

Members of the Governing Body will participate in a hybrid-meeting format. The public may attend the meeting in person or view it online at <https://www.facebook.com/CityofPrairieVillage>.

**COUNCIL MEETING AGENDA
CITY OF PRAIRIE VILLAGE
Council Chambers
Monday, November 15, 2021
6:00 PM**

- I. CALL TO ORDER**
- II. ROLL CALL**
- III. PLEDGE OF ALLEGIANCE**
- IV. APPROVAL OF THE AGENDA**
- V. INTRODUCTION OF STUDENTS AND SCOUTS**
- VI. PRESENTATIONS**

Small Business Saturday proclamation

Dynamhex presentation

- VII. PUBLIC PARTICIPATION**

If you would like to speak live during the public participation portion of the meeting and would prefer to do so remotely, please notify City Clerk Adam Geffert at cityclerk@pvkansas.com, and provide your name and address prior to 3 p.m. on November 15. The City will provide you with a link to join the meeting and will call on those who signed up to speak for up to 3 minutes once public participation begins. Alternatively, you may speak in-person at the meeting without signing up beforehand.

To submit written comment to the Council, please email cityclerk@pvkansas.com prior to 3 p.m. on November 15 to be shared with Councilmembers prior to the meeting.

- VIII. CONSENT AGENDA**

All items listed below are considered to be routine by the Governing Body and will be enacted by one motion (roll call vote). There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the regular agenda.

By Staff

- 1. Approval of regular City Council meeting minutes - November 1, 2021
- 2. Approval of expenditure ordinance #3008
- 3. Consider renewal of the Blue Valley Public Safety contract for the City's outdoor warning siren system maintenance in 2022

4. Consider resolutions designating City officials and staff authorized to act on behalf of the City for investments and financial transactions

IX. COMMITTEE REPORTS

X. MAYOR'S REPORT

XI. STAFF REPORTS

XII. OLD BUSINESS

XIII. NEW BUSINESS

COU2021-80 Consider adoption of Ordinances 2459, 2460, and 2461 to clarify and clean up the nuisance, unsafe structure and abatement provisions in the municipal code
Jamie Robichaud

COU2021-81 Consider approval of the hiring of part-time Crime Analyst
Chief Roberson

COU2021-82 Consider approval of property tax rebate program
Adam Geffert

COU2021-83 Consider adoption of the 2021 Standard Traffic Ordinance for Kansas cities and the 2021 Uniform Public Offense Code for Kansas cities
Deana Scott

XIV. COUNCIL COMMITTEE OF THE WHOLE (Council President presiding)

XV. ANNOUNCEMENTS

XVI. ADJOURNMENT

If any individual requires special accommodations - for example, qualified interpreter, large print, reader, etc., please notify the City Clerk at 913-385-4616, no later than 48 hours prior to the beginning of the meeting. If you are unable to attend this meeting, comments may be received by e-mail at cityclerk@pvkansas.com.

CITY OF PRAIRIE VILLAGE

Proclamation

Small Business Saturday – November 27, 2021

WHEREAS, the government of Prairie Village, Kansas celebrates our local small businesses and the contributions they make to our local economy and community; according to the United States Small Business Administration, there are 31.7 million small businesses in the United States; they represent 99.7% of firms with paid employees, and they are responsible for 65.1% of net new jobs created from 2000 to 2019; and

WHEREAS, small businesses employ 47.1% of the employees in the private sector in the United States; 88% of U.S. consumers feel a personal commitment to support small businesses in the wake of the pandemic, and 92% of small business owners have pivoted the way they do business to stay open during the pandemic; and

WHEREAS, 97% of Small Business Saturday shoppers recognize the impact they can make by shopping small; 85% of them also encouraged friends and family to do so, too; and

WHEREAS, 56% of shoppers reported they shopped online with a small business on Small Business Saturday in 2020, and more than 50% of consumers who reported shopping small endorsed a local business on social media or shopped at a local business because of a social media recommendation; and

WHEREAS, Prairie Village, Kansas supports our local businesses that create jobs, boost our local economy, and preserve our communities; and

WHEREAS, advocacy groups, as well as public and private organizations across the country have endorsed the Saturday after Thanksgiving as Small Business Saturday.

Now, therefore, I, Eric Mikkelsen, Mayor of the City of Prairie Village, do hereby proclaim November 27, 2021 as Small Business Saturday in the City of Prairie Village, Kansas, and urge the residents of our community, and communities across the country, to support small businesses and merchants on Small Business Saturday and throughout the year.

Mayor Eric Mikkelsen

Adam Geffert, City Clerk



**CITY COUNCIL
CITY OF PRAIRIE VILLAGE
NOVEMBER 1, 2021**

The City Council of Prairie Village, Kansas, met in regular session on Monday, November 1, 2021, at 6:00 p.m. Mayor Mikkelson presided. Due to technical issues, the start of the meeting was delayed until 6:33 p.m.

ROLL CALL

Roll was called by the City Clerk with the following Councilmembers in attendance: Chad Herring, Jori Nelson (via Zoom), Inga Selders, Ron Nelson, Tucker Poling (via Zoom), Bonnie Limbird (via Zoom), Piper Reimer (via Zoom), Courtney McFadden, and Ian Graves (via Zoom). Staff present: Byron Roberson, Chief of Police; Keith Bredehoeft, Public Works Director; City Attorney David Waters, attorney with Lathrop & Gage; Wes Jordan, City Administrator; Jamie Robichaud, Deputy City Administrator; Tim Schwartzkopf, Assistant City Administrator; Meghan Buum, Assistant City Administrator; Nickie Lee, Finance Director; Cindy Volanti, Human Resource Manager; Adam Geffert, City Clerk.

PLEDGE OF ALLEGIANCE

APPROVAL OF AGENDA

Mrs. McFadden made a motion to approve the agenda for November 1, 2021. Mr. Herring seconded the motion, which passed 9-0.

PRESENTATIONS

- Mayor Mikkelson read a proclamation recognizing November as National Native American Heritage Month.
- Mayor Mikkelson, along with Mr. Jordan and former Mayors Sue Weltner and Ron Shaffer, reflected on the life of former Councilmember and Mayor Roe Taliaferro, who had recently passed away at age 98.

PUBLIC PARTICIPATION

None

CONSENT AGENDA

Mayor Mikkelson asked if there were any items to remove from the consent agenda for discussion:



1. Approval of regular City Council meeting minutes - October 18, 2021
2. Approval of expenditure ordinance #3007
3. Consider installation of stop signs at the intersection of 74th Street and Village Drive
4. Consider memorandum of agreement with Little Government Relations for government relations and lobbying services in 2022

Mrs. McFadden made a motion to approve the consent agenda as presented. A roll call vote was taken with the following votes cast: “aye”: Herring, J. Nelson, Selders, R. Nelson, Poling, Limbird, Reimer, McFadden, Graves. The motion passed 9-0.

COMMITTEE REPORTS

- **Insurance Committee**
 - Consider approval of 2022 employee medical, vision, and dental plans and other supplemental employee benefits

Mrs. Robichaud stated that the City’s benefits consultant, CBIZ, advised staff earlier in the year that they anticipated the City’s health insurance rates through United Healthcare (UHC) would increase significantly in 2022 due to a higher number of claims during the rating period of May 2020 through April 2021. During that period, claims on the City’s insurance increased by 32.5% compared to the same timeframe the previous year.

In anticipation of this increase, staff recommended to the Insurance Committee to instruct CBIZ to go out to bid for the City’s health insurance renewal for 2022. It had also been 5 years since the City went out to bid on employee medical insurance, so staff felt it was important to go out to the market to ensure the City and employees were getting the most competitive rate while not sacrificing the quality of coverage. The Insurance Committee agreed with staff’s recommendation, and CBIZ accepted proposals on the City’s behalf this fall.

Several competitive health care bids were received from UHC, Cigna, Humana, and Aetna. After a thorough review, staff made the recommendation to the Insurance Committee to change from United Healthcare to Cigna for medical insurance in 2022. The Insurance Committee voted unanimously in October to support staff’s recommendation and switch the employee medical plan from UHC to Cigna in 2022.

Cigna provided a very comparable bid to the current plan through UHC, but the cost of their plan was about 3% less per year than UHC for 2022, resulting in a savings of \$36,160. Cigna also agreed to a 12% rate cap for the 2023 renewal and to fund the City’s wellness fund at \$30,000 per year, which is currently funded at \$10,000 per year through United Healthcare.



Ms. Robichaud added that dental, vision and life insurance providers had not changed, though the Employee Assistance Program would be moving from New Directions to LifeWorks. Overall, a 12.5% increase in medical premium contributions was anticipated in the 2022 budget, but the proposed rates would result in a budget savings of approximately \$81,000.

Mrs. McFadden made a motion to accept the Insurance Committee's unanimous recommendation to approve the 2022 employee insurance benefit package as presented. Mr. Nelson seconded the motion, which passed 9-0.

- **Police Pension Board**

- Consider revisions to Council Policy 055: Investment Policy Statement for Police Pension Retirement Funds and new Council Policy 054: Investment Policy Statement for City Supplemental 401/457 Retirement Funds

Ms. Robichaud stated that Council Policy 055 was amended in 2019 to shift oversight of the City's supplemental retirement plans from staff to the Pension Board of Trustees. Since that time, the City's plan administrators at Voya requested that the City adopt an investment policy for its supplemental retirement plans. In working on this policy, staff recommended to the Pension Board the creation of a new Council Policy (CP054), which would be specific to the City's supplemental retirement plans. Staff also recommended separating the two policies due to the nature and structure of each of the plans. The Police Pension Plan (governed by Council Policy 055) is a defined benefit plan in which the Pension Board of Trustees is directly involved in how the funds in the plan are invested.

The City's supplemental retirement plan is a defined contribution plan and employees have oversight of the investment of their individual funds. The Pension Board of Trustees' role in oversight of the supplemental retirement plan is limited to determining the investment options offered to employees and receiving performance updates on those investment options. The Pension Board of Trustees unanimously recommended approval of new Council Policy 054 and revisions to Council Policy 055 at its October meeting. The city attorney has reviewed the policy.

Mrs. McFadden made a motion to accept the Pension Board's recommendation and adopt COU2021-79, revisions to Council Policy 055 and new Council Policy 054. Ms. Reimer seconded the motion, which passed 9-0.

- Ms. Selders stated that at the Diversity Committee meeting on October 20, a recap of the first Racial Equity in Communities workshop was provided. UMKC professor



PRAIRIE VILLAGE KANSAS

Dr. Sandra Enriquez was also present to discuss a project that her Public History students were working on to compile a history of the community for an interpretive panel project. Further, Mayor Mikkelson and Chief Roberson discussed the Citizens Advisory Board, and the committee provided feedback on the upcoming Diversity Arts show.

- Mr. Graves said the Environmental Committee met the prior week to discuss the City's commitment to the "Cities Race to Zero" program. A presentation on electronics recycling programs was given by a representative from PCs for People. An electronics recycling event is planned for 2022, as is an Earth Day event with other cities in northeast Johnson County. Lastly, Committee members went on a tour of a local recycling facility.

MAYOR'S REPORT

- The Mayor provided an update on the COVID-19 pandemic, noting that trends were stable, with Johnson County remaining in the "substantial" category. New cases over the previous seven days totaled 93, a slight increase from 91 at the last meeting. The percent positive rate also increased slightly from 4.9% to 5.3%. The vaccination rate of those 12 and older had increased to 64% per the Johnson County Health Department and to nearly 80% per the Center for Disease Control. Both hospitalizations and deaths continued to decline. The total vaccination rate in the 66208 zip code had reached 78.6%.
- The Mayor noted that outgoing Councilmembers Jori Nelson, Tucker Poling, Sheila Myers, and Dan Runion would be recognized at the first meeting in December.
- The Mayor served as the judge of a children's Halloween costume contest at a neighborhood block party on October 30.
- The Mayor attended a retirement party for Mayor Sissom of the City of Merriam.
- The Mayor said the Johnson County Charter Commission met for a final public comment session the previous week, and would next meet on November 8 to review proposed charter amendments.
- Councilmembers and staff attended virtual Diversity, Equity and Inclusion (DEI) training sessions.
- Every representative Rebecca Galati will attend an upcoming Council meeting to discuss the ongoing upgrades to electrical infrastructure in the City.
- The Mayor's Tree Lighting event, a fundraiser for the Prairie Village Foundation, will take place on December 2.
- The Mayor will host a Johnson County / Wyandotte County Mayors meeting on November 3. Representatives from United Community Services will be present to discuss their affordable housing toolkit.
- A ribbon cutting for the new Hunter Family Vision office will be held on November 4 in the Corinth Quarter shopping center.



STAFF REPORTS

- Mr. Jordan stated that the November plan of action and projects update was included in the meeting packet. He noted that a request for proposal was being prepared for the planned 2022 salary study, and that the nearly ten-year old phone system at City Hall would need to be replaced in the near future.
- Chief Roberson said that the mental health co-responder had taken a new position with Johnson County, and that the Prairie Village and Leawood Police Departments were in search of a replacement employee. Additionally, the Chief provided an update on department staffing, noting that the City was allotted up to 47 officers, and currently had 41. Nine officers had left the agency during the past 13 months.
- Ms. Robichaud said that Building Codes staff would move into the new Public Works facility on November 18 and 19.

OLD BUSINESS

There was no old business to come before the Council.

NEW BUSINESS

There was no new business to come before the Council.

Mr. Herring moved that the City Council move into the Council Committee of the Whole portion of the meeting. The motion was seconded by Mrs. McFadden and passed 9-0.

COUNCIL COMMITTEE OF THE WHOLE

COU2021-77 Consider adoption of Ordinances 2459, 2460, and 2461 to clarify and clean up the nuisance, unsafe structure and abatement provisions in the municipal code

Ms. Robichaud said that there were currently two sections in the Prairie Village Municipal Code that addressed nuisances, unsafe structures, and abatements. These sections included Chapter 8, Article 2 and Chapter 4, Article 1. In some instances, the language in each section conflicts with the other. She added that it becomes confusing for staff when researching the process for handling abatement or nuisances and unsafe structures to have to reference multiple sections in the municipal code.

Staff worked with City Attorney David Waters to improve the language in the municipal code regarding these provisions to provide better clarity and eliminate conflicting language. Staff recommends adopting Ordinance 2459, which would create a new Article 6 of Chapter 8 (Health and Welfare) which will address all provisions related to nuisances, unsafe structures, and abatements. The recommendation also includes adopting



Ordinance 2460 and 2461, which amend and eliminate the current provisions in Article 1, Chapter 4 and Article 2, Chapter 8 related to nuisances, unsafe structures, and abatements. These changes will result in a nuisance and abatement code that is clearer and easier to understand for staff and residents.

Ms. Robichaud noted that the Environmental Committee Chair also recently approached staff with a request from the committee that the municipal code be amended to clarify that milkweed was permissible in native gardens. Staff agreed to present this requested change to the City Council by revising the definition for rank weeds in Section 8-207.

Mr. Herring made a motion to recommend approval of Ordinances 2459, 2460 and 2461 as presented. Mr. Nelson seconded the motion, which passed 9-0.

COU2021-81 Consider approval of the hiring of part-time Crime Analyst

Chief Roberson stated that in 2004, the Police Department added a sworn position titled Crime Prevention Officer, which was designed to help the department reduce crime by educating citizens on ways to keep their homes and businesses safe. At times, this employee would also assist command staff with crime statistics. Unfortunately, due to work force shortages, the position has frequently been vacant.

The Police Department uses intelligence-based policing as its strategy to respond to and deter criminal activity. In order to effectively use this strategy, the department must have current and relevant statistical data. Numerous data collection points for criminal activity, persons, places and other statistics can be tracked. The department currently has a volunteer who has the technical expertise needed to accomplish this goal. Jeff Collins started working for the Police Department in late 2020 as a volunteer. Mr. Collins has created several data programs and search engines that have been used to improve the efficiency of police operations.

Since Mr. Collins is not an employee of the department, he does not possess the credentials needed to access several other regional and local computer systems. If employed, Mr. Collins will be able to fully access all necessary data sources after passing a background check.

Chief Roberson proposed hiring Mr. Collins as a part-time Crime Analyst at a rate of \$25.00 per hour, for not more than 20 hours per week. The position would not include health care benefits, and the cost would be shared with the City of Mission Hills as part of the 2022 police budget. The cost for the remainder of 2021 is estimated to be no more than \$4,500, and in 2022, no more than \$26,000, minus the Mission Hills portion. If approved and found to be an effective asset, the position will be funded in the 2023 Police Department budget.



Mr. Nelson made a motion to recommend approval of the hiring of a part-time Crime Analyst as presented. Ms. Selders seconded the motion, which passed 9-0.

COU2021-82 Consider property tax rebate program

Mr. Geffert noted the Governing Body voted to allocate \$20,000 from the City's general fund to a property tax rebate program designed to alleviate the burden of rising property values as part of the 2022 budget process. The program's goal is to offer financial assistance in the form of a property tax relief grant to low income residents in need. Staff researched similar programs in Mission, KS and Roeland Park, KS, which both utilize the U.S. Department of Housing and Urban Development's "Very Low Income" guidelines to determine eligibility. Only property owners that are Prairie Village residents, are current on payment of their property taxes and special assessments, live in their own home, and meet the income guidelines would be eligible for the program.

The Mission and Roeland Park programs differ in the types of fees that can be rebated to eligible residents. In Roeland Park, only the City's portion of a resident's property taxes are offered, whereas in Mission, other items, such as solid waste fees are also included. Mr. Geffert stated that staff was seeking direction from Council to determine whether rebates for stormwater and/or solid waste assessments should also be included, by selecting one of the following proposed options:

- Option 1: Rebates for City Property Taxes Only

The average Prairie Village homeowner pays \$845 per year for the City's portion of their overall tax liability. Theoretically, 23 homeowners could be assisted if these were the only fees rebated ($\$20,000 / \845).

- Option 2: Rebates for City Property Taxes, Stormwater Assessment and Solid Waste Assessment

Most Prairie Village homeowners will pay \$227 for solid waste services in 2022 (some HOAs provide their own solid waste services, and as such, residents in these areas would not be eligible for a rebate of this assessment).

While it is difficult to determine the precise average amount homeowners pay for the stormwater assessment, staff research suggests it is approximately \$125 per year. Thus, if both the stormwater and solid waste assessments were included along with the average property tax payment, roughly 16 homeowners could be assisted ($\$20,000 / (\$845 + \$227 + \$125)$).

