

ORDINANCE NO. 2434

AN ORDINANCE AMENDING CHAPTER IV OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED "BUILDINGS AND CONSTRUCTION" BY AMENDING ARTICLE 1 ENTITLED "INTERNATIONAL BUILDING CODE" TO INCORPORATE BY REFERENCE THE "INTERNATIONAL BUILDING CODE, 2018 EDITION," ADDING NEW AND SUBSTITUTE PROVISIONS THERETO, AND REPEALING THE PREVIOUS ARTICLE SO AMENDED.

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

Section I.

Existing Article 1 of Chapter IV of the Prairie Village Municipal Code is hereby deleted in its entirety and amended to read as follows:

ARTICLE 1. INTERNATIONAL BUILDING CODE

4-101 INTERNATIONAL BUILDING CODE ADOPTED

The *International Building Code, 2018 Edition*, published by the International Code Council, hereafter referred to as the 2018 IBC, is hereby adopted by reference and made a part of this Chapter and Article save and except such parts or portions thereof as are specifically deleted, added, or changed in the City Code. At least one (1) copy of said *International Building Code, 2018 edition* will be kept on file in the office of the City Clerk, marked or stamped "Official Copy as Incorporated by Ordinance No. 2434," with all sections or portions thereof intended to be deleted or changed clearly marked to show any deletions, additions, or changes.

4-102 AMENDMENTS TO SECTION 101.1 - TITLE

Section 101.1 of the 2018 IBC is hereby amended to read as follows:

101.1 Title. These regulations shall be known as the *Building Code of the City of Prairie Village*, hereinafter referred to as "this code."

4-103 AMENDMENTS TO SECTION 101.4 – REFERENCED CODES

Section 101.4 of the 2018 IBC is hereby amended to read as follows:

101.4 Referenced Codes. The other codes listed in Sections 101.4.1 through 101.4.9 and referenced elsewhere in this code shall be considered to be 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 4) 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, fixtures, fittings, and appurtenances, and where connected to a water or sewage system and all aspects of a medical gas system. The provisions of the *International Private Sewage Disposal Code* shall apply to private sewage disposal systems.

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.

101.4.8 Existing buildings. The provisions of the *International Existing Building Code* (PVMC Chapter 4, Article 9) shall apply to matters governing the repair, alteration, change of occupancy, addition to and relocation of existing buildings.

101.4.9 Swimming Pools. The provisions of the *International Swimming Pool and Spa Code* (PVMC Chapter 4, Article 10) shall apply to the construction, alteration, movement, renovation, replacement, repair, and maintenance of aquatic recreation facilities, pools, and spas.

4-104 DELETION OF SECTION 103.2 – APPOINTMENT

Section 103.2 of the 2018 IBC is hereby deleted.

4-105 AMENDMENTS TO SECTION 105.1 – PERMIT REQUIRED

Section 105.1 of the 2018 IBC is hereby amended to read as follows:

105.1 Permit required. 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 to obtain the required permit.

105.1.1 Annual permit. Section 105.1.1 of the 2018 IBC is hereby deleted.

105.1.2 Annual permit records. Section 105.1.2 of the 2018 IBC is hereby deleted.

105.1.3 County and city license required. All persons undertaking work which requires a permit as outlined 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 valid contractor's license from the City of Prairie Village.

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 and has been residing at the property for a minimum of three (3) months.
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.

105.1.4 City license suspension and revocation. The Building Official is hereby authorized to suspend and/or revoke a city-issued contractor's license when there is evidence that the contractor knowingly violated the City's municipal code. If the building official suspends a contractor's license, he or she shall give the reasons therefore in writing and mail a copy to the license holder. The license holder may appeal such suspension by filing a written notice thereof with the City Clerk within 15 days after the notice of suspension or revocation was given. Appeals from suspensions or revocations shall be governed by Section 19.54.024 of the Prairie Village Zoning regulations.

4-106 AMENDMENTS TO SECTION 105.2 – WORK EXEMPT FROM PERMIT

Section 105.2 of the 2018 IBC is hereby amended to read as follows:

105.2 Work exempt from permit. 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 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 Prairie Village Public Works Department.
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, countertops, 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 Section 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 rear yard.

6. Swings and other playground equipment accessory to one-and two-family dwellings that do not exceed the 30% building coverage limit and do not exceed 120 square feet for lots under 10,000 square feet or 200 square feet for lots over 10,000 square feet.
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 replacements 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 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.

105.2.3 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.

4-107 AMENDMENTS TO SECTION 105.3 – APPLICATION FOR PERMIT

Section 105.3 of the 2018 IBC is hereby amended to read as follows:

105.3 Application for permit. To obtain a permit, the applicant shall first file an application therefor in writing on a form furnished by the Prairie Village Codes Department 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 definitively 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 of Prairie Village 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 designee. The application for such permit shall be made and the permit obtained before work is commenced upon any building or structure of the foundation thereof, or before the removal of any building begins.

