. (11/17/1997)

## CHARTER ORDINANCE 19

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-1017, RELATING TO PUBLIC IMPROVEMENTS, ESTIMATE OF THE COST OF SUCH IMPROVEMENTS, CONTRACTS, BIDS, BOND ISSUE, WHEN AND RELATED MATTERS THERETO AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

WHEREAS, the Governing Body has determined that it is in the best interest of the City to make substitute provisions for the making of estimated costs of public improvements, contracts, bids, and related matters that established by statute, and

Section 1. The Governing Body of the City of Prairie Village, Kansas duly adopted Charter Ordinance No. 12 on the 5<sup>th</sup> day of June, 1989, and that said ordinance exempted the City from the provisions of KSA 13-1017 and that said ordinance is still in full force and effect and codified as Section 2.62.010 of the Municipal Code of the City of Prairie Village.

Section 2. The City of Prairie Village, Kansas by the power vested in it by Article XII, Section 5 of the Constitution of the State of Kansas, hereby elects and exempts itself from and makes inapplicable to wit, the provisions of KSA 13-1017, which apply only to certain cities of the first class, and to provide substitute and additional provisions as hereinafter.

Section 3. The City of Prairie Village hereby repeals in its entirety Charter Ordinance 12 and Section 2.62.010 of the Prairie Village Municipal Code and adopts in lieu thereof the following new Section 2.62.010.

### Chapter 2.62

#### **Section 2.62.010 Public Improvements - Bid Procedures**

Before the City undertakes the construction or reconstruction of any public improvement, including but not limited to any sidewalk, curb, gutter, bridge, pavement, sewer, street, highway, public ground or public building, facility, or any kind of public improvement shall be commenced or ordered by the Governing Body, a detailed estimated cost of the improvement shall be made under oath by the Public Works Director, or some other competent person appointed for such purposes by the Governing Body. The City Clerk shall receive and open the estimated costs at the time for receiving bids. The Governing Body shall act on estimated costs and received bids.

In all cases where the estimated costs of the contemplated improvement amounts to more than \$50,000, sealed proposals for improvement shall be invited by advertisement, published by the City Clerk once in the Official city paper. The Governing Body shall let all such work by contracting to the lowest and best responsible bidder. Notwithstanding the foregoing the Governing Body reserves the right to refuse all or any part of any bid when it determines that such action is in the best interest of the City.

If no responsible person proposes to enter into the contract at a price not exceeding the estimated costs, the Governing Body may reject all bids and repeat the bidding process. In the alternative, if all bids exceed the estimated costs, the Governing Body may accept and let the work by contract to the lowest and responsible bidder only if that cost is not greater than ten percent over the estimated costs. The Public Works Director or other competent person letting the bid shall give a full explanation to the Governing Body for the reason for the discrepancy. In no case shall the City be liable for anything

beyond the estimated cost of the original contract price for doing such work or making such improvements.

This section does not apply to:

- Any repair or maintenance work not amounting to substantial alteration, addition or change in the original use of the public improvement.
- The construction, reconstruction, repair or the maintenance of any public improvement by the employees of the City.
- Improvements financed by economic development bonds issued pursuant to K.S.A. 12-1740, et. Seq.

The Governing Body may waive the bidding process set forth therein by an affirmative vote of the majority of the Governing Body, if it determines the best interest of the City would be served.

Before any type of public improvement is commenced, the money to pay for the same must be available in the city treasury as provided by law, or provision may be made for the issuance of internal improvement bonds to pay for any such improvement as provided by law. (04/03/2000)

### **CHARTER ORDINANCE 20**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-304 AND K.S.A. 13-513, AND PROVIDING SUBSTITUTE PROVISIONS ON THE SAME SUBJECTS; AND REPEALING AND AMENDING SECTION 3 OF CHARTER ORDINANCE 13 RELATING TO A VACANCY IN THE OFFICE OF MAYOR.

Section I. That Section 3 of Charter Ordinance 13 is hereby repealed and amended to read as follows:

Section III: In every other odd numbered year, a Mayor for the City of Prairie Village shall be elected from the City at large. Once elected, the Mayor shall hold office for four (4) years and until a successor is elected and qualified. The Mayor elected in 1999 shall have a term expiring in 2003.