Mr. Geffert said that the City Clerk's Office would be responsible for receiving applications and verifying eligibility, and would in turn work with the Finance Department to reimburse homeowners. Information provided by Mission and Roeland Park indicates that in those



cities, 15 - 30 applications are received annually. Further, applicants that continue to meet income guidelines are eligible to reapply each year. The application period is expected to open in January 2022, and will be advertised in the Village Voice and on social media platforms.

Mayor Mikkelson suggested placing a cap on the assessed value of homes to ensure that funds went to those most in need. **Ms. Reimer agreed, and made a motion to recommend approval of a property tax rebate program based on option #1 (property taxes only) limited to homeowners whose assessed property value is at or below the previous year's median home value in the City (in 2021, approximately \$380,000). Ms. Nelson seconded the motion.**

Ms. Selders expressed concern that the assessed value of many homes in the City had increased dramatically over the past 10 years, and that houses which were previously affordable were now valued at a level higher than the median amount.

After further discussion, Mr. Herring made a motion to amend the motion to increase the maximum assessed property value to 1.5 times the median home value in the City (based on 2021 values, this would total approximately \$570,000). Ms. Selders seconded the motion to amend, which failed 5-4, with Ms. Nelson, Mr. Poling, Ms. Limbird, Ms. Reimer and Mrs. McFadden in opposition.

The original motion passed 8-1, with Mrs. McFadden in opposition.

Mr. Herring moved that the City Council end the Council Committee of the Whole portion of the meeting. The motion was seconded by Mr. Graves and passed 9-0.

ANNOUNCEMENTS

Announcements were included in the Council meeting packet.

ADJOURNMENT

Mayor Mikkelson declared the meeting adjourned at 8:21 p.m.

Adam Geffert
City Clerk

CITY TREASURER'S WARRANT REGISTER

DATE WARRANTS ISSUED:

Warrant Register Page No. 1

November 15, 2021

Copy of Ordinance
3008

Ordinance Page No. _____

An Ordinance Making Appropriate for the Payment of Certain Claims.

Be it ordained by the governing body of the City of Prairie Village, Kansas,

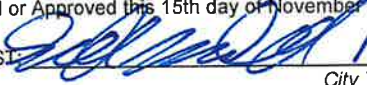
Section 1. That in order to pay the claims hereinafter stated which have been properly audited and approved, there is hereby appropriated out of funds in the City treasury the sum required for each claim.

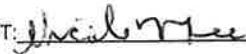
NAME	DATE	AMOUNT	TOTAL
EXPENDITURES:			
Accounts Payable			
24841-24925	10/1/2021	483,399.53	X
24926-24933	10/8/2021	257,021.24	X
24934-25007	10/15/2021	2,227,212.80	X
25008-25009	10/22/2021	4,500.43	X
25010-25100	10/29/2021	284,679.78	X
Payroll Expenditures			
10/5/2021		315,161.45	X
10/19/2021		312,408.50	X
Electronic Payments			
Electronic Pmnts	10/1/2021	13,756.00	X
	10/4/2021	4,560.69	X
	10/8/2021	7,250.78	X
	10/11/2021	672.60	X
	10/13/2021	345.87	X
	10/25/2021	69.22	X
	10/26/2021	23,373.20	X
TOTAL EXPENDITURES:			3,934,412.09
Voided Checks	Check #	(Amount)	
TOTAL VOIDED CHECKS:			-
GRAND TOTAL CLAIMS ORDINANCE			3,934,412.09

Section 2. That this ordinance shall take effect and be in force from and after its passage.

Passed this 15th day of November 2021.

Signed or Approved this 15th day of November 2021.

ATTEST:  11-5-21
City Treasurer

ATTEST:  11/4/2021
Finance Director



POLICE DEPARTMENT

Council Meeting Date: November 15, 2021

CONSENT AGENDA: Consider Renewal of the Blue Valley Public Safety Contract for the City's Outdoor Warning Siren System Maintenance for 2022.

RECOMMENDATION

Staff recommends approval of the agreement between the City of Prairie Village and Blue Valley Public Safety in the amount of \$4,794.00 to be paid out of 01-03-21-6029-000 for 2022.

COUNCIL ACTION REQUESTED ON: November 15, 2021

BACKGROUND

Blue Valley Public Safety has maintained the siren system for the City's outdoor warning each year since 1984. The maintenance price has increased 1.4 percent from 2021, but there have been no changes in the terms and conditions from previous years -- this is merely a renewal for maintenance.

The Department has experienced no problems with the past contracts and the City Attorney has previously reviewed and approved this document.

ATTACHMENTS

2022 Maintenance Agreement, including Terms and Conditions.

PREPARED BY

Byron K. Roberson
Chief of Police
November 8, 2021



509 James Rollo Dr - PO Box 363
Grain Valley, MO 64029
1-800-288-5120

MAINTENANCE AGREEMENT

Contact Name: Jennifer Wright, Executive Asst.
Customer: Prairie Village Police Department
Address: 7710 Mission Rd
City: Prairie Village
State: Kansas
Zip: 66208
Phone: 913-385-4607
Fax: *
Email: jwright@pvkansas.com

Maintenance Agreement No.:

1108211150

Please reference this
no. on your order

Date: 11/8/21

Maintenance Period
01-01-22 thru 12-31-22

Notes:

Item No.	Qty.	Contract Model No.	Description	Unit Per Month	Month Total	Annual
12 Month Maintenance Contract on the Following Equipment						
Standard Terms: 96 Hour Response Time / Business Days						
Contract does not cover damage due to Vandalism, Theft, Misuse, Lightning or other Acts of Nature.						
System Name 1						
1	2	MC-2001ACDC	Maintenance Contract for model 2001 ACDC head	\$19.50	\$39.00	\$468.00
2	2	MC-2001DC	Maintenance Contract for model 2001 Siren head	\$18.00	\$36.00	\$432.00
3	2	MC-ECLIPSE	Maintenance Contract for model Eclipse Siren	\$18.25	\$36.50	\$438.00
4	6	MC-DCFCTD	Maintenance Contract for Siren Two Way Control (incl DCFCTBDH)	\$18.00	\$108.00	\$1,296.00
5	24	MC-BATT	Contract per standard battery	\$7.50	\$180.00	\$2,160.00

Total of Contract Monthly

\$399.50

Total of Contract Annually

\$4,794.00

Contract Notes:

Terms / Conditions

Prices are firm for 120 days from the date of quotation unless otherwise shown. Upon acceptance, prices are firm for 6 months. This quotation is expressly subject to acceptance by Buyer of all Terms stated in the attached Terms document, and any exception to or modification of such Terms shall not be binding unless expressly accepted in writing by an authorized agent or Office of the Seller. Any order submitted to Seller on the basis set forth above, in whole or in part, shall constitute an acceptance by Buyer of the Terms. Any such order shall be subject to acceptance by Seller in its discretion. Installation is not included unless specifically quoted as a line item above.

Sales Tax: Sales Tax will be additional unless an Exemption Certificate is provided.

Proposed By: Norma Cates

Company: Blue Valley Public Safety Inc.

Address: P.O. Box 363 - 509 James Rollo Dr.

City, State, Zip: Grain Valley, MO 64029

Country: USA

Work Phone 1-800-288-5120

Fax: 816-847-7513

Approved By: Norma Cates

Title: President

Dee A. Wieduwilt

Office Manager

Purchase Order must be made out to, and e-mailed, mailed or faxed to:

Blue Valley Public Safety, Inc. , PO Box 363, Grain Valley, MO 64029

Fax: 816-847-7513

dee@bvpsonline.com



509 James Rollo Dr - PO Box 363
Grain Valley, MO 64029
1-800-288-5120

MAINTENANCE AGREEMENT

Contact Name: Jennifer Wright, Executive Asst.
Customer: Prairie Village Police Department
Address: 7710 Mission Rd
City: Prairie Village
State: Kansas
Zip: 66208
Phone: 913-385-4607
Cell: *
Fax: *
Email: jwright@pvkansas.com

Maintenance Agreement No.:
1108211150
Please reference this
no. on your order
Date Quoted: 11/8/21

I hereby agree to the Terms stated on this document on behalf of the above mentioned Company or Government Entity.

Accepted By: _____
Signature: _____ Date: _____
Title: _____

Purchase Order must be made out to, and e-mailed, mailed or faxed to:
Blue Valley Public Safety, Inc. , PO Box 363, Grain Valley, MO 64029
Fax: 816-847-7513
dee@bvpsonline.com



509 James Rollo Dr - PO Box 363
Grain Valley, MO 64029
1-800-288-5120

MAINTENANCE AGREEMENT

TERMS AND CONDITIONS

This Maintenance Agreement (this Agreement) is between Blue Valley Public Safety ("BLUE VALLEY") and the ("CUSTOMER") as indicated on the reverse side of this Agreement. In consideration of the mutual agreements herein contained, BLUE VALLEY and the CUSTOMER agree as follows:

1. Subject to the terms and provisions of the Agreement, BLUE VALLEY hereby agrees to maintain and service for equipment (the "EQUIPMENT") described on the reverse side of this Agreement beginning and ending on the dates indicated.
2. CUSTOMER hereby agrees to pay BLUE VALLEY the total of monthly charge(s) set forth on the reverse side for the one-year term of this Agreement. In addition, CUSTOMER shall pay for any sales, use, excise or other taxes, if any, which may be imposed upon the furnishing of parts, components or service pursuant to this Agreement.
3. The services to be performed by BLUE VALLEY hereunder shall consist of repair or replacement of the EQUIPMENT and parts and components thereof which have malfunctioned or become inoperative in normal wear and usage. This Agreement does not extend to repair or replacement of the EQUIPMENT or parts or components thereof which have malfunctioned or become inoperative for any other reason, including, but not limited to, misuse, abuse, vehicular accident, fire, natural disaster, explosion or other casualty, or modification or alteration by any party other than BLUE VALLEY.
4. BLUE VALLEY'S obligation to service the EQUIPMENT pursuant to this Agreement shall consist of its obligation of repair or replacement hereinabove set forth. In the event of any breach of such obligation by BLUE VALLEY, CUSTOMER'S sole remedy shall be to terminate this Agreement and receive from BLUE VALLEY the lesser of: (i) the actual and reasonable cost of such repair or replacement by another party; or (ii) the monthly charges theretofore paid by CUSTOMER in respect of such of the EQUIPMENT for which breach is claimed by CUSTOMER. In no event shall BLUE VALLEY be responsible for consequential damages or other damages, such as, but not limited to, loss of profits, cost of purchasing or renting replacement equipment, or loss of use of the EQUIPMENT or vehicles in which the EQUIPMENT shall be installed. This limitation on the liability of BLUE VALLEY shall not extend to any claim for damages arising out of injury to person or property directly and proximately caused by the Equipment.
5. BLUE VALLEY shall be under no obligation to provide services at any site other than the site, designated pursuant to this Agreement. In the event that BLUE VALLEY should nonetheless perform service at any other site at the request of CUSTOMER, then CUSTOMER shall be responsible for providing a safe and suitable working site, and shall be responsible for all additional costs and expenses incurred by BLUE VALLEY in performing services at such site, including, but not limited to, transportation costs, temporary equipment rentals, employee overtime, and additional labor costs resulting from utilization of local union workmen to conform with any agreements or other requirements affecting such work site.
6. Any item of the EQUIPMENT which is not new or which has not been subject to a Maintenance service agreement with BLUE VALLEY immediately prior to this Agreement shall be inspected by BLUE VALLEY at CUSTOMER'S request and restored to operative condition at the expense of CUSTOMER. In the event BLUE VALLEY is unable to restore the EQUIPMENT to operative condition, then effective upon the date of notice of such fact to CUSTOMER, this Agreement shall be terminated as to such EQUIPMENT and the charges hereunder equitably reduced. Such termination shall have no effect as to any other EQUIPMENT hereinabove specified, and in addition, CUSTOMER shall pay its reasonable charges for parts and labor expended in its attempt to restore such EQUIPMENT to operative condition.
7. BLUE VALLEY warrants that parts, components and services furnished pursuant to this Agreement shall be commercially free from defects of material and workmanship at the time EQUIPMENT is returned to CUSTOMER. Any claim for breach of this warranty shall be ineffective unless written notice thereof shall be given to BLUE VALLEY within the period of one year from the date hereof. THIS WARRANTY IS EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE AND OF ANY OTHER TYPE, WHETHER EXPRESS OR IMPLIED.
8. BLUE VALLEY shall use reasonable diligence to perform its obligations hereunder on a commercially timely basis but subject to delays or failures resulting from fire, war, labor disputes, acts of God, governmental regulations, commercial shortages, component or material unavailability, and other causes beyond its reasonable control. Performance by BLUE VALLEY is further conditioned upon complete information or instructions being furnished by CUSTOMER regarding inoperative or malfunctioning conditions of the EQUIPMENT and possible causes thereof.
9. CUSTOMER represents and warrants that: (i) CUSTOMER owns the EQUIPMENT or has full right of possession and use thereof throughout the term of this Agreement; (ii) CUSTOMER has full power and authority to enter into this Agreement; and (iii) the performance of this Agreement by BLUE VALLEY as hereinabove set forth will not violate any contracts or arrangements to

Purchase Order must be made out to, and e-mailed, mailed or faxed to:
Blue Valley Public Safety, Inc. , PO Box 363, Grain Valley, MO 64029
Fax: 816-847-7513
dee@bvpsonline.com



509 James Rollo Dr - PO Box 363
Grain Valley, MO 64029
1-800-288-5120

MAINTENANCE AGREEMENT

which CUSTOMER is a party or which may be binding upon CUSTOMER.

10. This Agreement may terminate by either party hereto in whole or in part as to less than all items of the EQUIPMENT upon giving to other party sixty (60) days advance written notice of its intent to terminate; except that (i) BLUE VALLEY shall complete all services herein required of it with respect to EQUIPMENT therefore delivered to BLUE VALLEY and shall return same to CUSTOMER; (ii) CUSTOMER shall pay for all charges or other costs accruing prior to the effective date of termination or with respect to EQUIPMENT thereafter returned to CUSTOMER by BLUE VALLEY; and (iii) BLUE VALLEY shall return to CUSTOMER all payments made by CUSTOMER applicable to terminated maintenance service to have been rendered by BLUE VALLEY subsequent to the effective date of termination.

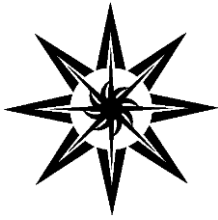
11. This Agreement constitutes the only agreement between BLUE VALLEY and CUSTOMER respecting the subject matter hereof and supersedes all prior agreements or understandings, whether written or oral. This Agreement may not be amended or modified except in writing signed by BLUE VALLEY and CUSTOMER. Neither party may assign any rights hereunder without the prior written consent of the other. This Agreement shall be solely for the benefit of BLUE VALLEY and CUSTOMER and no other party shall have any rights hereunder.

12. *SPECIAL PROVISIONS

96 Hours response time.

Purchase Order must be made out to, and e-mailed, mailed or faxed to:
Blue Valley Public Safety, Inc. , PO Box 363, Grain Valley, MO 64029
Fax: 816-847-7513

dee@bvpsonline.com



CITY CLERK DEPARTMENT

**Council Meeting Date: November 15, 2021
CONSENT AGENDA**

Consider Resolutions Designating City Officials and staff authorized to act on behalf of the City for investments and financial transactions.

RECOMMENDATION

Recommend the City Council approve Resolutions 2021-16 through 2021-22 designating the authority to act on behalf of the City for the execution of documents and transmission and/or transfer of funds.

BACKGROUND

The City Administrator and other staff are designated the authority to act on behalf of the City for the execution of documents and transmission and/or transfer of funds with several different agencies. The attached resolutions approving such designate the authority by "name" as well as "title", and have been updated to reflect the current Treasurer.

ATTACHMENTS

Resolutions 2021-16 through 2021-22
Reissue documents for execution

PREPARED BY

Nickie Lee
Finance Director
November 3, 2021

RESOLUTION NO. 2021-16

WHEREAS, the City of Prairie Village finds it necessary to regularly invest temporarily idle funds of the City in short term certificates of deposit; and

WHEREAS, Intrust Bank has, by Ordinance, been designated as an official depository of the City of Prairie Village;

NOW, THEREFORE, BE IT RESOLVED, that Intrust Bank, located in Prairie Village, Kansas, is hereby designated a depositor of the City of Prairie Village, Kansas for the purpose of purchasing certificates of deposit from said institution, and that the following persons are authorized to act on behalf of the City for the purpose of purchasing certificates of deposit:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the following individuals are hereby individually authorized to endorse said certificates of deposit on behalf of the City for purposes of redemption:

<u>Name</u>	<u>Title</u>
Eric Mikkelson	Mayor
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Adam Geffert	City Clerk

BE IT FURTHER RESOLVED that the following individuals acting individually, are authorized to instruct said financial institutions, either by written or verbal instructions, or electronic transactions to deposit proceeds for the credit of this City at any bank or savings and loan association:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the City acknowledges and agrees that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the individual(s) named on this resolution. The term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that is filed separately by the City with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the individual(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature on file. The City authorizes each individual to have custody of the City's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The

Financial Institution shall have responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.

BE IT FUTHER RESOLVED that this resolution shall continue in force and said financial institutions may consider the facts concerning and holders of said offices, respectively, and their signatures, to be and continue as set forth herewith until written notice to the contrary is duly served on said financial institution.

ADOPTED THIS 15TH DAY OF NOVEMBER, 2021.

By: _____
Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

RESOLUTION NO. 2021-17

WHEREAS, the City of Prairie Village finds it necessary to regularly invest temporarily idle funds of the City in short term certificates of deposit; and

WHEREAS, Capital Federal Savings & Loan Association of Prairie Village, Kansas has, by Ordinance, been designated as an official depository of the City of Prairie Village;

NOW, THEREFORE, BE IT RESOLVED, that Capital Federal Savings & Loan Association located in Prairie Village, Kansas, is hereby designated a depositor of the City of Prairie Village, Kansas for the purpose of purchasing certificates of deposit from said institution, and that the following persons are authorized to act on behalf of the City for the purpose of purchasing certificates of deposit:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the following individuals are hereby individually authorized to endorse said certificates of deposit on behalf of the City for purposes of redemption:

<u>Name</u>	<u>Title</u>
Eric Mikkelson	Mayor
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Adam Geffert	City Clerk

BE IT FURTHER RESOLVED that the following individuals acting individually, are authorized to instruct said financial institutions, either by written or verbal instructions, or electronic transactions to deposit proceeds for the credit of this City at any bank or savings and loan association:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the City acknowledges and agrees that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the individual(s) named on this resolution. The Term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that is filed separately by the City with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the individual(s) regardless of by whom or by what means the facsimile signature

may have been affixed so long as it resembles the facsimile signature on file. The City authorizes each individual to have custody of the City's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.