105.3.1 Performance Bonds. 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. 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.

105.3.2 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.

105.3.3 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 extension shall be requested in writing and justifiable cause demonstrated.

105.3.4 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 105.3.4.1 or 105.3.4.1. 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 without first obtaining a permit therefore.

105.3.4.1 Moving building 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 foundation shall be constructed prior to the building or structure being moved. All applications for permits to move building 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 they have approved the route.
4. Letters from the Prairie Village Police Department and 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 Chief of Police.
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 owners(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 Department that the building or structure to be moved is compatible with adjacent building or structure in the area where the building or structure is to be moved.
 14. Verification from the Codes 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.

105.3.4.2 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 Chief of Police.
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

105.3.4.3 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 damage shall be inflicted by the principal or his or her agent, servant, employee, workman, contractor, subcontractor, and such bond 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, 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.

105.3.4.4 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 the 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 foundation shall be demolished and removed, and all excavations shall be filled to grade.

Section 105.4 of the 2018 IBC is hereby amended to read as follows:

105.2.2 Validity of permit. 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 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.

4-109 AMENDMENTS TO SECTION 105.5 - EXPIRATION

Section 105.5 of the 2018 IBC is hereby amended to read as follows:

105.5 Expiration. 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 permit 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.

4-110 AMENDMENTS TO SECTION 107.1 – SUBMITTAL DOCUMENTS - GENERAL

Section 107.1 of the 2018 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 Kansas registered design professional as required by the municipal code of the City of Prairie Village, Kansas. Where special conditions exist, the Building Official is authorized to require additional construction documents to be prepared by a Kansas 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 a 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 2018 edition of the *International Residential Code* shall be prepared by a registered design professional, duly registered in the State of Kansas and in good standing. The drawing 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.

4-111 AMENDMENTS TO SECTION 109 – FEES

Section 109 of the 2018 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 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 building cost at time of application. Building cost 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. The Building Official shall use the ICC Building Valuation Data Table of the most current issue to establish a minimum criteria for cost analysis. The higher value of the two comparisons shall establish the cost of work to establish permit and plan review fees.

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, or 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.

4-112 AMENDMENTS TO SECTION 114.4 – VIOLATION PENALTIES

Section 114.4 of the 2018 IBC is hereby amended to read as follows:

114.4 Violation penalties. Any person who violates a provision of this code or fails to comply with any of the requirements thereof or who erects, constructs, alters, demolishes, 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 1, Article 1, Section 1-116.

4-113 AMENDMENTS TO SECTION 116.1 – NUISANCES AND UNSAFE STRUCTURES – LEGISLATIVE FINDINGS

Section 116.1 of the 2018 IBC is hereby amended to read as follows:

116.1 Legislative findings. 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; a menace dangerous to the health of the inhabitants of the City; 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; 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.

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 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.

4-114 AMENDMENTS TO SECTION 116.2 – NUISANCES AND UNSAFE STRUCTURES – DEFINITIONS

Section 116.2 of the 2018 IBC is hereby amended to read as follows:

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.
- 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, 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 accessory structures 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; receive; 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 own as indicated in official records maintained by 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 owners; 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; structure 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.

4-115 AMENDMENTS TO SECTION 116.3 – NUISANCE AND UNSAFE STRUCTURES – UNLAWFUL; RESPONSIBILITY TO ABATE

Section 116.3 of the 2018 IBC is hereby amended to read as follows:

116.3 Nuisance and unsafe structure 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.

4-116 AMENDMENTS TO SECTION 116-4 – ENFORCEMENT AGAINST NUISANCES; DESIGNATION OF OFFICER; NOTICE TO APPEAR; NOTICE OF ABATEMENT; HEARING

Section 116.4 of the 2018 IBC is hereby amended to read as follows:

116.4 Enforcement against nuisances; designation of officer; notice to appear; notice of abatement; hearing. 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 and is not remedied by the property owner in timely manner after receiving notice of violation, then the Building Official, or his or her designated agent, 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.

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 judgement against the recipient, or both;
8. That such violations are subject to prosecutions, and that such prosecution shall be independent of any enforcement of the order.

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 non-resident, 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 non-resident, any alternative notice provided for in this paragraph shall be given by telephone communication or first class mail.

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 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 or 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,

subject to any extensions as may be permitted or required by law.

If the Building Official or designated representative 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, or otherwise provided by applicable laws, to remove or abate a nuisance or to collect removal and abatement costs.

**4-117 AMENDMENTS TO 116.5 – ABATEMENT OF NUISANCE BY CITY;
NOTICE OF COSTS; ASSESSMENT AND COLLECTION**

Section 116.5 of the 2018 IBC is hereby amended to read as follows:

116.5 Abatement of nuisance by city; notice of costs; assessment and collection. 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 or as otherwise permitted under applicable law. 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.