In case of a vacancy occurring by reason of resignation, death, removal from office or the Mayor no longer residing in the City, the President of the Council will fill the vacancy by serving as Mayor until the Council elects a new Mayor. The Council shall elect, by a majority of those Council Members present, a new Mayor from those Council Members serving at the time of the vacancy within thirty (30) days of the vacancy to serve until the next regularly scheduled City election. The vacancy in the Council created by the Council electing a new Mayor will be filled in accordance with Section 2.08.030 of the Prairie Village Municipal Code. (06/18/2001)

### **CHARTER ORDINANCE 21**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM THE PROVISIONS OF K.S.A. 47-712 WHICH PROHIBITS ALCOHOLIC LIQUOR SALE ON SUNDAY AND CERTAIN HOLIDAYS, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS AUTHORIZING THE CITY OF PRAIRIE VILLAGE, KANSAS, TO ALLOW ALCOHOLIC LIQUOR SALES ON SUNDAY AND SPECIFIED HOLIDAYS.

WHEREAS, the City of Prairie Village, Kansas, is authorized to exercise the powers, functions and duties of the city of the first class, including home rule powers in the manner and subject to the limitations provided by Article 12, Section 5 of the Constitution of the State of Kansas; and

WHEREAS, K.S.A. 41-712 was adopted in 1949 as part of an enactment in Chapter 242 of the Session Laws that contained statutes that were non-uniform; and that the City of Prairie Village has the authority to exempt itself from the provisions of said statute.

Section One: The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and make inapplicable to it the provisions of K.S.A. 41-712 which applies to this city but is part of enactment commonly known as Kansas Liquor Control Act, as enacted in Chapter 242 of the Session Laws of 1949, which enactment applies to this city but does not apply uniformly to all cities.

Section Two: The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby enacts the following substitute and additional provisions in lieu of those provisions from which it is exempted pursuant to Section One above:

*Sale at retail; forbidden on certain days; hours of sale, exception*

No person shall sell at retail any alcoholic liquor: (1) before 9:00 a.m. or after 11:00 p.m. Monday through Saturday; or (2) before 11:00 a.m. or after 8:00 p.m. on Sunday, Memorial Day, Independence Day, or Labor Day; or (3) on Christmas Day or Thanksgiving Day. (07/07/2003)

## CHARTER ORDINANCE 22

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 12 OF THE CITY OF PRAIRIE VILLAGE, KANSAS AND FURTHER EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 13-1017 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS TO ESTABLISH A UNIFORM POLICY FOR BID SOLICITATION, PURCHASE ORDER SYSTEM AND APPROVAL IN ESTABLISHING A BID PROCEDURE FOR PUBLIC IMPROVEMENT PROJECTS.

Section 1. The City of Prairie Village, Kansas, hereby repeals Charter Ordinance No. 12.

Section 2. The City of Prairie Village, Kansas, a Mayor-Council city of the first class by the powers vest in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself and make inapplicable to it all of the provisions of K.S.A. 13-1017, relating to public improvements, estimates of the cost to such improvements, contracts, bids, bond issue and when.

Section 3. The City Council of the City of Prairie Village, Kansas, shall from time to time adopt a policy that provides a procedure for determining when bids are required on public improvement projects and, further, adopt a procedure in determining when construction cost estimates are required and how they are received for public improvement projects. This policy shall be reviewed and amended from time to time by the City Council of this City. (02/06/2006)

## CHARTER ORDINANCE NO. 23

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS, FROM THE PROVISIONS OF THE WATER POLLUTION CONTROL ACT, K.S.A. 12-3101 THROUGH K.S.A.12-3107, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING TO THE ESTABLISHMENT, OPERATION, MAINTENANCE, IMPROVEMENT, AND REGULATIONS OF SEWER SYSTEMS, INCLUDING BUT NOT LIMITED TO, STORM AND SURFACE WATER DRAINAGE SYSTEMS AND FLOOD PROTECTION WORKS, AND TO THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING FOR THE PROPERTY AND IMPROVEMENTS NECESSARY FOR ALL ASPECTS OF THE MANAGEMENT OF THESE SYSTEMS.