BE IT FUTHER RESOLVED that this resolution shall continue in force and said financial institutions may consider the facts concerning and holders of said offices, respectively, and their signatures, to be and continue as set forth herewith until written notice to the contrary is duly served on said financial institution.

ADOPTED THIS 15TH DAY OF NOVEMBER, 2021.

By: _____
Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

RESOLUTION NO. 2021-18

WHEREAS, the City of Prairie Village finds it necessary to regularly invest temporarily idle funds of the City in short term certificates of deposit, U.S. Treasury Notes, and U.S. Treasury Bills; and

WHEREAS, the City of Prairie Village finds it necessary to establish and maintain a safekeeping account at UMB Bank; and

WHEREAS, UMB Bank has, by Ordinance, been designated as an official depository of the City of Prairie Village;

NOW, THEREFORE, BE IT RESOLVED, that UMB Bank located in Johnson County, Kansas, is hereby designated a depository and safekeeping agent of the City of Prairie Village, Kansas for the purpose of purchasing certificates of deposit, U.S. Treasury Notes and U.S. Treasury Bills from said institution, and that the following persons are authorized to act on behalf of the City for the purpose of purchasing certificates of deposit, U.S. Treasury Notes and U.S. Treasury Bills:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the following individuals are hereby individually authorized to endorse said certificates of deposit, U.S. Treasury Notes and U.S. Treasury Bills on behalf of the City for purposes of redemption:

<u>Name</u>	<u>Title</u>
Eric Mikkelson	Mayor
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Adam Geffert	City Clerk

BE IT FURTHER RESOLVED that the following individuals acting individually, are authorized to instruct said financial institutions, either by written or verbal instructions, or electronic transactions to deposit proceeds for the credit of this City at any bank or savings and loan association:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the City acknowledges and agrees that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the individual(s) named on this resolution. The Term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that is filed separately by the City with the Financial Institution

from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the individual(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature on file. The City authorizes each individual to have custody of the City's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.

BE IT FUTHER RESOLVED that this resolution shall continue in force and said financial institutions may consider the facts concerning and holders of said offices, respectively, and their signatures, to be and continue as set forth herewith until written notice to the contrary is duly served on said financial institution.

ADOPTED THIS 15TH DAY OF NOVEMBER, 2021.

By: _____
Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

RESOLUTION NO. 2021-19

WHEREAS, the City of Prairie Village finds it necessary to regularly invest temporarily idle funds of the City in short term certificates of deposit; and

WHEREAS, Mission Bank has, by Ordinance, been designated as an official depository of the City of Prairie Village;

NOW, THEREFORE, BE IT RESOLVED, that Mission Bank located in Prairie Village, Kansas, is hereby designated a depositor of the City of Prairie Village, Kansas for the purpose of purchasing certificates of deposit from said institution, and that the following persons are authorized to act on behalf of the City for the purpose of purchasing certificates of deposit:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the following individuals are hereby individually authorized to endorse said certificates of deposit on behalf of the City for purposes of redemption:

<u>Name</u>	<u>Title</u>
Eric Mikkelson	Mayor
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Adam Geffert	City Clerk

BE IT FURTHER RESOLVED that the following individuals acting individually, are authorized to instruct said financial institutions, either by written or verbal instructions, or electronic transactions to deposit proceeds for the credit of this City at any bank or savings and loan association:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the City acknowledges and agrees that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the individual(s) named on this resolution. The Term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that is filed separately by the City with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the individual(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature on file. The City

authorizes each individual to have custody of the City's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.

BE IT FUTHER RESOLVED that this resolution shall continue in force and said financial institutions may consider the facts concerning and holders of said offices, respectively, and their signatures, to be and continue as set forth herewith until written notice to the contrary is duly served on said financial institution.

ADOPTED THIS 15TH DAY OF NOVEMBER, 2021.

By: _____
Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

RESOLUTION NO. 2021-20

WHEREAS, the City of Prairie Village finds it necessary to regularly invest temporarily idle funds of the City in short term certificates of deposit; and

WHEREAS, Commerce Bank has, by Ordinance, been designated as an official depository of the City of Prairie Village;

NOW, THEREFORE, BE IT RESOLVED, that Commerce Bank, located in Prairie Village, Kansas, is hereby designated a depositor of the City of Prairie Village, Kansas for the purpose of purchasing certificates of deposit from said institution, and that the following persons are authorized to act on behalf of the City for the purpose of purchasing certificates of deposit:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the following individuals are hereby individually authorized to endorse said certificates of deposit on behalf of the City for purposes of redemption:

<u>Name</u>	<u>Title</u>
Eric Mikkelson	Mayor
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Adam Geffert	City Clerk

BE IT FURTHER RESOLVED that the following individuals acting individually, are authorized to instruct said financial institutions, either by written or verbal instructions, or electronic transactions to deposit proceeds for the credit of this City at any bank or savings and loan association:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the City acknowledges and agrees that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the individual(s) named on this resolution. The Term “alternative signature and verification codes” includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that is filed separately by the City with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the individual(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature on file. The City

authorizes each individual to have custody of the City's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.

BE IT FUTHER RESOLVED that this resolution shall continue in force and said financial institutions may consider the facts concerning and holders of said offices, respectively, and their signatures, to be and continue as set forth herewith until written notice to the contrary is duly served on said financial institution.

ADOPTED THIS 15TH DAY OF NOVEMBER, 2021.

By: _____
Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

RESOLUTION NO. 2021-21

WHEREAS, the City of Prairie Village finds it necessary to regularly invest temporarily idle funds of the City in short term certificates of deposit, U.S. Treasury Notes, and U.S. Treasury Bills; and

WHEREAS, the City of Prairie Village finds it necessary to establish and maintain a safekeeping account at Great Southern Bank; and

NOW, THEREFORE, BE IT RESOLVED, that Great Southern Bank, located in Johnson County, Kansas, is hereby designated a depository and safekeeping agent of the City of Prairie Village, Kansas for the purpose of purchasing certificates of deposit, U.S. Treasury Notes and U.S. Treasury Bills from said institution, and that the following persons are authorized to act on behalf of the City for the purpose of purchasing certificates of deposit, U.S. Treasury Notes and U.S. Treasury Bills:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the following individuals are hereby individually authorized to endorse said certificates of deposit, U.S. Treasury Notes and U.S. Treasury Bills on behalf of the City for purposes of redemption:

<u>Name</u>	<u>Title</u>
Eric Mikkelsen	Mayor
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Adam Geffert	City Clerk

BE IT FURTHER RESOLVED that the following individuals acting individually, are authorized to instruct said financial institutions, either by written or verbal instructions, or electronic transactions to deposit proceeds for the credit of this City at any bank or savings and loan association:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the City acknowledges and agrees that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the individual(s) named on this resolution. The Term "alternative signature and verification codes" includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that is filed separately by the City with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the individual(s) regardless of by whom or by what means the facsimile signature may have been affixed so long as it resembles the facsimile signature on file. The City

authorizes each individual to have custody of the City's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.

BE IT FUTHER RESOLVED that this resolution shall continue in force and said financial institutions may consider the facts concerning and holders of said offices, respectively, and their signatures, to be and continue as set forth herewith until written notice to the contrary is duly served on said financial institution.

ADOPTED THIS 15TH DAY OF NOVEMBER, 2021.

By: _____
Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk

RESOLUTION NO. 2021-22

WHEREAS, the City of Prairie Village finds it necessary to regularly invest temporarily idle funds of the City in short term certificates of deposit; and

WHEREAS, U.S. Bank has, by Ordinance, been designated as an official depository of the City of Prairie Village;

NOW, THEREFORE, BE IT RESOLVED, that U.S. Bank, located in Prairie Village, Kansas, is hereby designated a depositor of the City of Prairie Village, Kansas for the purpose of purchasing certificates of deposit from said institution, and that the following persons are authorized to act on behalf of the City for the purpose of purchasing certificates of deposit:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the following individuals are hereby individually authorized to endorse said certificates of deposit on behalf of the City for purposes of redemption:

<u>Name</u>	<u>Title</u>
Eric Mikkelson	Mayor
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Adam Geffert	City Clerk

BE IT FURTHER RESOLVED that the following individuals acting individually, are authorized to instruct said financial institutions, either by written or verbal instructions, or electronic transactions to deposit proceeds for the credit of this City at any bank or savings and loan association:

<u>Name</u>	<u>Title</u>
Scott McDonald	Treasurer
Wes Jordan	City Administrator
Jamie Robichaud	Deputy City Administrator
Nicole Lee	Finance Director

BE IT FURTHER RESOLVED that the City acknowledges and agrees that the Financial Institution may rely on alternative signature and verification codes issued to or obtained from the individual(s) named on this resolution. The Term “alternative signature and verification codes” includes, but is not limited to, facsimile signatures on file with the Financial Institution, personal identification numbers (PIN), and digital signatures. If a facsimile signature specimen has been provided on this resolution, (or that is filed separately by the City with the Financial Institution from time to time) the Financial Institution is authorized to treat the facsimile signature as the signature of the individual(s) regardless of by whom or by what means the facsimile signature

may have been affixed so long as it resembles the facsimile signature on file. The City authorizes each individual to have custody of the City's private key used to create a digital signature and to request issuance of a certificate listing the corresponding public key. The Financial Institution shall have responsibility or liability for unauthorized use of alternative signature and verification codes unless otherwise agreed in writing.

BE IT FUTHER RESOLVED that this resolution shall continue in force and said financial institutions may consider the facts concerning and holders of said offices, respectively, and their signatures, to be and continue as set forth herewith until written notice to the contrary is duly served on said financial institution.

ADOPTED THIS 15TH DAY OF NOVEMBER, 2021.

By: _____
Eric Mikkelson, Mayor

ATTEST:

Adam Geffert, City Clerk



ADMINISTRATION

Council Committee Meeting Date: November 1, 2021
Council Meeting Date: November 15, 2021

COU2021-80: Consider adoption of Ordinances 2459, 2460, and 2461 to clarify and clean up the nuisance, unsafe structure, and abatement provisions in the municipal code

ACTION NEEDED

Each of the following ordinances must be voted on individually by the Council:

- Ordinance 2459 - Creation of New Article 6 of Chapter 8 (Health and Welfare); establishing standards and procedures related to nuisances, unsafe or dangerous structure, abatement of code violations, and establishing penalties therefore.
- Ordinance 2460 - Amending Article 2 of Chapter 8 (Health and Welfare) related to the International Property Maintenance Code
- Ordinance 2461 - Amending Article 1 of Chapter 4 (Buildings and Construction) related to the International Building Code

BACKGROUND

There are currently two sections in the Prairie Village Municipal Code that address nuisances, unsafe structures, and abatements. These sections include Chapter 8, Article 2 and Chapter 4, Article 1. In some instances, the language in each section conflicts with the other. It also becomes confusing for staff when researching the process for handling abatement or nuisances and unsafe structures to have to reference multiple sections in the municipal code.

We worked with City Attorney David Waters to improve the language in the municipal code regarding these provisions to provide better clarity and eliminate conflicting language. Our recommendation includes adopting Ordinance 2459, which creates a new Article 6 of Chapter 8 (Health and Welfare) which will address all provisions related to nuisances, unsafe structures, and abatements. The recommendation also includes adopting Ordinance 2460 and 2461, which amend and eliminate the current provisions in Article 1, Chapter 4 and Article 2, Chapter 8 related to nuisances, unsafe structures, and abatements. We believe these changes will result in a nuisance and abatement code that is clearer and easier to understand for our staff and residents.

The Environmental Committee Chair also recently approached staff with the request from the Committee that the municipal code be amended to clarify that milkweed was permissible in native gardens. We agreed to present this requested change to the City Council by revising the definition for Rank Weeds in Section 8-207 while we were working on these other clean up ordinances.

ATTACHMENTS

Ordinance 2459 - New Article 6 of Chapter 8

Ordinance 2460 - Revised Article 2 of Chapter 8 (both red-lined and clean copy)

Ordinance 2461 - Revised Article 1 of Chapter 4 (both red-lined and clean copy)

PREPARED BY

Jamie Robichaud
Deputy City Administrator
Date: October 27, 2021

ORDINANCE NO. 2459

AN ORDINANCE CREATING NEW ARTICLE 6 (NUISANCES, UNSAFE OR DANGEROUS STRUCTURES, AND ABATEMENT OF CODE VIOLATIONS) OF CHAPTER VIII (HEALTH AND WELFARE), AND ENUMERATED SECTIONS THEREIN; ESTABLISHING STANDARDS AND PROCEDURES RELATED TO NUISANCES, UNSAFE OR DANGEROUS STRUCTURES, AND ABATEMENT OF CODE VIOLATIONS; AND ESTABLISHING PENALTIES THEREFORE.

WHEREAS, the Governing Body of the City of Prairie Village, Kansas, finds that the allowances of nuisances and unsafe or dangerous structures, and properties that otherwise do not comply with the building, property maintenance, and other codes of the City may be public nuisances which are unsightly or dangerous to the health, safety, and welfare of the inhabitants of the City;

WHEREAS, the City has adopted certain building, property, maintenance, and other life/safety codes applicable to properties and structures within the City;

WHEREAS, Kansas statutes, including but not limited to K.S.A. 12-1617e *et seq.*, and K.S.A. 12-1750 *et seq.*, as amended, provides for the abatement of unsafe or dangerous structures, abandoned properties, and other nuisances; and

WHEREAS, K.S.A. 12-1671g, as amended, provides that the governing body of any city is granted the power to pass and adopt all ordinances that are necessary to carry into effect statutory provisions related to the abatement of general nuisances, and to provide penalties for the violation of the provisions of such ordinances not inconsistent with the provisions of statute.

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

Section 1. That a new Article 6 to Chapter VIII of the Prairie Village Municipal Code, with the enumerated sections set forth below, is hereby established to read as follows:

CHAPTER VIII. HEALTH AND WELFARE

ARTICLE 6. NUISANCES, UNSAFE OR DANGEROUS STRUCTURES, AND ABATEMENT OF CODE VIOLATIONS

SUBDIVISION 1. GENERAL TERMS

6-101 NUISANCES AND UNSAFE OR DANGEROUS STRUCTURES; LEGISLATIVE FINDINGS.

(a) The purpose of this article 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 which are unsightly, are a menace and dangerous to the health of the inhabitants of the City, or are offensive to the general public health, safety and welfare of the community constitute public nuisances; 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, a menace and dangerous to the health of the inhabitants of the City, and of the residential or commercial areas of the City, 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.

6-102 DEFINITIONS.

Certain terms used herein but not defined herein shall have such meanings as set forth in the International Building Code or the International Property Maintenance Code, as adopted by the City, which definitions are incorporated herein by this reference.

(a) *Abandoned property* – means:

(1) Any residential real estate for which taxes are delinquent for the preceding two years and which has been unoccupied continuously by persons legally in possession for the preceding ninety (90) days; or

(2) commercial real estate for which the taxes are delinquent for the preceding two (2) years and which has a blighting influence on surrounding properties.

(b) *Blighting influence* – means conditions in such structure which are dangerous or injurious to the health, safety or morals of the occupants of such buildings or other residents of the municipality or which have an adverse impact on properties in the area. Such conditions may include, but are not limited to, the following: Defects increasing the hazards of fire, accident, or other calamities; air pollution; light or sanitary facilities; dilapidation; disrepair; structural defects; uncleanness; dead and dying trees, limbs or other unsightly natural growth or unsightly appearances that constitute a blight to adjoining property, the neighborhood or the city; walls, sidings or exteriors of a quality and appearance not commensurate with the character of the properties in the neighborhood; unsightly stored or parked material, equipment, supplies, machinery, trucks or automobiles or parts thereof; vermin infestation; inadequate drainage; or any violation of health, fire, building or zoning regulations.

(c) *Commercial real estate* - means any real estate for which the present use is other than one to four residential units or for agricultural purposes.

(d) *Enforcing officer or building official or codes official*– means the building official, building inspector, code enforcement officer, or other designated city official tasked with enforcing property maintenance laws in the City.

(e) *Graffiti* – means 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 or 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.

(f) *Nuisance* – means any condition which has been declared a nuisance under other provisions of this code, and also includes 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; noxious weeds or uncontrolled thickets; weeds or plant growth (excluding trees or shrubs or cultivated flowers and gardens) in excess of eight (8) inches in height; 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 un-drained areas; cesspools creating on or rising to the surface; rank odors; unkempt trash, refuse, brush, leaves, or limbs; unkempt landscaping; debris or building materials; rank sewage or septic system; excessive accumulation of animal waste; exposed animal carcasses after death; sheds, garages or buildings 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; any condition that essentially interferes with the comfortable enjoyment of life and property or tends to depreciate the value of the property of others; and any other condition which is determined to present a dangerous or harmful condition or unreasonable interference with the rights of the general public.

(g) *Perennial violator* – means 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.

(h) *Person* – means 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, or occupant, and regardless of whether such person has possession.

(i) *Property owner* – means the named property owner as indicated by the register of deeds, appraiser's office, or treasurer's office in Johnson County, Kansas.

(j) *Qualified expert* – means 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.

(k) *Representative or agent* – means 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, partnership, or other business entity 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 or other business entity or similar entity officer.

(l) *Tenant or occupant* – means 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.

(m) *Unsafe or Dangerous Structure* – means (i) any structure that is deemed unsafe, unfit for human occupancy, unlawful, or dangerous as established under the International Property Maintenance Code, as adopted by the City, and/or (ii) 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 ninety (90) days; structures which remain unfinished, or without an occupancy permit, after eighteen (18) months from the date of the first building permit and where no inspection for newly completed work has been requested within the last ninety (90) days.

SUBDIVISION 2. UNSAFE OR DANGEROUS STRUCTURES

6-201 UNSAFE OR DANGEROUS 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 an unsafe or dangerous structure on any lot or parcel of ground within the City. The property owner, owner's agent, or tenant shall be responsible for the removal or abatement of any unsafe or dangerous structure. The City 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, as provided in this article and under Kansas statute.

6-202 ENFORCEMENT AGAINST UNSAFE OR DANGEROUS STRUCTURES; DESIGNATION OF OFFICER; NOTICE TO APPEAR; HEARING; RESOLUTION OF ABATEMENT.