If the City removes and abates the nuisance, the City shall give a Notice of Costs to the property owner or owner's agent by certified mail, return receipt requested, stating the costs of such removal and abatement incurred by the City; See K.S.A. 12-1617e(d).

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, 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.

If the costs are not paid within the 30 day period, the costs shall be collected in a manner provided by Kansas state statute 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 Kansas state statute, but only until the full costs, including applicable interest, court costs, attorney's fees, and administrative costs have been paid in full.

4-118 ADDITION OF SECTION 116.6 – ENFORCEMENT AGAINST UNSAFE STRUCTURES; DESIGNATION OF OFFICER; NOTICE TO APPEAR; HEARING; RESOLUTION

A new Section 116.6 is hereby added to the 2018 IBC, as adopted by the City, to read as follows:

116.6 Enforcement against unsafe structures; designation of officer; notice to appear; hearing; resolution. The Building Official shall be charged with the administration and enforcement of this section as it concerns unsafe structure. 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 that 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. 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."

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 resolution 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 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.

If an authorized agent determines that a violation of this section exists, he or she may issue a notices to appear in municipal court for such violations. No other procedures are required as a prerequisite to the issuance of a notice to appear.

4-119 ADDITION OF SECTION 116.7 – EXCAVATION FILL

A new Section 116.7 is hereby added to the 2018 IBC, as adopted by the City, to read as follows:

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.

4-120 ADDITION OF SECTION 116.8 – REMOVAL OF UNSAFE STRUCTURES; SALVAGE; SALE; ASSESSMENT AND COLLECTION OF COSTS; PROCEDURE

A new Section 116.8 is hereby added to the 2018 IBC, as adopted by the City, to read as follows:

116.8 Removal of unsafe structures; salvage; sale, assessment and collection of costs; procedure. 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 and make the premises safe and secure. The City may perform this work through its own employees or contract for services to perform the work. The City shall keep an account of the costs for such work and may sell the salvage rom 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 associated invoices shall be paid to the owner of the premises upon which the structure was located.

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 shall also state that payment of such costs is due and payable within 30 days following receipt for 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 Kansas state statute are insufficient to pay the cost of such work, the balance shall be collected in a manner provided by Kansas state statute, 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 has been removed.

4-121 ADDITION OF SECTION 116.9 – PROOF OF REPAIRING OR REBUILDING

A new Section 116.9 is hereby added to the 2018 IBC, as adopted by the City, to read as follows:

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 payment of insurance proceeds to the City shall not be paid, subject to any lien created by the City

4-122 ADDITION OF SECTION 116.10 – CITY NOT PARTY TO INSURANCE CONTRACT

A new Section 116.10 is hereby added to the 2018 IBC, as adopted by the City, to read as follows:

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 or any amount in excess of the proceeds otherwise payable under its insurance policy.

4-123 ADDITION OF SECTION 116.11 – FAILURE TO PAY INSURANCE PROCEEDS OR TO OBTAIN A CERTIFICATE IN LIEU OF PAYMENT PROCEEDS

A new Section 116.11 is hereby added to the 2018 IBC, as adopted by the City, to read as follows:

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.

4-124 ADDITION OF SECTION 116.12 – IMMEDIATE HAZARDS

A new Section 116.12 is hereby added to the 2018 IBC, as adopted by the City, to read as follows:

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 action shall be assessed as permitted by Kansas State Statute.

4-125 ADDITION OF SECTION 116.13 – RIGHT OF ENTRY; UNLAWFUL INTERFERENCE; PENALTY

A new Section 116.13 is hereby added to the 2018 IBC, as adopted by the City, to read as follows:

116.13 Right of entry; unlawful interference; penalty. 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 or for the abatement of violations pursuant to this Article. 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. 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.

4-126 ADDITION OF SECTION 116.14: PENALTY

A new Section 116.14 is hereby added to the 2018 IBC, as amended by the City, to read as follows:

116.14 Penalty. 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. 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. Each day that any violation shall continue shall constitute a separate offense.

Section II. Repeal of Prior Ordinances.

Article 1 of Chapter IV of the Prairie Village Municipal Code, in existence as of and prior to the adoption of this Ordinance, and all other ordinances and parts thereof that are inconsistent with any provision of this Ordinance, are hereby repealed.

Section III. Effective Date

This ordinance shall take effect and be in force beginning June 1, 2021 upon and after its passage, approval, and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on March 1, 2021

APPROVED by the Mayor on March 1, 2021.



Eric Mikkelson, Mayor

ATTEST:



Adam Geffert
City Clerk

APPROVED AS TO LEGAL FORM:



David E. Waters
City Attorney