WHEREAS, the City of Prairie Village, Johnson County, Kansas, by the power vested in it by Article 12,



Section 5 of the Constitution of the State of Kansas, may exempt itself from the provisions of statutory enactment that is not uniformly applicable to all cities, and may adopt substitute and additional provisions thereto; and

WHEREAS, the Water Pollution Control Act, K.S.A. 12-3101, et seq., is applicable to the City, but not uniformly applicable to all cities;

**NOW, THEREFORE BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS**

**SECTION 01 EXEMPTION OF KANSAS STATUES**

- A. The City of Prairie Village, Johnson County, Kansas (the "City"), by virtue of the powers vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself and make inapplicable to it Sections 12-3101, 12-3102, 12-3103, 12-3104, 12-3105, 12-3106, and 12-3107 of the Kansas Statues Annotated, which apply to the City, acting as a city of the first class, and which are not uniformly applicable to all cities, and the City hereby provides further substitute and additional provisions as set forth herein.

**SECTION 02 DEFINITIONS**

- A. For the purpose of this Chapter Ordinance, the following words and phrases shall have the meaning ascribed to them in this section:
  - a. "Person" shall mean any person, firm, corporation, association, partnership, political unit, or organization.
  - b. "Sewer", "Sewer System", and "Sewer Systems" shall mean surface water and storm sewers that exist at the time this Charter Ordinance is adopted or that are hereafter established and all appurtenances necessary in the maintenance, operation, regulation, and improvements of the same, including, but not limited to, pumping stations; enclosed sewer systems; outfall sewers; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; other Stormwater conveyances; detentions and retention facilities; and other flood control facilities and works for the collection, conveyance, pumping, treating, controlling, managing and disposing of water carried pollutants or storm or surface water.
  - c. "Stormwater Customer" shall mean the owner of any real property served or benefited, whether voluntarily or involuntarily, by the function of any Sewer, Sewer System, or Sewer Systems, which captures, controls, conveys, discharges, manages, or regulates the flow or water quality of storm and surface waters within and from the City, or is served or benefited by the administration, activities and operation of the Stormwater Management Program of the City. This service or benefit shall include, but not be limited to, capturing, controlling, conveying, discharging, improving, managing and regulating the flow and water quality of storm and surface water from a property or from other properties situated at higher or lower elevations that might otherwise be subservient in right, and the administrative, planning, technical, regulatory and enforcement actions necessary to provide these services and/or benefits.
  - d. "Stormwater Management Program" means all aspects of work necessary to perform and provide storm and surface water services in the City, including but not limited to administration, planning, engineering, operations, maintenance, best management practices, control measures, public education, citizen participation, regulation and enforcement, protection, and capital improvements, plus such non-operating expenses as reserves and bond debt service coverage as are associated with provision of the Stormwater Management Program.
  - e. "Stormwater Management System" means surface water and storm sewers and all appurtenances necessary in the maintenance, operation, regulation, and improvement of the same, including, but not limited to, pumping stations; enclosed storm sewers; outfall sewers;

surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; detention and retention facilities; and other flood control facilities and works for the collection, conveyance, pumping, infiltration, treating, controlling, managing and disposing of water carried pollutants or storm or surface water.