(a) The building official, or his or her designee, shall assist the Governing Body with the administration and enforcement of this article with regards to dangerous and unsafe structures, and shall be the enforcing officer for purposes of this article and K.S.A. 12-1750 *et seq.*, as amended. The building official shall authorize the investigation of unsafe or dangerous structures by his or her designated agents.

(b) Whenever the enforcing officer files with the Governing Body a statement in writing that any structure, describing the same and where located, is unsafe or dangerous, 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."

(c) 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 enforcing officer filing the statement and shall 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 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 fix 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 unsafe or dangerous structure to be repaired or razed and removed.

6-203 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.

6-204 REMOVAL OF UNSAFE OR DANGEROUS 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 the same to contract. 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 moneys in excess of that necessary to pay such costs and the cost 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.

(b) 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 receipt of such notice. If the cost is not paid within the thirty-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, 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. Whenever any structure is removed from any premises under the provisions of this article, 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 and the cost of providing notice, 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 article the Governing Body 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, and amendments thereto, when and if paid, shall be placed in the general fund of the City.

6-205 DAMAGE BY FIRE, EXPLOSION, WINDSTORM, OR OTHER CASUALTY; INSURANCE PROCEEDS.

Damage created by a fire, explosion or windstorm shall comply with the provisions below:

(a) If fire, explosion, windstorm, or other casualty causes damage to a structure that is covered by insurance and the covered claim payment is in excess of seventy-five 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 fifteen percent (15%) of the proceeds of such policy. The insurer first shall pay all amounts due to 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 thirty (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.

(b) The City shall release the insured's proceeds and any interest which has accrued thereon within thirty (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 article or other applicable portion of City code. 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, windstorm, or other casualty.

(d) The City Clerk shall notify the Commissioner of Insurance for the State of Kansas within fourteen (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, windstorms, or other casualty. A copy of the notice shall be maintained by the City Clerk.

6-206 INSURANCE PROCEEDS; PROOF OF REPAIRING OR REBUILDING.

In lieu of the payment of insurance 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 continuation of proceedings for abatement.

6-207 FAILURE TO PAY INSURANCE PROCEEDS OR TO OBTAIN A CERTIFICATE IN LIEU OF PAYMENT 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.

6-208 CITY NOT PARTY TO INSURANCE CONTRACT.

This article 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.

6-209 IMMEDIATE HAZARDS OR IMMINENT DANGER.

(a) Notwithstanding anything in this article to the contrary, when in the opinion of the enforcing officer, any structure is in such condition as to constitute an immediate hazard requiring immediate action to protect the public, such officer may erect barricades or cause the property to be vacated, taken down, repaired, shored or otherwise made safe without delay and such action may, under such circumstances, be taken without prior notice to or hearing of the owners, agents, lienholders and occupants. The cost of any such action shall be assessed against the property and paid in the manner provided by this article and K.S.A. 12-1755.

(b) An immediate hazard may include, but is not limited to, 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 or safety is endangered by the occupation of the structure, or when there is an actual or potential danger to the

building occupants or those in proximity thereto because of explosives, fumes, gases, vapors, or operation of defective or dangerous equipment.

(c) It shall be unlawful for any person to enter a structure that has been deemed an immediate hazard except for the purposes of securing the structure, making the required repairs, removing the hazardous condition, or demolishing the structure.

DIVISION 3. ABANDONED PROPERTY

6-301 ABANDONED PROPERTY.

The Governing Body shall have the power to cause the rehabilitation of or to rehabilitate any abandoned property located within the City.

6-302 DESIGNATION OF OFFICER; NOTICE TO APPEAR; HEARING; RESOLUTION OF REHABILITATION.

(a) The building official, or his or her designee, shall assist the Governing Body with the administration and enforcement of this article with regards to abandoned property, and shall be the enforcing officer for purposes of this article and K.S.A. 12-1750 *et seq.*, as amended. The building official shall authorize the investigation of abandoned property by his or her designated agents.

(b) Whenever the enforcing officer files with the Governing Body a statement in writing that any structure, describing the same and where located, is abandoned property, 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 rehabilitated. 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."

(c) 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 enforcing officer filing the statement and shall make findings by resolution. If the Governing Body finds that such structure is abandoned property, the Governing Body may authorize the rehabilitation of such property as provided by K.S.A. 12-1756a. 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 fix 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 rehabilitated.

DIVISION 4. NUISANCES AND WEEDS

6-401 NUISANCES 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 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. The City shall have the power to cause the removal of, or to remove or abate, any nuisance as provided in this article and under Kansas statute.

6-402 DESIGNATION OF OFFICER; NOTICE OF ABATEMENT; HEARING.

(a) The Governing Body hereby designates the building official, or his or her own designee, as the person responsible for the administration and enforcement of this article with regards to nuisances. The building official shall authorize the investigation of nuisances by his or her designated agents.

(b) If it is determined that a nuisance exists, then the building official, or his or her designated agent, shall file a written report describing the situation, its location, and the circumstances supporting the determination that the matter is a nuisance. The building official, on behalf of the Governing Body, shall issue an Order of Abatement directing the property owner or owner's agent, and any tenant, to remove and abate the nuisance within a time, not exceeding ten (10) days, to be specified in the Order of Abatement.

(c) 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 article;

(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 must remove and abate the nuisance within a time, not exceeding ten (10) days, to be specified in 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 period of time established for abatement of the nuisance;

(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 thirty (30) days after the City's notice of costs of such removal and abatement may result in the filing of a tax lien against the property, or the filing for a personal judgment against the recipient, or both; and

(8) That such violations are subject to prosecution, and that such prosecution shall be independent of the order of any enforcement of the order.

(d) The Order of Abatement shall be served on the property owner or 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 twenty-four (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 building official, on behalf of 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.

(e) If a recipient of an Order of Abatement makes a written request for a hearing within the period of time established by the order, a hearing shall be 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 ten (10) days.

(f) Notwithstanding the foregoing, the building official and the Governing Body shall grant extensions of such ten-day time period if the owner or agent of the property demonstrates that due diligence is being exercised in abating the nuisance.

6-403 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, 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.

(b) If the City removes and abates the nuisance, the City shall give a Notice of Costs to the property owner or 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 thirty (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 thirty (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 thirty (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.

6-404 ADDITIONAL OR ALTERNATIVE PROVISIONS REGARDING WEEDS.

(a) As an alternative to the general nuisance provisions of this article, K.S.A. 12-1617f(b), as amended, provides that the Governing Body may provide for and require, and the Governing Body hereby does provide for and require, the cutting or destruction of all weeds on lots or pieces of land within the City as provided in this section. Reference is hereby further made to the International Property Maintenance Code (IPMC), as adopted by the City, which may contain additional provisions regarding weeds and plants.

(b) Except as provided by subsection (c) below, the City Clerk shall issue a notice to the owner, occupant or agent by certified mail, return receipt requested, or by personal service to cut or destroy such weeds. If the property is unoccupied and the owner is a nonresident, such notice shall be sent by certified mail, return receipt requested, to the last known address of the owner. The notice shall state that before the expiration of the waiting period provided herein the recipient thereof may request a hearing before the Governing Body or its designated representative. If the occupant, owner or agent fails to request a hearing or refuses to cut or remove such weeds, after five (5) days' notice by the City Clerk, or in cases where the owner is unknown or is a nonresident, and there is no resident agent, ten (10) days after notice has been published by the City Clerk in the official city paper, the City shall cut or destroy such weeds and shall keep an account of the cost of same and report to the City Clerk. Except as provided by subsection (c) below, the City shall give notice to the owner, occupant or agent by certified mail, return receipt requested, of the total cost of such cutting or removal incurred by the City. The City also may recover the cost of providing notice, including postage, required by this section. Such notice also shall state that payment of such cost is due and payable within thirty (30) days following receipt of such notice. If the cost of such removal or abatement is not paid within the thirty-day period, the City may levy a special assessment for such cost against the lot or piece of land in the same manner as provided in Section 6-403 above and K.S.A. 12-1671e, and amendments thereto, or the City may collect the cost in the manner provided by K.S.A. 12-1,115, and amendments thereto. 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.

(c) In lieu of giving notice as provided by subsection (b) above, the City may give notice as provided by this subsection. Pursuant to K.S.A. 12-1617f, the City hereby incorporates by reference the provisions of this article and the International Property Maintenance Code, as adopted by the City, as its nuisance and weed removal policy. The building official shall 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 article; provided, however, that if a notice and order regarding weeds was previously served upon the owner, occupant, or agent of the property for a violation of the City's weed control regulations, the City may provide a one-time yearly written notification by mail or personal service to the owner, occupant or agent of such policy and regulations. Such notice shall include the same information required by subsection (b) above. In addition, such notice shall include a statement that no further notice shall be given prior to removal of weeds by the City. Notwithstanding the foregoing, if there is a change in the record owner of title to property subsequent to the giving of notice pursuant to this subsection, the City may not recover any costs or levy an assessment for the costs incurred by the cutting or destruction of weeds on such property unless the new record owner of title to such property is provided notice as required by this section.

6-405 MOTOR VEHICLES.

The City may remove and abate from property other than public property or property open to use by the public a motor vehicle determined to be a nuisance. Notwithstanding other provisions of this article, disposition of such vehicle shall be in compliance with the procedures for impoundment, notice, and public auction provided by paragraph (2) of subsection (a) of K.S.A. 8-1102, and amendments thereto. Reference is hereby further made to the International Property Maintenance Code (IPMC), as adopted by the City, which may contain additional provisions regarding motor vehicles.

DIVISION 5. ADDITIONAL ENFORCEMENT PROVISIONS

6-501 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 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 this article.

6-502 ENFORCEMENT IN MUNICIPAL COURT.

In addition to, or as an alternative to, any enforcement of this article as provided herein, or enforcement of any other portion of the Prairie Village Municipal Code that incorporates by reference the enforcement provisions of this article, if an authorized public officer determines that a violation of this article (or other portion of the Code that incorporates by reference this article) 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 in this article shall not preclude any appropriate prosecution or penalties. Likewise, the imposition of any prosecution or penalties shall not preclude any appropriate action described in this article or otherwise provided by applicable law to remove or abate

a nuisance, an unsafe or dangerous structure, abandoned property, or to collect removal and abatement costs.

6-503 PENALTIES.

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 \$50.00 nor more than \$500.00 and not more than ten (10) days in jail, or both. Any person found guilty of violating the provisions of this article two (2) 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 \$250.00 nor more than \$500.00 and shall be subject to a sentence not to exceed thirty (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 2. This ordinance shall take effect and be in force beginning December 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 November 15, 2021.

APPROVED by the Mayor on November 15, 2021.

CITY OF PRAIRIE VILLAGE, KANSAS

Eric Mikkelsen, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

ORDINANCE NO. 2460

AN ORDINANCE AMENDING CHAPTER VIII (HEALTH AND WELFARE) BY AMENDING CERTAIN SECTION OF ARTICLE 2 (INTERNATIONAL PROPERTY MAINTENANCE CODE), ADDING NEW AND SUBSTITUTE PROVISIONS THERETO, AND REPEALING THE PREVIOUS SECTIONS SO AMENDED.

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

Section 1. Existing Section 8-205 is hereby deleted in its entirety.

Section 2. Existing Section 8-206 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-205 and amended to read as follows:

8-205 AMENDMENTS TO SECTION 109 – EMERGENCY MEASURES

Section 109.1 and Section 109.6 of the 2018 IPMC, as adopted by the City, are hereby amended to read as follows:

109.1 Imminent danger. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Except to the extent proceedings for abatement are otherwise commenced under Article 6 of Chapter VIII, as amended, of the Prairie Village Municipal Code, any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

Section 3. Existing Section 8-207 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-206 and amended to read as follows:

8-206 AMENDMENTS TO SECTION 110 – DEMOLITION

Sections 110.1, 110.2, 110.3, and 110.4 of the 2018 IPMC, as adopted by the City, are hereby deleted in their entirety such that Section 110 shall be amended to read as follows:

See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

Section 4. Existing Section 8-208 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-207 and amended to read as follows:

8-207 ADDITIONS TO SECTION 202 - GENERAL DEFINITIONS

Section 2020 of the 2018 IPMC, as adopted by the City, is hereby amended by adding the following definitions:

CALENDAR YEAR. The period of time beginning January 1 and ending December 31 of the same year.

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 or 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.

NOXIOUS PLANTS. Means poison ivy, poison oak and poison sumac, at any height or state of maturity.

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, ladysthumb, 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. Native plants contained in a native garden, such as common milkweed and other pollinators, would be considered a cultivated garden and not classified as a rank weed.

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

Section 5. Existing Section 8-209 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-208.

Section 6. Existing Section 8-210 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-209 amended to read as follows:

8-209 AMENDMENTS TO SECTION 302.4 – WEEDS AND THICKETS

Section 302.4 of the 2018 IPMC, as adopted by the City, 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 this code or as may otherwise be provided in Article 6 of Chapter VIII, as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

302.4.1 Weeds/thickets to be removed. Property owners are responsible for maintaining property free from weeds and thickets, including the 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, right-of-way, and all other areas, public or private. All weeds and/or uncontrolled thickets as herein described are hereby declared a nuisance and are subject to abatement as provided in Article 6 of Chapter VIII, as amended, of the Prairie Village Municipal Code.

302.4.2 Notice to remove. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

302.4.3 Abatement; assessment of costs. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

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 or otherwise in city code, 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 7. A new Section 8-210 is hereby added to the Code of the City of Prairie Village, Kansas, to read as follows:

8-210 AMENDMENTS TO SECTION 111.1 – MEANS OF APPEAL

Section 111.1 of the 2018 IPMC is hereby amended to read as follows:

111.1 Application for appeal. Except to the extent any appeal or hearing rights are separately provided for elsewhere, including but not limited to Article 6 of Chapter VIII, as amended, of the Prairie Village Municipal Code, any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Section 6. Existing Section 8-211 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

8-211 AMENDMENTS TO SECTION 302.8 – MOTOR VEHICLES

Section 302.8 of the 2018 IPMC, as adopted by the City, is hereby amended to read as follows:

302.8 Motor vehicles. Except as otherwise set forth in this section, 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, or 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 section 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 forty-eight (48) hours. Violation of the provisions of this section shall further be deemed a nuisance.

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. Except as otherwise set forth in this section, 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; parked in violation of City ordinance; 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.

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 forty-eight (48) consecutive hours or less;
3. Any person conducting a business enterprise in compliance with the existing zoning regulations; or
4. To the extent provided elsewhere in this section.

Provided, that nothing in this section shall be construed to authorize the maintenance of a public nuisance. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference, and K.S.A. 8-1101 *et seq.*

302.8.2 Inoperable vehicles; authorization of code official to order removal.

Except as otherwise set forth in this section, 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 in violation of this section, the code official may issue 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 remove the vehicle as provided in this code or in Article 6 of Chapter VIII of the Prairie Village Municipal Code and K.S.A. 8-1101 *et seq.*, as amended, the terms of which are incorporated herein by this reference.

302.8.3 Parking and storage of inoperable vehicles Except as otherwise set forth in this section, it is unlawful for the owner or person in possession of any motor vehicle to park or place the vehicle upon a street, driveway, (except in an enclosed structure) while the vehicle is in an inoperable condition. Provided however, that this section 302.8.3 shall not apply to filling stations (or gasoline service stations) operating as special uses or non-conforming uses. The provisions of this section shall not apply to owners who have temporarily placed their motor vehicles in an 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.

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.

302.8.4 Parking and storage of motor vehicles accepted for repair by filling stations (or gasoline service stations) operating as special uses or non-conforming uses. Notwithstanding the foregoing, the regulations set forth in this subsection 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.

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. 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. 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.

302.8.5 Complaints; inquiry and inspection. The code official or designee 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. The code official or designee 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 or designee shall maintain a written report of findings.

302.8.6 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.

302.8.7 Notice; contents; abatement; disposition of vehicle; hearing; costs assessed. Any person found by the code official to be in violation of this section shall be served a notice of such violation, as provided in Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare) of the Prairie Village Municipal Code and K.S.A. 8-1101 *et seq.*, as amended, the terms of which are incorporated herein by this reference. Such violations may be abated, and vehicles disposed, in accordance with with such Article 6. Hearings may be conducted, and costs assessed, in accordance with such Article 6.

Section 7. Sections 8-205, 8-206, 8-207, 8-208, 8-209, 8-210, and 8-211 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 8. This ordinance shall take effect and be in force beginning November 1, 2021 and after its passage, approval, and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on November 15, 2021.

APPROVED by the Mayor on November 15, 2021.

CITY OF PRAIRIE VILLAGE, KANSAS

Eric Mikkelsen, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

ORDINANCE NO. 2460

AN ORDINANCE AMENDING CHAPTER VIII (HEALTH AND WELFARE) BY AMENDING CERTAIN SECTION OF ARTICLE 2 (INTERNATIONAL PROPERTY MAINTENANCE CODE), ADDING NEW AND SUBSTITUTE PROVISIONS THERETO, AND REPEALING THE PREVIOUS SECTIONS SO AMENDED.

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

Section 1. Existing Section 8-205 is hereby deleted in its entirety.

Section 2. Existing Section 8-206 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-205 and amended to read as follows:

8-2068-205 AMENDMENTS TO SECTION 109.1 — IMMINENT DANGER — EMERGENCY MEASURES

Section 109.1 and Section 109.6 of the 2018 IPMC ~~is~~, as adopted by the City, are 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 Kansas State Statute.~~

109.1 Imminent danger. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

109.6 Hearing. Any person ordered to take emergency measures shall comply with such order forthwith. Except to the extent proceedings for abatement are otherwise commenced under Article 6 of Chapter VIII, as amended, of the Prairie Village Municipal Code, any affected person shall thereafter, upon petition directed to the appeals board, be afforded a hearing as described in this code.

Section 3. Existing Section 8-207 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-206 and amended to read as follows:

8-2078-206

AMENDMENTS TO SECTION 110 – DEMOLITION

Section 110 Sections 110.1, 110.2, 110.3, and 110.4 of the 2018 IPMC is hereby, as adopted by the City, are hereby deleted in their entirety such that Section 110 shall be amended to read as follows:

~~**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, unsanitary 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.~~

See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

~~**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 Findings and 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 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.~~

~~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 Action, assessment, and collection of costs by the City.~~ ~~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.~~

~~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.~~

~~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.~~

~~Whenever any structure is removed from any premises under the provisions of this article, 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.~~

~~**110.4 Deleted.** 110.4 of the 2018 IPMC is hereby deleted.~~

Section 4. Existing Section 8-208 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-207 and amended to read as follows:

8-2088-207 ADDITIONS TO SECTION 202 - GENERAL DEFINITIONS

Section 2020 of the 2018 IPMC-, as adopted by the City, is hereby amended by adding the following definitions:

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, public restroom, or the like.~~

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 or 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.