### **SECTION 03 SEWER SYSTEMS: POWERS OF THE CITY**

- A. The City shall have all powers necessary or convenient to plan, study, design, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, protect, manage, and regulate and enforce the proper use of a Sewer System or Sewer Systems, including the powers that the City may, from time to time, establish by way of ordinances, and/or resolutions adopted by the Governing Body of the City and including, but not by way of limitation, the following powers:
- B. To impose service, user, impact, in lieu of construction, buy in and plan review and inspection fees, special assessments, system development and other charges and/or taxes of Stormwater Customers. The method of calculating and fixing these charges and/or taxes shall be as established by regular ordinance or by rules and regulations heretofore or hereafter adopted;
- C. To provide that charges and/or taxes authorized herein, may be certified by the City Clerk to the County Clerk of Johnson County, Kansas, to be placed on the tax roll for collection, subject to the same penalties and to be collected in like manner as taxes;
- D. To use the proceeds of the charges and/or taxes authorized herein, together with any other available revenues, to pay costs of the Stormwater Management Program, including, but not limited to, the costs to plan, study, design, engineer, and operate the Stormwater Management Program, and to plan, study, design, engineer, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, manage, protect, acquire real or personal property by purchase, lease, donation, condemnation, or otherwise for, and regulate and enforce the use of a Sewer System or Sewer Systems;
- E. To use and to pledge the proceeds of the charges and/or taxes authorized herein and any available taxes, to pay the principal and interest on general obligation or revenue bonds heretofore or hereafter issued; and pending the issuance of the general obligations bonds or revenue bonds to issue temporary financing for these purposes;
- F. To contract with agencies of the federal government, the State of Kansas, other states, counties, cities, drainage districts, public bodies of the state, or other states, or with any person to jointly plan, study, design, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate maintain, protect, acquire real or personal property by purchase, lease, donation, condemnation, or otherwise for a Sewer System or Sewer Systems; regulate the use of a Sewer System or Sewer Systems; and to plan, study, design, engineer, operate, administer, maintain, and manage the Stormwater Management Program;
- G. To contract with agencies of the federal government, the State of Kansas, other states, counties, cities, drainage districts, public bodies of the state, or other states, or with any person for receiving and treating storm or surface water from outside the limits of the City;
- H. To carry out the Stormwater Management Program, including, but not limited to, the power to plan study, design, engineer, design, administer, manage, and operate the Stormwater Management Program and to plan study, design, engineer, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, manage, protect, acquire real or personal property by purchase, lease, donation, condemnation, or otherwise for, and regulate and enforce the use of a Sewer System or Sewer Systems;

- I. To borrow money and to apply for and accept advances, loans, grants, contributions, or any other form of financial assistance from the federal government, the State of Kansas, other states, counties, cities, drainage districts, or any other public body for the purposes of this act, and the City may, when contracting with the federal government for financial assistance, include in any contract the conditions imposed pursuant to federal law as the City may deem reasonable and appropriate;
- J. To, under the authority granted herein, establish a stormwater utility to be accounted for as a separate enterprise fund or special revenue fund of the City, as deemed reasonable and appropriate by the Governing Body of the City; and
- K. To utilize any mechanism deemed reasonable and appropriate by the Governing Body of the City to deliver billings to Stormwater Customers for services.

**SECTION 04 RULES AND REGULATIONS AUTHORIZED;**

- A. The City shall have the power by ordinance or resolution to adopt rules and regulations that shall relate to the management and operation of its Stormwater Management Program and Sewer System or Sewer Systems; the method of calculating and fixing the charges and/or taxes applicable to properties served by the Sewer System or Sewer Systems or activities associated therewith; security for the payment thereof, and methods and rules of collection; and the disposition of the revenue therefrom. In the event any person by the City's Sewer System or Sewer Systems shall neglect, fail, or refuse to pay service fees fixed by the Governing Body of the City, as authorized by rules and regulations adopted under authority of this section and if a billing system has been established for the delivery and collection of service fees, the City may take any action authorized by law to collect any fees that are due and owing.

**SECTION 05 ISSUANCE OF SEWER SYSTEM REVENUE BONDS**

- A. The Governing Body of the City shall have the power to use any unencumbered municipal revenues or to issue revenue bonds from time to time in its discretion, without an election, to finance the planning, altering, enlarging, extending improving, constructing and reconstructing of a Sewer System or Sewer Systems under this Charter Ordinance. These bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the City derived from or held in connection with its Sewer System or Sewer Systems; provided, however, that payment of these bonds, both as to principal and interest, may be further secured by a pledge of other unencumbered municipal revenues and of any loan, grant or contribution from the federal government, the State of Kansas, other states, counties, cities, drainage districts, public bodies of the state or other states or any person.
- B. Bonds issued under this section shall constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law relating to the authorization, issuance or sale of bonds. Bonds issued under the provisions of this Charter Ordinance are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.
- C. Bonds issued under this section shall be authorized by ordinance or resolution of the governing body and may be issued in one or more series and shall bear such date or dates, be payable of demand or mature at such time or times, bear interest at such rate or rates, not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009, be in such denomination or denominations, be in such form, have such rank or priority, be executed in such manner, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics as may be provided by such ordinance or resolution.