NOXIOUS PLANTS. Means poison ivy, poison oak and poison sumac, at any height or state of maturity.

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, ladysthumb, 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. Native plants contained in a native garden, such as common milkweed and other pollinators, would be considered a cultivated garden and not classified as a rank weed.

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

Section 5. Existing Section 8-209 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-208.-

~~Section 5~~Section 6. Existing Section 8-210 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 8-209 amended to read as follows:

8-2408-209 AMENDMENTS TO SECTION 302.4 – WEEDS AND THICKETS

Section 302.4 of the 2018 IPMC-, as adopted by the City, 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 of the 2018 IPMC and as prescribed in the City of Prairie Village municipal code. 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~~this code or as may otherwise be provided in Article 6 of Chapter VIII, as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

302.4.1 Weeds/thickets to be removed. Property owners are responsible for maintaining property free from weeds and thickets, including the 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, right-of-

way, and all other areas, public or private. All weeds and/or uncontrolled thickets as herein described are hereby declared a nuisance and are subject to abatement as ~~hereinafter~~ provided in Article 6 of Chapter VIII, as amended, of the Prairie Village Municipal Code.

302.4.2 Notice to remove. ~~The code official or an authorized agent shall 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.)~~

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.~~

~~In the event any owner, occupant or agent of any property refuses acceptance of any notice and order prescribed above, or in the event the city has made reasonable but unsuccessful efforts to provide notice in the manner prescribed 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 Kansas State Statute.~~

~~**302.4.3 Abatement; assessment of costs.** 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 designee, 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.~~

~~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.~~

~~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 Kansas State Statute, and amendments thereto.~~

~~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.~~

~~**302.4.2 Notice to remove.** See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.~~

302.4.3 Abatement; assessment of costs. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

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 or otherwise in city code, 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 7. A new Section 8-210 is hereby added to the Code of the City of Prairie Village, Kansas, to read as follows:

8-210 AMENDMENTS TO SECTION 111.1 – MEANS OF APPEAL

Section 111.1 of the 2018 IPMC is hereby amended to read as follows:

111.1 Application for appeal. Except to the extent any appeal or hearing rights are separately provided for elsewhere, including but not limited to Article 6 of Chapter VIII, as amended, of the Prairie Village Municipal Code, any person directly affected by a decision of the code official or a notice or order issued under this code shall have the right to appeal to the board of appeals, provided that a written application for appeal is filed within twenty (20) days after the day the decision, notice, or order was served. An application for appeal shall be based on a claim that the true intent of this code or the rules legally adopted thereunder have been incorrectly interpreted, the provisions of this code do not fully apply, or the requirements of this code are adequately satisfied by other means.

Section 6. Existing Section 8-211 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

8-211 AMENDMENTS TO SECTION 302.8 – MOTOR VEHICLES

Section 302.8 of the 2018 IPMC- as adopted by the City, is hereby amended to read as follows:

302.8 Motor vehicles. ~~It~~ Except as otherwise set forth in this section, 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, or 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 section 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 hoursforty-eight (48) hours. Violation of the provisions of this section shall further be deemed a nuisance.

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-Except as otherwise set forth in this section, 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.

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 48forty-eight (48) consecutive hours or less;
3. Any person conducting a business enterprise in compliance with the existing zoning regulations-; or
4. To the extent provided elsewhere in this section.

~~Nothing-Provided, that nothing~~ in this section shall be construed to authorize the maintenance of a public ~~nuisancesnuisance~~. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference, and K.S.A. 8-1101 et seq.

~~**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. The code official or designee 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 or designee 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 or personally~~

served; 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 or designee 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 Contents of notice. The notice shall state the condition(s) which is (are) in violation of Section 302.8.1. The notice shall also include the following:

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 an amount consistent with the violation penalties outlined in 106.4 of the IPMC, as adopted by the City.

302.8.7 Abatement. In addition to, or as an alternative to prosecution as provided in Section 302.8.6, the code official or designee 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 or designee 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 Kansas State Statute.

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.~~

302.8.11 302.8.2 Inoperable vehicles; authorization of code official to order removal. ~~#~~Except as otherwise set forth in this section, 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~~ in violation of this section, the code official may issue 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 Kansas State Statute~~ in this code or in Article 6 of Chapter VIII of the Prairie Village Municipal Code and K.S.A. 8-1101 et seq., as amended, the terms of which are incorporated herein by this reference.

302.8.12 302.8.3 Parking and storage of inoperable vehicles in residential zoning districts. ~~Except as otherwise set forth in this section, 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. Provided however, that this section 302.8.3 shall not apply to filling stations (or gasoline service stations) operating as special uses or non-conforming uses. The provisions of this ~~article~~ section shall not apply to owners who have temporarily placed their motor vehicles in an 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.

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.

~~**302.8.13 302.8.4** Parking and storage of inoperable vehicles in commercial zoning districts. It Except as otherwise set forth in this section, 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 GP-O through GP-2 (except in an enclosed structure) while the vehicle is in an inoperable condition. Provided however, that this section 302.8.14 302.8.4 shall not apply to filling stations (or gasoline service stations) operating as special uses or nonconforming uses.~~

~~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.~~

~~**302.8.14 302.8.45** Parking and storage of motor vehicles accepted for repair by filling stations (or gasoline service stations) operating as special uses or nonconforming uses. The Notwithstanding the foregoing, the regulations set forth in this section-subsection 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.~~

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. 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. 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.

302.8.65 Complaints; inquiry and inspection. The code official or designee 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. The code official or designee 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 or designee shall maintain a written report of findings.

302.8.76 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.

302.8.87 Notice; contents; abatement; disposition of vehicle; hearing; costs assessed. Any person found by the code official to be in violation of this section shall be served a notice of such violation. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare) of the Prairie Village Municipal Code and K.S.A. 8-1101 et seq., as amended, the terms of which are incorporated herein by this reference.

302.8.9 Contents of notice. Any person found by the code official to be in violation of this section shall be served a notice of such violation. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare) of the Prairie Village Municipal Code and K.S.A. 8-1101 et seq., as amended, the terms of which are incorporated herein by this reference.

302.8.10 Abatement. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare) of the Prairie Village Municipal Code and K.S.A. 8-1101 et seq., as amended, the terms of which are incorporated herein by this reference.

302.8.11 Disposition of vehicle. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare) of the Prairie Village Municipal Code and K.S.A. 8-1101 et seq., as amended, the terms of which are incorporated herein by this reference.

302.8.12 Hearing. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare) of the Prairie Village Municipal Code and K.S.A. 8-1101 et seq., as amended, the terms of which are incorporated herein by this reference.

302.8.13 Costs assessed. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare) of the Prairie Village Municipal Code and K.S.A. 8-1101 et seq., as amended, the terms of which are incorporated herein by this reference.

Section 7. Sections 8-205, 8-206, 8-207, 8-208, 8-209, 8-210, and 8-211 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 8. This ordinance shall take effect and be ~~enforced from in force beginning June 1, 2021 upon~~ December 1, 2021 and after its passage, approval, and publication as provided by law.

PASSED by the City Council of the City of Prairie Village, Kansas on _____,
~~2021.~~November 15, 2021

APPROVED by the Mayor on _____, November 15, 2021.

CITY OF PRAIRIE VILLAGE, KANSAS

Eric Mikkelsen, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

ORDINANCE NO. 2461

AN ORDINANCE AMENDING CHAPTER IV OF THE PRAIRIE VILLAGE MUNICIPAL CODE (BUILDINGS AND CONSTRUCTION) BY AMENDING CERTAIN SECTIONS OF ARTICLE 1 (INTERNATIONAL BUILDING CODE), ADDING NEW AND SUBSTITUTE PROVISIONS THERETO, AND REPEALING THE PREVIOUS SECTIONS SO AMENDED.

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

Section 1. Existing Section 4-112 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

4-112 AMENDMENTS TO SECTION 114.4 – VIOLATION PENALTIES

Section 114.4 of the 2018 IBC, as adopted by the City, 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, or other references incorporated, is guilty of a public offense and may be subject to penalties as prescribed by this article or other applicable law.

Section 2. Existing Section 4-113 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

4-113 AMENDMENTS TO SECTION 116.1 – CONDITIONS

Section 116.1 of the 2018 IBC, as adopted by the City, is hereby amended to read as follows:

116.1 Conditions. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

Section 3. Existing Section 4-114 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

4-114 AMENDMENTS TO SECTION 116.2 – RECORD

Section 116.2 of the 2018 IBC, as adopted by the City, is hereby amended to read as follows:

116.2 Record. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

Section 4. Existing Section 4-115 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

4-115 AMENDMENTS TO SECTION 116.3 – NOTICE

Section 116.3 of the 2018 IBC, as adopted by the City, is hereby amended to read as follows:

116.3 Notice. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

Section 5. Existing Section 4-116 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

4-116 AMENDMENTS TO SECTION 116-4 – METHOD OF SERVICE

Section 116.4 of the 2018 IBC, as adopted by the City, is hereby amended to read as follows:

116.4 Method of Service. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

Section 6. Existing Section 4-117 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

4-117 AMENDMENTS TO 116.5 – RESTORATION

Section 116.5 of the 2018 IBC, as adopted by the City, is hereby amended to read as follows, in accordance with the original wording of the 2018 IBC:

116.5 Restoration. Where the structure or equipment determined to be unsafe by the Building Official is restored to a safe condition, to the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions and change of occupancy shall comply with the requirements of the International Existing Building Code, as adopted by the City.

Section 7. Existing Sections 4-118, 4-119, 4-120, 4-121, 4-122, 4-123, and 4-124, of the Code of the City of Prairie Village, Kansas, are hereby deleted in their entirety.

Section 8. Existing Section 4-125 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 4-118 and is hereby amended to read as follows:

4-118 ADDITION OF SECTION 116.6 – RIGHT OF ENTRY; UNLAWFUL INTERFERENCE; PENALTY

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

116.6 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 this Article or otherwise as provided by applicable law.

Section 9. Existing Section 4-126 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 4-119 and is hereby amended to read as follows:

4-119 ADDITION OF SECTION 116.7 – PENALTY

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

116.7 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 \$50.00 nor more than \$500.00 and not more than ten (10) days in jail, or both. Any person found guilty of violating the provisions of this article two (2) 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 \$250.00 nor more than \$500.00 and shall be subject to a sentence not to exceed thirty (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 10. Sections 4-112, 4-113, 4-114, 4-115, 4-116, 4-117, 4-118, 4-119, 4-120, 4-121, 4-122, 4-123, 4-124, 4-125, and 4-126 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 11. This ordinance shall take effect and be in force beginning December 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 November 15, 2021.

APPROVED by the Mayor on November 15, 2021.

CITY OF PRAIRIE VILLAGE, KANSAS

Eric Mikkelsen, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney

ORDINANCE NO. 2461

AN ORDINANCE AMENDING CHAPTER IV OF THE PRAIRIE VILLAGE MUNICIPAL CODE (BUILDINGS AND CONSTRUCTION) BY AMENDING CERTAIN SECTIONS OF ARTICLE 1 (INTERNATIONAL BUILDING CODE), ADDING NEW AND SUBSTITUTE PROVISIONS THERETO, AND REPEALING THE PREVIOUS SECTIONS SO AMENDED.

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

Section 1. Existing Section 4-112 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

4-112 AMENDMENTS TO SECTION 114.4 – VIOLATION PENALTIES

Section 114.4 of the 2018 IBC–, as adopted by the City, 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~~penalties as prescribed by this article or other applicable law.

Section 2. Existing Section 4-113 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

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

Section 116.1 of the 2018 IBC–, as adopted by the City, 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.~~

116.1 Conditions. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

~~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.~~

Section 3. Existing Section 4-114 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

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

Section 116.2 of the 2018 IBC—as adopted by the City, is hereby amended to read as follows:

116.2 Definitions.

116.2 Record. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

- ~~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; 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 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.~~

Section 4. Existing Section 4-115 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

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

Section 116.3 of the 2018 IBC—as adopted by the City, 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.~~

116.3 Notice. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

Section 5. Existing Section 4-116 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

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

Section 116.4 of the 2018 IBC–, as adopted by the City, 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:~~

116.4 Method of Service. See Article 6 (Nuisances, Unsafe or Dangerous Structures, and Abatement of Code Violations) of Chapter VIII (Health and Welfare), as amended, of the Prairie Village Municipal Code, the terms of which are incorporated herein by this reference.

- ~~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.~~

Section 6. Existing Section 4-117 of the Code of the City of Prairie Village, Kansas, is hereby amended to read as follows:

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

Section 116.5 of the 2018 IBC ~~as adopted by the City~~ is hereby amended to read as follows in accordance with the original wording of the 2018 IBC:

~~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.~~

116.5 Restoration. ~~Where the structure or equipment determined to be unsafe by the Building Official is restored to a safe condition, to the extent that repairs, alterations or additions are made or a change of occupancy occurs during the restoration of the structure, such repairs, alterations, additions and change of occupancy shall comply with the requirements of the International Existing Building Code, as adopted by the City.~~

~~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.~~

Section 7. Existing Sections 4-118, 4-119, 4-120, 4-121, 4-122, 4-123, and 4-124, of the Code of the City of Prairie Village, Kansas, are hereby deleted in their entirety.

~~**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 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 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.~~

Section 8. Existing Section 4-125 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 4-118 and is hereby amended to read as follows:

~~**4-1254-118**~~ **ADDITION OF SECTION 116.13 — 116.6 — RIGHT OF ENTRY; UNLAWFUL INTERFERENCE; PENALTY**

A new Section ~~116.13~~ 116.6 is hereby added to the 2018 IBC, as adopted by the City, to read as follows:

~~**116.13-116.6**~~ **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~~ this Article or otherwise as provided by applicable law.

Section 9. Existing Section 4-126 of the Code of the City of Prairie Village, Kansas, is hereby renumbered as Section 4-119 and is hereby amended to read as follows:

4-1264-119

ADDITION OF SECTION ~~116.14-116.7~~ – PENALTY

A new Section ~~116.14-116.7~~ is hereby added to the 2018 IBC, as amended by the City, to read as follows:

~~116.14-116.7~~ 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-.00 nor more than \$500-.00 and not more than ~~10-ten~~ (10) days in jail, or both. Any person found guilty of violating the provisions of this article two (2) 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-.00 nor more than \$500-.00 and shall be subject to a sentence not to exceed ~~30-thirty~~ (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 10. Sections 4-112, 4-113, 4-114, 4-115, 4-116, 4-117, 4-118, 4-119, 4-120, 4-121, 4-122, 4-123, 4-124, 4-125, and 4-126 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 ~~4~~11. This ordinance shall take effect and be ~~enforced from~~ in force beginning June 1, 2021 ~~December 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 _____,
November 15, 2021.

APPROVED by the Mayor on _____, November 15, 2021.

CITY OF PRAIRIE VILLAGE, KANSAS

Eric Mikkelsen, Mayor

ATTEST:

Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:

David E. Waters, City Attorney



POLICE DEPARTMENT

Council Committee Meeting Date: November 1, 2021

Council Meeting Date: November 15, 2021

COU2021-81 CONSIDER APPROVAL OF THE HIRING OF PART-TIME CRIME ANALYST

RECOMMENDATION

The Prairie Village Police Department recommends hiring a part-time Crime Analyst to assist in crime data collection, collation and reporting. The Analyst position will also assist Police Command in forecasting crime trends, as well as aid in more efficient disbursement of manpower and equipment.

BACKGROUND

In 2004, the Police Department added a sworn position titled Crime Prevention Officer. This position was designed to help the Department reduce crime by educating our citizens on ways to keep their homes and businesses safe. At times throughout the years, Crime Prevention officers have assisted Command Staff with crime statistics by using mapping technology. Unfortunately, due to manpower shortages, the position of Crime Prevention has been vacant more than filled. With the ever-increasing complexities of the computer software used to generate reports, as well as those used to run queries and other data collection, the acquisition of a specialist in the field of crime data analysis is needed.

The Police Department uses intelligence-based policing as its strategy to respond to and deter criminal activity. In order to effectively use this strategy, a Department must have current and relevant statistical data to use. We have numerous data collection points for criminal activity, persons, places and many other trackable statistics. The Police Department does not have personnel who possess the technical expertise to use the various data mining techniques required to retrieve the information needed to successfully use this type of policing strategy.

The Police Department currently has a volunteer who has the technical expertise the Department needs to accomplish this goal. Jeff Collins (VIPS) started working for the Police Department in late 2020 as a volunteer. Mr. Collins has created several data programs and search engines that have been used to improve the efficiency of police operations. Some of those accomplishments are listed below.

- Created Monthly Stats Program – This information is used to create the PV Monthly Stat report, as well as others disseminated to the public and Council. Information can be accessed by supervisors and officers to plot criminal activity to be used to predict possible future occurrences. This information is also used in bi-monthly COMPSTAT meetings used by Division Commanders;
- Demographics Research and Calculations – developed a computer program that extrapolated information from several different software systems to create usable reports aiding in the Department's Bias-Based Policing avoidance. This

information was requested and disseminated to both the Prairie Village and Mission Hills Councils, as well as the Prairie Village Diversity Committee.

- Created a program to quantify how many arrests involving weapons were encountered by officers (information was requested by the Mission Hills Council), and
- Computer program created that allows the user to enter latitude/longitude to define areas where activity occurred. This program was used by supervision who met with Kenilworth Apartment managers to discuss areas of repeated criminal activity and methods to partner with us to reduce them.

Since Mr. Collins is not an employee of the Department in a full- or part-time status, he does not possess the credentials to access several other regional and local computer systems. By employing Mr. Collins, he will be able to fully access all of these databases and more after passing a background check.

The Department proposes to hire Mr. Collins as a Part-Time Crime Analyst. His duties would be to provide Command and Supervision with analytical data and other duties as requested. I propose that Mr. Collins be hired and compensated at a rate of \$25.00 per hour, for not more than 20 hours per week. This position does not include health care benefits. The cost of this new program would be shared with Mission Hills as part of the 2022 Police Budget. This position was not budgeted in the current year, nor 2022, as Mr. Collins' skill set and potential contributions to this new program were not realized until after the budget process was completed.

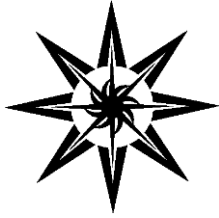
The Police Department commonly has flexibility in the line item of Personnel Wages (01-03-25-5000-000) due to shortages in certified officers. The cost for the remainder of 2021 is estimated to be no more than \$4,500. The cost for the position in 2022 will be no more than \$26,000, minus the Mission Hills portion. If approved, I will provide City Administration an evaluation update after three to four months on the performance of the position. The Police Department proposes, that if found to be an effective asset, the position will be funded in the 2023 Police Department budget.

Prepared By:

Byron Roberson

Chief of Police

Date: October 26, 2021



ADMINISTRATION

Council Committee of the Whole Meeting Date: November 1, 2021

Council Meeting Date: November 15, 2021

COU2021-82: Consider Approval of Property Tax Rebate Program

RECOMMENDATION

Approve a property tax rebate program that will offer a refund of City property taxes to eligible homeowners whose assessed property value is at or below the previous year's median home value in the City.

BACKGROUND

As part of the 2022 budget process, the Governing Body voted to allocate \$20,000 from the City's general fund to a property tax rebate program designed to alleviate some of the burden of home ownership due to rising property values. The program's goal is to offer financial assistance in the form of a property tax relief grant to low income residents in need. Staff researched similar programs in Mission, KS and Roeland Park, KS, which utilize the U.S. Department of Housing and Urban Development's "[Very Low Income](#)" guidelines to determine eligibility. Only property owners that are Prairie Village residents, are current on payment of their property taxes and special assessments, live in their own home, and meet the following income guidelines would be eligible for the program:

Household Size	Maximum Total Household Income (NOT Adjusted Gross Income)
1	\$30,100
2	\$34,400
3	\$38,700
4	\$43,000
5	\$46,450
6	\$49,900
7	\$53,350
8+	\$56,800

The average Prairie Village homeowner pays \$845 per year for the City's portion of their overall tax liability. Theoretically, 23 homeowners could be assisted if these were the only fees rebated (\$20,000 / \$845).

The City Clerk's Office will be responsible for receiving applications and verifying eligibility, and will in turn work with the Finance Department to reimburse homeowners. Information provided by Mission and Roeland Park indicates that in those cities, 15 - 30 applications are received annually. Further, applicants that continue to meet income guidelines are eligible to reapply each year. The application period is expected to open in January 2022, and will be advertised in the Village Voice and on social media platforms.

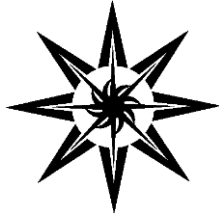
At its November 1, 2021 meeting, the Council Committee of the Whole voted to recommend approval of the program, with the addition of a property value cap of the previous year's median home value (in 2021, this amount was \$380,419). Only homeowners with property values at or below the median value would be eligible to participate in the program.

PREPARED BY

Adam Geffert

City Clerk

Date: November 9, 2021



Municipal Court/Police Department

Council Meeting Date: November 15, 2021

COU2021-83: Consider adoption of the 2021 Standard Traffic Ordinance for Kansas Cities and the 2021 Uniform Public Offense Code for Kansas Cities

RECOMMENDATION

Staff recommends that the Governing Body adopt Ordinance No. 2463 incorporating the Uniform Public Offense Code, (UPOC), and Ordinance No. 2462 incorporating the Standard Traffic Ordinance, (STO), 2021 edition.

BACKGROUND

On an annual basis, the City receives the latest edition of the UPOC and the STO from the League of Kansas Municipalities. Prior to the request for incorporation, the offense codes and traffic ordinances were reviewed against current City ordinances for any discrepancies. Any deletions or additions were reviewed and approved by the City Prosecutor and City Attorney.

The changes include the following:

UPOC Ordinance:

Overall Changes: Change UPOC edition year to 2021.

STO Ordinance:

Overall Changes: Change STO edition year to 2021.

ATTACHMENTS

Ordinance 2463
Ordinance 2462

PREPARED BY

Deana Scott
Court Administrator
Date: November 9, 2021

ORDINANCE NO. 24~~6330~~

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CITY OF PRAIRIE VILLAGE, KANSAS; INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES" EDITION OF 202~~10~~, WITH CERTAIN AMENDMENTS, DELETIONS AND ADDITIONS; AND REPEALING CERTAIN SECTIONS IN CHAPTER XI OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED "PUBLIC OFFENSES & TRAFFIC".

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

SECTION ONE Article 1 of Chapter XI, Section 11-101 of the Code of the City of Prairie Village is hereby amended to read as follows:

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 for Kansas Cities," edition of 202~~10~~, 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.

SECTION TWO Article 1 of Chapter XI, Section 11-102 of the Code of the City of Prairie Village is hereby amended to read as follows:

11-102. Article 5 of the Uniform Public Offense Code, edition of 202~~10~~, 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.

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 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.

- (e) As used in this 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.

SECTION THREE Article 1 of Chapter XI, Section 11-104 of the Code of the City of Prairie Village is hereby amended to read as follows:

11.104. Article 6 of the Uniform Public Offense Code, edition of 2021~~0~~, 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.

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.

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.

SECTION FOUR Article 1 of Chapter XI, Section 11-105 of the Code of the City of Prairie Village is hereby amended to read as follows:

11.105. Article 9 of the Uniform Public Offense Code, edition of 202~~1~~⁰, 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.

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.

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.

SECTION FIVE Article 1 of Chapter XI, Section 11-106 of the Code of the City of Prairie Village is hereby amended to read as follows:

10.3.2. Possession of a Firearm While Under the Influence

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

(D) a phlebotomist.

(2) A law enforcement officer may direct a medical professional described in this subsection to draw a sample of blood from a person if the person has given consent or upon meeting the requirements of subsection (d).

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

(4) Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document provided by law enforcement.

(5) If a sample is to be taken under authority of a search warrant, and the person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.

(6) A law enforcement officer may request a urine sample upon meeting the requirements of subsection (d).

(7) If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by:

(A) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;

(B) a registered nurse or a licensed practical nurse; or

(C) a law enforcement officer of the same sex as the person being tested.

The collection of the urine sample shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in paragraphs (2) and (3) shall apply to the collection of a urine sample.

- (8) The person performing or assisting in the performance of any such test and the law enforcement officer requesting any such test who is acting in accordance with this section shall not be liable in any civil and criminal proceeding involving the action.
- (f) (1) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of possession of a firearm under the influence of alcohol or drugs, or both.
- (2) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.
- (3) In any criminal prosecution for a violation of this section, if the court finds that a person refused to submit to testing when requested pursuant to this section, the county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this section, a civil penalty not exceeding \$ 1,000 for each violation.
- (g) If a person who holds a valid license to carry a concealed handgun issued pursuant to K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto, is convicted of a violation of this section, such person's license to carry a concealed handgun shall be revoked for a minimum of one year for a first offense and three years for a second or sub-sequent offense.
- (h) In any criminal prosecution for possession of a firearm under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following:
- (1) If the alcohol concentration is less than .08, that fact may be considered with other competent evidence to determine if the defendant was under the influence of alcohol or drugs, or both.
- (2) If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol.
- (3) If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapacitated, that fact may be considered to determine if the defendant was under the influence of alcohol or drugs, or both.
- (i) The provisions of subsection (h) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol or drugs, or both.
- (j) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person. (2013 HB 2578, Section 6)

SECTION SIX Article 1 of Chapter XI, Section 11-107 of the Code of the City of Prairie Village is hereby amended to read as follows:

11.107. Article 10 of the Uniform Public Offense Code, edition of 2021~~0~~, is hereby amended by deleting existing Section 10.5 and by inserting in place thereof the following:

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 discharge of firearms is a Class B violation. (KSA 21-6308a)

SECTION SEVEN Article 1 of Chapter XI, Section 11-108 of the Code of the City of Prairie Village is hereby amended to read as follows:

11-108. Article 10 of the Uniform Public Offense Code, edition of 2021~~0~~, is hereby amended by deleting sections 10.24 (Smoking Prohibited), 10.25 (Smoking; Posted Premises), 10.26 (Smoking Prohibited; Penalties), 10.28 (Endangering the Food Supply), and 10.29 (Violation of a Public Health Order) and revised by adding the following sections and 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.

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.

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.

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.

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.

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.

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.

Section 10.35. Endangering the Food Supply.

- (a) Endangering the food supply is knowingly:
 - (1) Bringing into this state any domestic animal which is infected with any contagious or infectious disease or any animal which has been exposed to any contagious or infectious disease;
 - (2) exposing any animal in this state to any contagious or infectious disease;
 - (3) except as permitted under K.S.A. 2-2112 et seq., and amendments thereto, bringing or releasing into this state any plant pest as defined in K.S.A. 2-2113, and amendments thereto, or exposing any plant to a plant pest; or
 - (4) exposing any raw agricultural commodity, animal feed or processed food to any contaminant or contagious or infectious disease.
- (b) As used in this section:
 - (1) "Animal feed" means an article which is intended for use for food for animals other than humans and which is intended for use as a substantial source of nutrients in the diet of the animal, and is not limited to a mixture intended to be the sole ration of the animal;
 - (2) "contagious or infectious disease" means any disease which can be spread from one subject to another by direct or indirect contact or by an intermediate agent, including,

but not limited to, anthrax, all species of brucellosis, equine infectious anemia, hog cholera, pseudorabies, psoroptic mange, rabies, tuberculosis, vesicular stomatitis, avian influenza, pullorum, fowl typhoid, psittacosis, viscerotropic velogenic Newcastle disease, foot-and-mouth disease, rinderpest, African swine fever, piroplasmiasis, vesicular exanthema, Johne's disease, scabies, scrapies, bovine leukosis and bovine spongiform encephalopathy;

- (3) "processed food" means any food other than a raw agricultural commodity and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration or milling; and
 - (4) "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.
- (c) Endangering the food supply is a Class A violation except if the contagious or infectious disease is food-and-mouth disease in which class it is classified as a felony under state law and will be referred to the appropriate prosecuting authority.

(K.S.A. 21-6317)

Sec. 10.36 Violation of a Public Health Order.

- (a) It shall be unlawful for any person to violate, refuse, or fail to comply with, a written order of the County Health Officer, Board of Health, or Director of Health issued under their respective authorities.
- (b) A violation of this section is a Class C violation.

SECTION EIGHT Article 1 of Chapter XI, Section 11-109 of the Code of the City of Prairie Village is hereby added to read as follows:

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.

SECTION NINE Article 2 of Chapter XI, Section 11-211 of the Code of the City of Prairie Village is hereby amended to read as follows:

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)

SECTION TEN Article 3 of Chapter XI, Sections 11-301 through 11-304 is now repealed and reserved for future use.

SECTION ELEVEN Article 5 of Chapter XI, Sections 11-501 through 11-504 is now repealed and reserved for future use.

SECTION TWELVE Ordinance No. 24~~31~~¹⁰ and any previous ordinances or provisions in conflict herewith are hereby repealed.

SECTION THIRTEEN This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS ____ DAY OF _____, 202~~1~~⁰

Eric Mikkelson, Mayor

ATTEST:

APPROVED AS TO FORM:

Adam Geffert, City Clerk

David E. Waters, City Attorney

ORDINANCE NO. 2463

AN ORDINANCE REGULATING PUBLIC OFFENSES WITHIN THE CITY OF PRAIRIE VILLAGE, KANSAS; INCORPORATING BY REFERENCE THE "UNIFORM PUBLIC OFFENSE CODE FOR KANSAS CITIES" EDITION OF 2021, WITH CERTAIN AMENDMENTS, DELETIONS AND ADDITIONS; AND REPEALING CERTAIN SECTIONS IN CHAPTER XI OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED "PUBLIC OFFENSES & TRAFFIC".

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

SECTION ONE Article 1 of Chapter XI, Section 11-101 of the Code of the City of Prairie Village is hereby amended to read as follows:

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 for Kansas Cities," edition of 2021, 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.

SECTION TWO Article 1 of Chapter XI, Section 11-102 of the Code of the City of Prairie Village is hereby amended to read as follows:

11-102. Article 5 of the Uniform Public Offense Code, edition of 2021, 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.

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 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.

- (e) As used in this 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.

SECTION THREE Article 1 of Chapter XI, Section 11-104 of the Code of the City of Prairie Village is hereby amended to read as follows:

11.104. Article 6 of the Uniform Public Offense Code, edition of 2021, 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.

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.

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.

SECTION FOUR Article 1 of Chapter XI, Section 11-105 of the Code of the City of Prairie Village is hereby amended to read as follows:

11.105. Article 9 of the Uniform Public Offense Code, edition of 2021, 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.

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.

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.

SECTION FIVE Article 1 of Chapter XI, Section 11-106 of the Code of the City of Prairie Village is hereby amended to read as follows:

10.3.2. Possession of a Firearm While Under the Influence

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

(D) a phlebotomist.

(2) A law enforcement officer may direct a medical professional described in this subsection to draw a sample of blood from a person if the person has given consent or upon meeting the requirements of subsection (d).

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

(4) Such sample or samples shall be an independent sample and not be a portion of a sample collected for medical purposes. The person collecting the blood sample shall complete the collection portion of a document provided by law enforcement.

(5) If a sample is to be taken under authority of a search warrant, and the person must be restrained to collect the sample pursuant to this section, law enforcement shall be responsible for applying any such restraint utilizing acceptable law enforcement restraint practices. The restraint shall be effective in controlling the person in a manner not to jeopardize the person's safety or that of the medical professional or attending medical or health care staff during the drawing of the sample and without interfering with medical treatment.

(6) A law enforcement officer may request a urine sample upon meeting the requirements of subsection (d).

(7) If a law enforcement officer requests a person to submit to a test of urine under this section, the collection of the urine sample shall be supervised by:

(A) A person licensed to practice medicine and surgery, licensed as a physician's assistant, or a person acting under the direction of any such licensed person;

(B) a registered nurse or a licensed practical nurse; or

(C) a law enforcement officer of the same sex as the person being tested.

The collection of the urine sample shall be conducted out of the view of any person other than the persons supervising the collection of the sample and the person being tested, unless the right to privacy is waived by the person being tested. When possible, the supervising person shall be a law enforcement officer. The results of qualitative testing for drug presence shall be admissible in evidence and questions of accuracy or reliability shall go to the weight rather than the admissibility of the evidence. If the person is medically unable to provide a urine sample in such manner due to the injuries or treatment of the injuries, the same authorization and procedure as used for the collection of blood in paragraphs (2) and (3) shall apply to the collection of a urine sample.

- (8) The person performing or assisting in the performance of any such test and the law enforcement officer requesting any such test who is acting in accordance with this section shall not be liable in any civil and criminal proceeding involving the action.
- (f) (1) The person's refusal shall be admissible in evidence against the person at any trial on a charge arising out of possession of a firearm under the influence of alcohol or drugs, or both.
- (2) Failure of a person to provide an adequate breath sample or samples as directed shall constitute a refusal unless the person shows that the failure was due to physical inability caused by a medical condition unrelated to any ingested alcohol or drugs.
- (3) In any criminal prosecution for a violation of this section, if the court finds that a person refused to submit to testing when requested pursuant to this section, the county or district attorney, upon petition to the court, may recover on behalf of the state, in addition to the criminal penalties provided in this section, a civil penalty not exceeding \$ 1,000 for each violation.
- (g) If a person who holds a valid license to carry a concealed handgun issued pursuant to K.S.A. 2013 Supp. 75-7c01 et seq., and amendments thereto, is convicted of a violation of this section, such person's license to carry a concealed handgun shall be revoked for a minimum of one year for a first offense and three years for a second or sub-sequent offense.
- (h) In any criminal prosecution for possession of a firearm under the influence of alcohol or drugs, or both, evidence of the concentration of alcohol or drugs in the defendant's blood, urine, breath or other bodily substance may be admitted and shall give rise to the following:
- (1) If the alcohol concentration is less than .08, that fact may be considered with other competent evidence to determine if the defendant was under the influence of alcohol or drugs, or both.
- (2) If the alcohol concentration is .08 or more, it shall be prima facie evidence that the defendant was under the influence of alcohol.
- (3) If there was present in the defendant's bodily substance any narcotic, hypnotic, somnifacient, stimulating or other drug which has the capacity to render the defendant incapacitated, that fact may be considered to determine if the defendant was under the influence of alcohol or drugs, or both.
- (i) The provisions of subsection (h) shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether or not the defendant was under the influence of alcohol or drugs, or both.
- (j) Upon the request of any person submitting to testing under this section, a report of the results of the testing shall be made available to such person. (2013 HB 2578, Section 6)

SECTION SIX Article 1 of Chapter XI, Section 11-107 of the Code of the City of Prairie Village is hereby amended to read as follows:

11.107. Article 10 of the Uniform Public Offense Code, edition of 2021, is hereby amended by deleting existing Section 10.5 and by inserting in place thereof the following:

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 discharge of firearms is a Class B violation. (KSA 21-6308a)

SECTION SEVEN Article 1 of Chapter XI, Section 11-108 of the Code of the City of Prairie Village is hereby amended to read as follows:

11-108. Article 10 of the Uniform Public Offense Code, edition of 2021, is hereby amended by deleting sections 10.24 (Smoking Prohibited), 10.25 (Smoking; Posted Premises), 10.26 (Smoking Prohibited; Penalties), 10.28 (Endangering the Food Supply), and 10.29 (Violation of a Public Health Order) and revised by adding the following sections and 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.

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.

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.

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.

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.

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.

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.

Section 10.35. Endangering the Food Supply.

- (a) Endangering the food supply is knowingly:
 - (1) Bringing into this state any domestic animal which is infected with any contagious or infectious disease or any animal which has been exposed to any contagious or infectious disease;
 - (2) exposing any animal in this state to any contagious or infectious disease;
 - (3) except as permitted under K.S.A. 2-2112 et seq., and amendments thereto, bringing or releasing into this state any plant pest as defined in K.S.A. 2-2113, and amendments thereto, or exposing any plant to a plant pest; or
 - (4) exposing any raw agricultural commodity, animal feed or processed food to any contaminant or contagious or infectious disease.
- (b) As used in this section:
 - (1) "Animal feed" means an article which is intended for use for food for animals other than humans and which is intended for use as a substantial source of nutrients in the diet of the animal, and is not limited to a mixture intended to be the sole ration of the animal;
 - (2) "contagious or infectious disease" means any disease which can be spread from one subject to another by direct or indirect contact or by an intermediate agent, including,

but not limited to, anthrax, all species of brucellosis, equine infectious anemia, hog cholera, pseudorabies, psoroptic mange, rabies, tuberculosis, vesicular stomatitis, avian influenza, pullorum, fowl typhoid, psittacosis, viscerotropic velogenic Newcastle disease, foot-and-mouth disease, rinderpest, African swine fever, piroplasmiasis, vesicular exanthema, Johne's disease, scabies, scrapies, bovine leukosis and bovine spongiform encephalopathy;

- (3) "processed food" means any food other than a raw agricultural commodity and includes any raw agricultural commodity that has been subject to processing, such as canning, cooking, freezing, dehydration or milling; and
 - (4) "raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored or otherwise treated in their unpeeled natural form prior to marketing.
- (c) Endangering the food supply is a Class A violation except if the contagious or infectious disease is food-and-mouth disease in which class it is classified as a felony under state law and will be referred to the appropriate prosecuting authority.