- D. Pending the issuance of revenue bonds authorized by this Charter Ordinance, the Governing Body of the City may issue revenue anticipation bonds of the City for the purpose of providing interim financing for a project, these revenue anticipation bonds being payable from revenue bonds issued to provide permanent financing for activities authorized by this Charter Ordinance and the income, proceeds, revenues and funds of the City derived from or held in connection with its Sewer System or Sewer Systems.

**SECTION 06 POWERS SUPPLEMENTAL AND ADDITIONAL**

- A. The power granted herein with respect to the Stormwater Management Program , including, but not limited to the power to plan, study, design, engineer, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, manage, protect, acquire real or personal property by purchase, lease, donation, condemnation, or otherwise for, and regulate the use of a Sewer System or Sewer Systems and to issue bonds shall be supplemental to an not amendatory of the provisions of all other laws heretofore or hereafter in force and shall not be construed to limit the City's authority under the provisions of any other laws. (04-21-2008)

**CHARTER ORDINANCE NO. 24**

**A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 25-2108a, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE REQUIREMENTS FOR PRIMARY ELECTIONS FOR CITY OFFICERS.**

**BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS:**

**SECTION 1.** The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself and make inapplicable to it the provisions of K.S.A. 25-2108a, and any amendments thereto, which is applicable to the City of Prairie Village but the act of which it is a part is not uniformly applicable to all cities, and the City hereby provides further substitute and additional provisions as set forth herein.

**SECTION 2.** Primary elections.

(a) There shall be a primary election of city officers on the Tuesday preceding by five weeks the first Tuesday in April of every year that the City of Prairie Village has a city election, except as otherwise provided in subsection (b) of this section.

(b) No primary election for city officers shall be held unless by holding such primary one (1) or more persons will be eliminated as candidates for office. In the event there are not more than two (2) candidates for any one office, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for city officers, but the names of such candidates shall be placed on the general city election ballot. (06-15-2009)

**CHARTER ORDINANCE NO. 25**

**A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM THE PROVISIONS OF K.S.A. 13-1024a AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO GENERAL IMPROVEMENTS AND THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING FOR SAID IMPROVEMENTS.**

**WHEREAS,** Article 12, Section 5 of the Constitution of the State of Kansas (the "Act"), provides that cities may exercise certain home rule powers, including passing charter ordinances which exempt such cities from non-uniform statutes and acts of the Kansas Legislature; and

**WHEREAS**, the City of Prairie Village, Kansas (the "City") is a City, as defined in the Act and is a City of the first class, duly created and organized, under the laws of the State of Kansas; and

**WHEREAS**, K.S.A. 13-1024a is part of an enactment of the Kansas Legislature (K.S.A. 13-1024a *et seq.*) relating to general improvements and the issuance of bonds for such purposes, which enactment is applicable to the City, but is not uniformly applicable to all cities within the State of Kansas; and

**WHEREAS**, the Governing Body of the City desires, by charter ordinance, to exempt the City from the provisions of K.S.A. 13-1024a, and to provide substitute and additional provisions therefore.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS, AS FOLLOWS:**

**SECTION 1. Exemption - K.S.A. 13-1024a.** The City of Prairie Village, Kansas (the "City") by virtue of the powers vested in it by the Act, hereby elects to exempt itself from and hereby makes inapplicable to it the provisions of K.S.A. 13-1024a, and does hereby provide the following substitute and additional provisions in place thereof:

For the purpose of paying for any bridge, viaduct, street, sidewalk or pedestrian way improvement, airport, public building or structure, parking improvement, or other public utility or works, including any appurtenances related thereto and the land necessary therefore, for lands for public parks and recreation facilities, including golf courses, stadiums and community centers, and developing and making improvements to the same, within or without the city, for the establishment, development and construction of crematories, desiccating or reduction works, including any appurtenances related thereto and the land necessary therefore, within or without the city, or for the improvement, repair or extension of any waterworks, sanitary sewer facilities, sewage treatment or disposal plant, sewerage system, storm water improvement, electric light plant, crematory, desiccating or reduction works or other public utility plant or works owned by the city, and for the purpose of rebuilding, adding to or extending to the same or acquiring land necessary therefore from time to time, as the necessities of the city may require, or for the acquisition of equipment, vehicles and other personal property to be used in relation to any of the improvements authorized herein, the city may borrow money and issue its general obligation bonds and/or temporary notes for the same.