(K.S.A. 21-6317)

Sec. 10.36 Violation of a Public Health Order.

- (a) It shall be unlawful for any person to violate, refuse, or fail to comply with, a written order of the County Health Officer, Board of Health, or Director of Health issued under their respective authorities.
- (b) A violation of this section is a Class C violation.

SECTION EIGHT Article 1 of Chapter XI, Section 11-109 of the Code of the City of Prairie Village is hereby added to read as follows:

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.

SECTION NINE Article 2 of Chapter XI, Section 11-211 of the Code of the City of Prairie Village is hereby amended to read as follows:

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)

SECTION TEN Article 3 of Chapter XI, Sections 11-301 through 11-304 is now repealed and reserved for future use.

SECTION ELEVEN Article 5 of Chapter XI, Sections 11-501 through 11-504 is now repealed and reserved for future use.

SECTION TWELVE Ordinance No. 2430 and any previous ordinances or provisions in conflict herewith are hereby repealed.

SECTION THIRTEEN This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS ____ DAY OF _____, 2021

Eric Mikkelson, Mayor

ATTEST:

APPROVED AS TO FORM:

Adam Geffert, City Clerk

David E. Waters, City Attorney

ORDINANCE NO. 24~~62~~²⁹

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CITY OF PRAIRIE VILLAGE, KANSAS; INCORPORATING BY REFERENCE THE “STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES,” EDITION OF 202~~1~~⁹; WITH CERTAIN AMENDMENTS, DELETIONS AND ADDITIONS; AMENDING AND REPEALING CERTAIN SECTIONS IN CHAPTER XI OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED “PUBLIC OFFENSES AND TRAFFIC.”

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

SECTION ONE

Article 6 of Chapter XI, Section 11-601 of the Code of the City of Prairie Village is hereby amended to read as follows:

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 202~~1~~⁹, 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.

B. Article 1, Section 1, DEFINITIONS, “Pedestrian” of the Standard Traffic Ordinance for Kansas Cities, edition of 202~~1~~⁹, 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.

SECTION TWO

Article 6 of Chapter XI, Section 11-602 of the Code of the City of Prairie Village is hereby adopted to read as follows:

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.

SECTION THREE

Article 6 of Chapter XI, Section 11-603 of the Code of the City of Prairie Village is hereby adopted to read as follows:

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.

(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).

SECTION FOUR

Article 6 of Chapter XI, Section 11-604 of the Code of the City of Prairie Village is hereby adopted to read as follows:

11-604. TRAFFIC CONTROL SIGNAL PREEMPTION DEVICES

Article 4, Section 13.1(c) of the Standard Traffic Ordinance for Kansas Cities, edition of 2021~~0~~⁹, 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.”

SECTION FIVE

Article 6 of Chapter XI, Section 11-605 of the City of Prairie Village is hereby adopted to read as follows:

11-605. DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

Article 6, Section 30 of the Standard Traffic Ordinance for Kansas Cities, edition of 2021~~0~~⁹, is hereby amended to read as follows:

- (a) Driving under the influence is operating or attempting to operate any vehicle within this city while:
 - (1) The alcohol concentration in the person’s blood or breath as shown by any competent evidence, including other competent evidence, as defined in Section 1 of this ordinance, is .08 or more;
 - (2) The alcohol concentration in the person’s blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is .08 or more;
 - (3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;
 - (4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or
 - (5) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.
- (b) (1) Driving under the influence is:

- (A) An ordinance violation. On a first conviction of a violation of this section, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;
- (B) On a second conviction of a violation of this section the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of 120 hours;
- (C) On a third conviction of a violation of this section, a person shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750.00 nor more than \$2,500.00. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement

shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

- (2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A), (b)(1)(B), or (b)(1)(C), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court."
- (c) Any person 18 years of age or older convicted of violating this section who had one or more children under the age of 18 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.
- (d) If a person is charged with a violation of subsection (a)(4) or (a)(5), the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.
- (e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine

required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division including any finding regarding the alcohol concentration in the offender's blood or breath. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(h) For the purpose of determining whether a conviction is a first, second, or third conviction in sentencing under this section:

- (1) Convictions for a violation of this section, K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;
- (2) Any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:
 - (A) Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto, or section 30.1 of this ordinance;
 - (B) Operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
 - (C) Involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)(3) or (a)(5), and amendments thereto;
 - (D) Aggravated battery as described in K.S.A. 21-5413(b)(3) or (b)(4), and amendments thereto; and
 - (E) Aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;
- (3) Conviction includes:
 - (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an offense described in subsection (h)(2); and

(B) Conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (h)(1) or (h)(2);

(4) Multiple convictions of any crime described in subsection (h)(1) or (h)(2) arising from the same arrest shall only be counted as one conviction;

(5) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(6) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, only once during the person's lifetime."

(i) For the purposes of determining whether an offense is comparable, the following shall be considered:

(1) The name of the out-of-jurisdiction offense;

(2) The elements of the out-of-jurisdiction offense;

(3) Whether the out-of-jurisdiction offense prohibits similar conduct prohibited by the closest approximate Kansas offense.

(j) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(k) Upon conviction of a person of a violation of this section, the court may order the convicted person to pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(l) Upon the filing of a complaint, citation, or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(m) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq.*, or K.S.A. 22-2906 *et seq.*, and amendments thereto, shall not constitute plea bargaining.

(n) The alternatives set out in subsection (a) may be pleaded in the alternative, and the city may, but shall not be required to, elect one or more of such alternatives prior to submission of the case to the fact finder.

(o) As used in this section:

(1) **Imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

(2) **Drug** includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto. (K.S.A. 8-1567)

SECTION SIX

Article 6 of Chapter XI, Section 11-606 of the City of Prairie Village is hereby adopted to read as follows:

11-606. DRIVING COMMERCIAL MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

(a) Driving a commercial motor vehicle under the influence is operating or attempting to operate any commercial motor vehicle, as defined in Section 1, within this city while:

(1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, is .04 or more;

(2) The alcohol concentration in the person's blood or breath, as measured within three hours of the time of driving a commercial motor vehicle, is .04 or more; or

(3) Committing a violation of subsection (a) of Section 30 of this ordinance, or the ordinance of a city or resolution of a county which prohibits any of the acts prohibited thereunder or is otherwise comparable.

(b) (1) Driving a commercial motor vehicle under the influence is:

(A) An ordinance violation. On a first conviction, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion, 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation, suspension or reduction of sentence or parole or other release;

- (B) On a second conviction, the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;
- (C) On a third conviction of a violation of this section, a person shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750.00 nor more than \$2,500.00. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours; and

- (2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A), (b)(1)(B), or (b)(1)(C) the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.
- (c) Any person 18 years of age or older convicted of a violation of this section who had one or more children under the age of 18 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment shall be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.
- (d) If a person is charged with a violation of Section 30(a)(4) or (a)(5), as incorporated in this section, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.
- (e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (g) The court shall electronically report every conviction of a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the:
- (1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and
 - (2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

- (h) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall: (1) Disqualify the person from driving a commercial motor vehicle under K.S.A. 8-2,142, and amendments thereto; and (2) suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
- (i) The court is authorized to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
- (j) Upon the filing of a complaint, citation or notice to appear alleging a violation of this section, and prior to conviction thereof, a city attorney shall request and shall receive from the: (A) Division of vehicles a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and (B) Kansas bureau of investigation central repository all criminal history record information concerning such person.
- (k) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section.
- (l) The alternatives set out in subsection (a) may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.
- (m) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:
 - (1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county that prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;
 - (2) Any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:
 - (A) This section or K.S.A. 8-2,144, and amendments thereto;
 - (B) Operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;

- (C) Involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)(3) or (a)(5), and amendments thereto;
- (D) Aggravated battery as described in K.S.A. 21-5413(b)(3) or (b)(4), and amendments thereto; and
- (E) Aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) **Conviction** includes:

- (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (m)(2);
- (B) Conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (m)(1) or (m)(2);
- (4) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and
- (5) Multiple convictions of any crime described in subsection (m)(1) or (m)(2) arising from the same arrest shall only be counted as one conviction.

(n) For the purposes of determining whether an offense is comparable, the following shall be considered:

- (1) The name of the out-of-jurisdiction offense;
- (2) The elements of the out-of-jurisdiction offense;
- (3) Whether the out-of-jurisdiction offense prohibits similar conduct prohibited by the closest approximate Kansas offense.

(o) For the purpose of this section:

- (1) **Imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and
- (2) **Drug** includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto. (K.S.A. 8-2,144)

SECTION SEVEN

Article 6 of Chapter XI, Section 11-605 of the Code of the City of Prairie Village is hereby amended to read as follows:

11-605. UNATTENDED MOTOR VEHICLE.

Article 13, Section 107 of the Standard Traffic Ordinance for Kansas Cities, edition of 20~~21~~19, 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.”

SECTION EIGHT

Article 6 of Chapter XI, Section 11-606 of the Code of the City of Prairie Village is hereby amended to read as follows:

11-608. USE OF WIRELESS COMMUNICATION DEVICES

Article 14, Section 126.2 of the Standard Traffic Ordinance for Kansas Cities, edition of 20~~21~~19, is hereby amended by deleting and replacing subsection (a) with the following:

“(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 send a video and/or pictures.”

SECTION NINE

11-609. DRIVER'S LICENSE NOTICE OF CHANGE OF ADDRESS OR NAME:

Article 19, Sec. 193 of the Standard Traffic Ordinance for Kansas Cities, edition of 20~~21~~¹⁹, 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."

SECTION TEN

Article 7 of chapter XI, Section 11-716 of the Code of the City of Prairie Village is hereby amended to read as follows:

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 alcohol 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)

SECTION ELEVEN

Ordinance No. 24~~29~~¹¹ and any previous ordinances or provisions in conflict herewith are hereby repealed.

SECTION TWELVE

This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS ____ DAY OF _____, 202~~1~~⁰.

Eric Mikkelson, Mayor

ATTEST:

APPROVED AS TO FORM:

Adam Geffert, City Clerk

David E. Waters, City Attorney

ORDINANCE NO. 2462

AN ORDINANCE REGULATING TRAFFIC WITHIN THE CITY OF PRAIRIE VILLAGE, KANSAS; INCORPORATING BY REFERENCE THE “STANDARD TRAFFIC ORDINANCE FOR KANSAS CITIES,” EDITION OF 2021; WITH CERTAIN AMENDMENTS, DELETIONS AND ADDITIONS; AMENDING AND REPEALING CERTAIN SECTIONS IN CHAPTER XI OF THE PRAIRIE VILLAGE MUNICIPAL CODE ENTITLED “PUBLIC OFFENSES AND TRAFFIC.”

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

SECTION ONE

Article 6 of Chapter XI, Section 11-601 of the Code of the City of Prairie Village is hereby amended to read as follows:

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 2021, 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.

B. Article 1, Section 1, DEFINITIONS, “Pedestrian” of the Standard Traffic Ordinance for Kansas Cities, edition of 2021, 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.

SECTION TWO

Article 6 of Chapter XI, Section 11-602 of the Code of the City of Prairie Village is hereby adopted to read as follows:

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.

SECTION THREE

Article 6 of Chapter XI, Section 11-603 of the Code of the City of Prairie Village is hereby adopted to read as follows:

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.

(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).

SECTION FOUR

Article 6 of Chapter XI, Section 11-604 of the Code of the City of Prairie Village is hereby adopted to read as follows:

11-604. TRAFFIC CONTROL SIGNAL PREEMPTION DEVICES

Article 4, Section 13.1(c) of the Standard Traffic Ordinance for Kansas Cities, edition of 2021, 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.”

SECTION FIVE

Article 6 of Chapter XI, Section 11-605 of the City of Prairie Village is hereby adopted to read as follows:

11-605. DRIVING UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

Article 6, Section 30 of the Standard Traffic Ordinance for Kansas Cities, edition of 2021, is hereby amended to read as follows:

- (a) Driving under the influence is operating or attempting to operate any vehicle within this city while:
 - (1) The alcohol concentration in the person’s blood or breath as shown by any competent evidence, including other competent evidence, as defined in Section 1 of this ordinance, is .08 or more;
 - (2) The alcohol concentration in the person’s blood or breath, as measured within three hours of the time of operating or attempting to operate a vehicle, is .08 or more;
 - (3) Under the influence of alcohol to a degree that renders the person incapable of safely driving a vehicle;
 - (4) Under the influence of any drug or combination of drugs to a degree that renders the person incapable of safely driving a vehicle; or
 - (5) Under the influence of a combination of alcohol and any drug or drugs to a degree that renders the person incapable of safely driving a vehicle.
- (b) (1) Driving under the influence is:

- (A) An ordinance violation. On a first conviction of a violation of this section, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation or suspension, reduction of sentence or parole. The court may place the person convicted under a house arrest program to serve the remainder of the sentence only after such person has served 48 consecutive hours' imprisonment;
- (B) On a second conviction of a violation of this section the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of 120 hours;
- (C) On a third conviction of a violation of this section, a person shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750.00 nor more than \$2,500.00. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement

shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours.

- (2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A), (b)(1)(B), or (b)(1)(C), the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court."
- (c) Any person 18 years of age or older convicted of violating this section who had one or more children under the age of 18 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.
- (d) If a person is charged with a violation of subsection (a)(4) or (a)(5), the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.
- (e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine

required to be paid by the person, the remaining balance of the fine shall become due on that date.

(g) The court shall electronically report every conviction of a violation of this section and every diversion agreement entered into in lieu of further criminal proceedings on a complaint alleging a violation of this section to the division including any finding regarding the alcohol concentration in the offender's blood or breath. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state.

(h) For the purpose of determining whether a conviction is a first, second, or third conviction in sentencing under this section:

- (1) Convictions for a violation of this section, K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county which prohibits the acts that this section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;
- (2) Any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:
 - (A) Driving a commercial motor vehicle under the influence, K.S.A. 8-2,144, and amendments thereto, or section 30.1 of this ordinance;
 - (B) Operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;
 - (C) Involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)(3) or (a)(5), and amendments thereto;
 - (D) Aggravated battery as described in K.S.A. 21-5413(b)(3) or (b)(4), and amendments thereto; and
 - (E) Aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;
- (3) Conviction includes:
 - (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging an offense described in subsection (h)(2); and

(B) Conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (h)(1) or (h)(2);

(4) Multiple convictions of any crime described in subsection (h)(1) or (h)(2) arising from the same arrest shall only be counted as one conviction;

(5) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and

(6) A person may enter into a diversion agreement in lieu of further criminal proceedings for a violation of this section, and amendments thereto, only once during the person's lifetime."

(i) For the purposes of determining whether an offense is comparable, the following shall be considered:

(1) The name of the out-of-jurisdiction offense;

(2) The elements of the out-of-jurisdiction offense;

(3) Whether the out-of-jurisdiction offense prohibits similar conduct prohibited by the closest approximate Kansas offense.

(j) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.

(k) Upon conviction of a person of a violation of this section, the court may order the convicted person to pay restitution to any victim who suffered loss due to the violation for which the person was convicted.

(l) Upon the filing of a complaint, citation, or notice to appear alleging a person has violated the acts prohibited by this section, and prior to conviction thereof, a city attorney shall request and shall receive from the:

(1) Division a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and

(2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

(m) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section to avoid the mandatory penalties established by this section. For the purpose of this subsection, entering into a diversion agreement pursuant to K.S.A. 12-4413 *et seq.*, or K.S.A. 22-2906 *et seq.*, and amendments thereto, shall not constitute plea bargaining.

(n) The alternatives set out in subsection (a) may be pleaded in the alternative, and the city may, but shall not be required to, elect one or more of such alternatives prior to submission of the case to the fact finder.

(o) As used in this section:

(1) **Imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city.

(2) **Drug** includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto. (K.S.A. 8-1567)

SECTION SIX

Article 6 of Chapter XI, Section 11-606 of the City of Prairie Village is hereby adopted to read as follows:

11-606. DRIVING COMMERCIAL MOTOR VEHICLE UNDER THE INFLUENCE OF INTOXICATING LIQUOR OR DRUGS

(a) Driving a commercial motor vehicle under the influence is operating or attempting to operate any commercial motor vehicle, as defined in Section 1, within this city while:

(1) The alcohol concentration in the person's blood or breath, as shown by any competent evidence, including other competent evidence, is .04 or more;

(2) The alcohol concentration in the person's blood or breath, as measured within three hours of the time of driving a commercial motor vehicle, is .04 or more; or

(3) Committing a violation of subsection (a) of Section 30 of this ordinance, or the ordinance of a city or resolution of a county which prohibits any of the acts prohibited thereunder or is otherwise comparable.