(08-03-2009)

#### **CHARTER ORDINANCE NO. 26**

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-513 AND K.S.A. 12-104a, WHICH RELATE TO VACANCIES IN THE OFFICE OF MAYOR OR COUNCIL MEMBER, AND FROM K.S.A. 25-2108a RELATING TO PRIMARY ELECTIONS, AND REPEALING CHARTER ORDINANCE NOS. 14, 20 AND 24.

WHEREAS, the City of Prairie Village adopted Charter Ordinance No. 14 on April 2, 1990, which became effective on June 2, 1990;

WHEREAS, Charter Ordinance Nos. 14 exempted the City from K.S.A. 13-304 and K.S.A. 25-2107 pertaining to elections, dates of city elections, terms of office and matters related thereto;

WHEREAS, K.S.A. 13-304 has been repealed and K.S.A. 25-2107 has been amended;

WHEREAS, the City of Prairie Village adopted Charter Ordinance No. 20 on June 18, 2001, which became effective on August 18, 2001;

WHEREAS, Charter Ordinance No. 20 exempted the City from K.S.A. 13-513 pertaining to vacancies in office of mayor and council member, and amended Charter Ordinance No. 13 which had exempted the City from K.S.A. 13-304 and K.S.A. 25-2107 pertaining to elections, dates of city elections, terms of office and matters related thereto;

WHEREAS, K.S.A. 13-304 has been repealed and K.S.A. 25-2107 has been amended;

WHEREAS, the City desires to exempt itself from the provisions of K.S.A. 13-513 and K.S.A. 12-104a, relating to the filling of governing body vacancies; and

WHEREAS, the City desires to repeal Charter Ordinance Nos. 14 and 20 and has or will address similar provisions by ordinary ordinance;

WHEREAS, the City of Prairie Village adopted Charter Ordinance No. 24 on June 15, 2009 which became effective on August 15, 2009;

WHEREAS, Charter Ordinance No. 24 exempted the City from K.S.A. 25-2108a pertaining to primary elections;

WHEREAS, K.S.A. 25-2108a has been amended; and

WHEREAS, the City desires to repeal Charter Ordinance No. 24 and has or will address similar provisions by ordinary ordinance.

NOW THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS:

**Section 1.** The City of Prairie Village, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and exempts itself from and makes inapplicable to it K.S.A. 13-513 and K.S.A. 12-104a relating to the filling of governing body vacancies, and K.S.A. 25-2108a relating to primary elections, which enactments apply to this City, but do not apply uniformly to all cities, and provides substitute and additional provisions as hereafter set forth.

**Section 2.** Substitute and additional provision on the subjects addressed by K.S.A. 13-513 and K.S.A. 12-104a relating to the filling of governing body vacancies, and K.S.A. 25-2108a relating to primary elections, are and will be contained in one or more ordinary ordinances.

**Section 3.** Charter Ordinance Nos. 14, 20 and 24 or other City ordinances, in conflict herewith are hereby repealed. (11-2-2015)

#### CHARTER ORDINANCE NO. 27

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF SUBPARAGRAPH (b) AND (f) OF K.S.A. 12-1696, SUBPARAGRAPH (a) OF K.S.A. 12-1697 AND FROM THE PROVISIONS OF SUBPARAGRAPH (e) OF K.S.A. 12-1698, WHICH RELATE TO THE LEVY OF A TRANSIENT GUEST TAX, TO CERTAIN DEFINITIONS, TO THE MAXIMUM RATE THEREOF, AND TO THE PURPOSES FOR WHICH TRANSIENT GUEST TAX REVENUES MAY BE SPENT; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS.

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

**Section 1.** The City of Prairie Village, Kansas, is a city of the first class, and by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does hereby exempt, itself from, and makes inapplicable to it, the provisions of subparagraph (b) and (f) of K.S.A. 12-1696, subparagraph (a) of K.S.A. 12-1697 and the provisions of subparagraph (e) of K.S.A. 12-1698, which relate to the levy of a transient guest tax, to the definitions of “hotel, motel or tourist court” and “accommodations broker”, to the levy and maximum rate thereof, and to the purposes for which transient guest tax revenues may be spent, and hereby provides substitute and additional provisions on the same subjects as set forth herein. The referenced statutes are not uniformly applicable to all cities in Kansas.

**Section 2.** The following is hereby substituted for the provisions of K.S.A. 12-1696(b) and K.S.A. 12-1696(f):

As used in this Charter Ordinance, the following words and phrases shall have the meanings respectively ascribed to them herein:

“Hotel, motel or tourist court” means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having six or more bedrooms furnished for the accommodation of such guests.

“Accommodations broker” means any business which maintains an inventory of six or more bedrooms in one location which are offered for pay to a person or persons for not more than 28 consecutive days.

**Section 3.** A transient guest tax of nine percent (9%) is hereby levied upon the gross receipts derived from or paid by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court located within the City of Prairie Village. The percentage of such transient guest tax may hereafter be determined by the Governing body by ordinary ordinance.

**Section 4.** Revenues received by the City from the transient guest tax shall be expended for all, or any portion of, community, economic development and cultural activities which encourage or which are deemed to result in increased economic development, visitors and tourism for the City, and to the payments of principal and interest on bonds issued by the City, including bonds issued pursuant to K.S.A. 12-1774.

**Section 5.** All other provisions of K.S.A. 12-1697 and K.S.A. 12-1698, not exempted hereby, shall remain the same. (12-7-2015)

## CHARTER ORDINANCE NO. 28

**A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-1024a AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO GENERAL IMPROVEMENTS AND THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING FOR SAID IMPROVEMENTS; AND REPEALING CHARTER ORDINANCE NO. 25.**

**WHEREAS**, Article 12, Section 5 of the Constitution of the State of Kansas (the “Act”), provides that cities may exercise certain home rule powers, including passing charter ordinances which exempt such cities from non-uniform enactments of the Kansas Legislature; and

**WHEREAS**, the City of Prairie Village, Kansas (the “City”) is a city, as defined in the Act, duly created and organized, under the laws of the State of Kansas; and

**WHEREAS**, K.S.A. 13-1024a is part of an enactment of the Kansas Legislature (K.S.A. 13-1024a *et seq.*) relating to general improvements and the issuance of bonds for such purposes, which enactment is applicable to the City, but is not uniformly applicable to all cities within the State of Kansas; and

**WHEREAS**, the governing body of the City desires, by charter ordinance, to exempt the City from the provisions of K.S.A. 13-1024a, and to provide substitute and additional provisions therefor.

**NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS, AS FOLLOWS:**

**Section 1. Exemption - K.S.A. 13-1024a.** The City by virtue of the powers vested in it by the Act, hereby elects to exempt itself from and hereby makes inapplicable to it the provisions of K.S.A. 13-1024a, and does hereby provide the following substitute and additional provisions in place thereof:

For the purpose of paying for any bridge, viaduct, street, sidewalk or pedestrian way improvement, airport, public building or structure, parking improvement, or other public utility or works, including any appurtenances related thereto and the land necessary therefor, for lands for public parks and recreation facilities, including golf courses, stadiums and community centers, and developing and making improvements to the same, within or without the city, for the establishment, development and construction of crematories, desiccating or reduction works, including any appurtenances related thereto and the land necessary therefor, within or without the city, or for the improvement, repair or extension of any streetlights, waterworks, sanitary sewer facilities, sewage treatment or disposal plant, sewerage system, storm water improvement, electric light plant, crematory, desiccating or reduction works or other public utility plant or works owned by the city, and for the purpose of rebuilding, adding to or extending to the same or acquiring land necessary therefor from time to time, as the necessities of the city may require, or for the acquisition of equipment, vehicles and other personal property to be used in relation to any of the improvements authorized herein, the city may borrow money and issue its general obligation bonds and/or temporary notes for the same.

**SECTION 3. Severability and Termination.** If any provision or section of this Charter Ordinance is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter Ordinance. In such instance, this Charter Ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

**SECTION 4. Repeal of Charter Ordinance 25.** This Charter Ordinance shall supersede Charter Ordinance No. 25 and upon effectiveness of this Charter Ordinance, Charter Ordinance No. 25 is hereby repealed. (07-18-16)