(b) (1) Driving a commercial motor vehicle under the influence is:

(A) An ordinance violation. On a first conviction, the person convicted shall be sentenced to not less than 48 consecutive hours nor more than six months' imprisonment, or in the court's discretion, 100 hours of public service, and fined not less than \$750 nor more than \$1,000. The person convicted shall serve at least 48 consecutive hours' imprisonment or 100 hours of public service either before or as a condition of any grant of probation, suspension or reduction of sentence or parole or other release;

- (B) On a second conviction, the person convicted shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,250 nor more than \$1,750. The person convicted shall serve at least five consecutive days' imprisonment before the person is granted probation, suspension or reduction of sentence or parole or is otherwise released. The five days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 120 hours of confinement. Such 120 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program to serve the five days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 120 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 120 hours;
- (C) On a third conviction of a violation of this section, a person shall be sentenced to not less than 90 days nor more than one year's imprisonment and fined not less than \$1,750.00 nor more than \$2,500.00. The person convicted shall not be eligible for release on probation, suspension or reduction of sentence or parole until the person has served at least 90 days' imprisonment. The 90 days' imprisonment mandated by this subsection may be served in a work release program only after such person has served 48 consecutive hours' imprisonment, provided such work release program requires such person to return to confinement at the end of each day in the work release program. The person convicted, if placed into a work release program, shall serve a minimum of 2,160 hours of confinement. Such 2,160 hours of confinement shall be a period of at least 48 consecutive hours of imprisonment followed by confinement hours at the end of and continuing to the beginning of the offender's work day. The court may place the person convicted under a house arrest program pursuant to K.S.A. 21-6609, and amendments thereto, to serve the 90 days' imprisonment mandated by this subsection only after such person has served 48 consecutive hours' imprisonment. The person convicted, if placed under house arrest, shall be monitored by an electronic monitoring device, which verifies the offender's location. The offender shall serve a minimum of 2,160 hours of confinement within the boundaries of the offender's residence. Any exceptions to remaining within the boundaries of the offender's residence provided for in the house arrest agreement shall not be counted as part of the 2,160 hours; and

- (2) In addition, prior to sentencing for any conviction pursuant to subsection (b)(1)(A), (b)(1)(B), or (b)(1)(C) the court shall order the person to participate in an alcohol and drug evaluation conducted by a provider in accordance with K.S.A. 8-1008, and amendments thereto. The person shall be required to follow any recommendation made by the provider after such evaluation, unless otherwise ordered by the court.
- (c) Any person 18 years of age or older convicted of a violation of this section who had one or more children under the age of 18 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment shall be served consecutively to any other minimum mandatory penalty imposed for a violation of this section. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.
- (d) If a person is charged with a violation of Section 30(a)(4) or (a)(5), as incorporated in this section, the fact that the person is or has been entitled to use the drug under the laws of this state shall not constitute a defense against the charge.
- (e) The court may establish the terms and time for payment of any fines, fees, assessments and costs imposed pursuant to this section. Any assessment and costs shall be required to be paid not later than 90 days after imposed, and any remainder of the fine shall be paid prior to the final release of the defendant by the court.
- (f) In lieu of payment of a fine imposed pursuant to this section, the court may order that the person perform community service specified by the court. The person shall receive a credit on the fine imposed in an amount equal to \$5 for each full hour spent by the person in the specified community service. The community service ordered by the court shall be required to be performed not later than one year after the fine is imposed or by an earlier date specified by the court. If by the required date the person performs an insufficient amount of community service to reduce to zero the portion of the fine required to be paid by the person, the remaining balance of the fine shall become due on that date.
- (g) The court shall electronically report every conviction of a violation of this section to the division. Prior to sentencing under the provisions of this section, the court shall request and shall receive from the:
- (1) Division a record of all prior convictions obtained against such person for any violation of any of the motor vehicle laws of this state; and
 - (2) Kansas bureau of investigation central repository all criminal history record information concerning such person.

- (h) Upon conviction of a person of a violation of this section, the division, upon receiving a report of conviction, shall: (1) Disqualify the person from driving a commercial motor vehicle under K.S.A. 8-2,142, and amendments thereto; and (2) suspend, restrict or suspend and restrict the person's driving privileges as provided by K.S.A. 8-1014, and amendments thereto.
- (i) The court is authorized to order that the convicted person pay restitution to any victim who suffered loss due to the violation for which the person was convicted.
- (j) Upon the filing of a complaint, citation or notice to appear alleging a violation of this section, and prior to conviction thereof, a city attorney shall request and shall receive from the: (A) Division of vehicles a record of all prior convictions obtained against such person for any violations of any of the motor vehicle laws of this state; and (B) Kansas bureau of investigation central repository all criminal history record information concerning such person.
- (k) No plea bargaining agreement shall be entered into nor shall any judge approve a plea bargaining agreement entered into for the purpose of permitting a person charged with a violation of this section which prohibits the acts prohibited by this section, to avoid the mandatory penalties established by this section.
- (l) The alternatives set out in subsection (a) may be pleaded in the alternative, and the city may, but shall not be required to, elect one or two of the three prior to submission of the case to the fact finder.
- (m) For the purpose of determining whether a conviction is a first, second, third or subsequent conviction in sentencing under this section:
 - (1) Convictions for a violation of K.S.A. 8-1567, and amendments thereto, or a violation of an ordinance of any city or resolution of any county that prohibits the acts that such section prohibits, or entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging any such violations, shall be taken into account, but only convictions or diversions occurring on or after July 1, 2001. Nothing in this provision shall be construed as preventing any court from considering any convictions or diversions occurring during the person's lifetime in determining the sentence to be imposed within the limits provided for a first, second, third, fourth or subsequent offense;
 - (2) Any convictions for a violation of the following sections occurring during a person's lifetime shall be taken into account:
 - (A) This section or K.S.A. 8-2,144, and amendments thereto;
 - (B) Operating a vessel under the influence of alcohol or drugs, K.S.A. 32-1131, and amendments thereto;

- (C) Involuntary manslaughter while driving under the influence of alcohol or drugs, K.S.A. 21-3442, prior to its repeal, or K.S.A. 21-5405(a)(3) or (a)(5), and amendments thereto;
- (D) Aggravated battery as described in K.S.A. 21-5413(b)(3) or (b)(4), and amendments thereto; and
- (E) Aggravated vehicular homicide, K.S.A. 21-3405a, prior to its repeal, or vehicular battery, K.S.A. 21-3405b, prior to its repeal, if the crime was committed while committing a violation of K.S.A. 8-1567, and amendments thereto;

(3) **Conviction** includes:

- (A) Entering into a diversion agreement in lieu of further criminal proceedings on a complaint alleging a violation of a crime described in subsection (m)(2);
- (B) Conviction of a violation of an ordinance of a city in this state, a resolution of a county in this state or any law of another jurisdiction that would constitute an offense that is comparable to the offense described in subsection (m)(1) or (m)(2);
- (4) It is irrelevant whether an offense occurred before or after conviction for a previous offense; and
- (5) Multiple convictions of any crime described in subsection (m)(1) or (m)(2) arising from the same arrest shall only be counted as one conviction.

(n) For the purposes of determining whether an offense is comparable, the following shall be considered:

- (1) The name of the out-of-jurisdiction offense;
- (2) The elements of the out-of-jurisdiction offense;
- (3) Whether the out-of-jurisdiction offense prohibits similar conduct prohibited by the closest approximate Kansas offense.

(o) For the purpose of this section:

- (1) **Imprisonment** shall include any restrained environment in which the court and law enforcement agency intend to retain custody and control of a defendant and such environment has been approved by the board of county commissioners or the governing body of a city; and
- (2) **Drug** includes toxic vapors as such term is defined in K.S.A. 21-5712, and amendments thereto. (K.S.A. 8-2,144)

SECTION SEVEN

Article 6 of Chapter XI, Section 11-605 of the Code of the City of Prairie Village is hereby amended to read as follows:

11-605. UNATTENDED MOTOR VEHICLE.

Article 13, Section 107 of the Standard Traffic Ordinance for Kansas Cities, edition of 2021, 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.”

SECTION EIGHT

Article 6 of Chapter XI, Section 11-606 of the Code of the City of Prairie Village is hereby amended to read as follows:

11-608. USE OF WIRELESS COMMUNICATION DEVICES

Article 14, Section 126.2 of the Standard Traffic Ordinance for Kansas Cities, edition of 2021, is hereby amended by deleting and replacing subsection (a) with the following:

“(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 send a video and/or pictures.”

SECTION NINE

11-609. DRIVER'S LICENSE NOTICE OF CHANGE OF ADDRESS OR NAME:

Article 19, Sec. 193 of the Standard Traffic Ordinance for Kansas Cities, edition of 2021, 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."

SECTION TEN

Article 7 of chapter XI, Section 11-716 of the Code of the City of Prairie Village is hereby amended to read as follows:

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 alcohol 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)

SECTION ELEVEN

Ordinance No. 2429 and any previous ordinances or provisions in conflict herewith are hereby repealed.

SECTION TWELVE

This ordinance shall take effect and be enforced from and after its passage, approval, and publication as provided by law.

PASSED AND APPROVED THIS ____ DAY OF _____, 2021.

Eric Mikkelson, Mayor

ATTEST:

APPROVED AS TO FORM:

Adam Geffert, City Clerk

David E. Waters, City Attorney

Due to COVID-19 restrictions, some meetings will be held virtually. Please continue to check <http://pvkansas.com> for access details.

MAYOR'S ANNOUNCEMENTS

Monday, November 15, 2021

Ad Hoc Housing Committee	11/16/2021	5:30 p.m.
Thanksgiving Holiday (City offices closed)	11/25/2021 – 11/26/2021	
Environmental Committee	12/01/2021	5:30 p.m.
Mayor's Holiday Tree Lighting	12/02/2021	6:00 p.m.
PV Foundation Gingerbread House Party	12/05/2021	1:30 p.m.
City Council	12/06/2021	6:00 p.m.
Planning Commission	12/07/2021	7:00 p.m.

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INFORMATIONAL ITEMS
November 15, 2021

1. Environmental Committee meeting minutes – August 25, 2021
2. Planning Commission meeting minutes – October 5, 2021

The Environmental Committee met via Zoom on August 25, 2021, 5:30 p.m.

Members in Attendance:

Chair – Ian Graves

Co-chair – Piper Reimer

City staff liaison – Ashley Freburg

Committee members - Rich Dalton, Magda Born, Stephanie Alger, Travis Carson, Penny Mahon, Nathan Kovac, Beth Held, Margaret Thomas

Agenda

Ian requested approval of the agenda. Magda requested the addition of an agenda item regarding prominent fragrance at the Inn at Meadowbrook. This item was added to the agenda. Margaret moved to approve the agenda. The agenda, with this addition, was unanimously approved.

Minutes

Ian requested approval of minutes of the August Environmental Committee meeting. Rich moved to approve the minutes. Minutes were unanimously approved.

New Business

Race to Zero

Ian introduced the Mayor's request that the EC consider making a recommendation regarding the City's position and involvement in the global Race to Zero campaign. The committee voted in favor of placing this topic on the EC September meeting agenda.

Vermiculture

A committee member had suggested the EC consider holding a vermiculture educational event. A recommendation was made to expand this topic to composting in general. Further discussion included an update on the status of the curbside composting program the City piloted last year. Members voted to set this decision aside while they considered more broadly what type of educational display/event they would be interested in developing, which could also be used at future events, and discussed what those events might be, including VillageFest, native plant sales and a new multi-city Earth Day focused event in the development stages, spearheaded by the City of Mission. Members agreed to bring ideas for educational event including display to next EC meeting.

Old Business

Leaf Blowers

It is unlikely anything could be done about this issue utilizing noise ordinances, given previous outcome of City Council discussions. Possibly, if pursued, the Race to Zero campaign would offer broader perspective framework for dealing with this type of concern.

Electronics Recycling

The committee decided it would be interested in hearing a presentation from PCs for People. We will try to line that up for the October agenda. A side topic developed and members expressed interest in touring the facility that processes PV's recycling. Nathan will work to organize this.

Possible Events This Fall

There is an upcoming JoCo Recycles event in Merriam/Shawnee. Members expressed interest in gathering more information about this event for potential future PV involvement. Ian and Ashely will investigate.

Upcoming Meetings

Meetings will remain virtual via Zoom until further notice due to the COVID-19 Pandemic and the Delta variant. Further discussion will take place after the City Council returns to in-person meetings.

Fragrance concern at Inn at Meadowbrook/Verbena Restaurant:

Magda expressed concern about a prominent fragrance being used at the Inn at Meadowbrook. Ashley will bring this issue up with City Administrator Wes Jordan for his input as to how to proceed.

Announcement

Ian may be absent at Sept/Oct meetings.

Adjournment

Rich moved to adjourn. This motion passed with unanimous support.

Adjourned 6:37pm

PLANNING COMMISSION MINUTES OCTOBER 5, 2021

ROLL CALL

The Planning Commission of the City of Prairie Village met in regular session on Tuesday, October 5, 2021 at 7:00 p.m. Due to the COVID-19 pandemic, Commission members attended a virtual meeting via the Zoom software platform. Chair Greg Wolf called the meeting to order at 7:00 p.m. with the following members present: Jonathan Birkel, James Breneman, Patrick Lenahan, Melissa Brown, Nancy Wallerstein and Jeffrey Valentino.

The following individuals were present via Zoom in their advisory capacity to the Planning Commission: Chris Brewster, Gould Evans; Jamie Robichaud, Deputy City Administrator; Keith Bredehoeft, Public Works Director; Ron Nelson, Council Liaison; Adam Geffert, City Clerk/Planning Commission Secretary.

APPROVAL OF MINUTES

Mr. Breneman moved for the approval of the minutes of the September 14, 2021 regular Planning Commission meeting. Mr. Lenahan seconded the motion, which passed unanimously.

PUBLIC HEARINGS

None

NON-PUBLIC HEARINGS

PC2021-120	Site Plan Approval for Fence Exception 5108 W. 76 th Street Zoning: R-1A Applicant: Robert Kohl
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Mr. Brewster stated that the applicant was requesting to build a fence on the rear property line approximately 8' to 10.5' high, exceeding the 6' height limit for rear fences. Specifically, the request is for a chain link fence at the eastern edge of the rear property line to the west side of the rear property line, with a height varying in association with the gradually increasing height of a retaining wall. The retaining wall is on the edge of the property to the north, which is primarily used as parking for a multi-unit condominium building. The parking area is elevated from approximately 2' to 4.5' above the rear yard of the subject property, and there is little room for landscape and screening. Therefore, vehicle circulation, other utility activities, and general maintenance have a negative

impact on the rear yard of the subject property. The proposed fence would include a canvas screening element connected to the chain link.

Mr. Brewster said that staff recommended approval of the site plan with the exception subject to the following conditions:

1. The fence is designed as a continuation of the top of fence to the east of this property line, and tapers to the extent of the 10.5' high exception on the east end. This increase is in response to the retaining wall on the property to the north and will have the effect of a 6' high fence when viewed from the property to the north.
2. Any screening associated with the proposed chain link fence is earth tone or other muted colors to blend with the landscape in the area and is well-maintained for an acceptable aesthetic appearance.
3. The fence shall not violate any provisions of easements in the area, and to the extent any violations are subsequently encountered, the fence is placed at the applicant's risk and subject to removal according to any easement provisions.
4. The fence exception is to address the current condition on the property to the north. In the event of redevelopment of that property, proper design of the border shall be an obligation of any future redevelopment and may not rely on the location of this fence and exception.

Robert Kohl, resident and owner of the property, was present to discuss the application.

Mr. Birkel asked if a storm drain was located on the property. Mr. Kohl stated that there was a 7' easement in the rear yard for storm drainage. He added that the fence installation would not impair the drain, and that he was aware the fence might need to be removed if work had to be done in the easement. Mr. Bredehoeft stated that Public Works had no concerns with the location of the proposed fence.

Mr. Breneman made a motion to approve the site plan with conditions as presented by staff.. Ms. Brown seconded the motion, which passed unanimously.

PC2021-121 Site Plan for Redevelopment of Macy's Building
4000 W. 71st Street
Zoning: C-2
Applicant: Kimley Horn & Associates; GRI Prairie Village, LLC

Mr. Brewster said the applicants were requesting site plan approval for a remodel involving changes to the exterior of the façade, a small addition, and reconfiguration of parking and loading areas. The property is zoned C-2, and was previously used as a department store. The remodeling is primarily an interior tenant finish to convert the building to multi-tenant space, which is anticipated to include a retail tenant on the first level, offices on the second level, and a fitness center on the lower walkout level. Mr.

Brewster added that tenant finishes or changes of use typically only require building permits and business licenses, when compliance with standards and codes are verified. However, expansions of buildings and exterior renovations with substantial material changes require the Planning Commission to review and approve a site plan.

Mr. Brewster stated that staff recommended approval of the site plan subject to the following conditions:

1. Pedestrian connections are made near the southeast corner of the building to the Mission Road sidewalk, from the signal at 71st Street and Mission Road directly to the parking area, and by a more formal “internal street” design at the entrance extending from Alhambra Street. The latter should involve a mid-block crossing to the sidewalk on the south side of 71st Street, subject to Public Works approval with respect to signs and pedestrian activated signals, unless any of the concepts for an improved sidewalk on the north side of 71st Street are pursued by the City and/or applicant.
2. A final revised landscape plan be submitted to staff prior to any building permits addressing the following:
 - a. Douglas Fir be switched to Norway Spruce or Green Giant Arborvitae.
 - b. Convert the painted landscape island in the parking area to a planted island with trees and maintain trees at other internal islands and near the building frontage.
 - c. Provide parking screening along both Mission Road and 71st Street through dense hedges, ornamental fence/wall, or a combination of both.
 - d. Provide street trees at 40-feet on center along both Mission Road and 71st Street. The 71st Street frontage may use ornamental trees to adjust to overhead utilities, or otherwise be incorporated into the parking lot edge.
3. Sign permits demonstrating compliance with City regulations will be required prior to finalizing signs for the project.

Mr. Birkel asked if the proposed trees would interfere with the low utility lines on 71st Street. Mr. Brewster stated the trees would either need to be small ornamental trees or strategically integrated if they were larger.

Gregg Zike with First Washington Realty, 7200 Wisconsin, Bethesda, MD was present to discuss the project along with project manager Tom Hippman and architects Matt Kist and Tyler Wysong with Kimley-Horn & Associates, 805 Pennsylvania Street, Suite 150, Kansas City, MO. Mr. Zike stated that he agreed with all staff recommendations with the exception of the requirement to plant street trees at 40’ intervals noted in item 2-d. He suggested equivalently sized trees could be planted in groups instead. Mr. Brewster stated this alternative could be considered acceptable and reviewed by staff for compliance with the zoning ordinance at the time of permits. Zike also said that the included building design elements, such as window locations, could change as result of a structural analysis that was currently underway. Mr. Brewster stated there was flexibility

in design approval in the zoning regulations, and that changes that still met the intent of the proposed elevations would not require further approval from the Planning Commission.

Mr. Zike also stated that the installation of a sidewalk on the north side of 71st Street had been considered, but doing so would limit all landscaping on that side of the parking lot, and was therefore not preferred.

Mr. Valentino and Ms. Brown shared concerns about the proposed internal crosswalk from Mission Road to the building. Additionally, they noted the small size of the sidewalk on the east side of the building, and its close proximity to Mission Road. Mr. Kist stated that other options would be considered to improve the pedestrian experience on the east side and through the parking lot.

After further discussion, Mr. Valentino made a motion to approve the site plan with staff recommendations. Mr. Birkel seconded the motion, which passed unanimously.

OTHER BUSINESS

ADJOURNMENT

With no further business to come before the Commission, Chair Greg Wolf adjourned the meeting at 8:17 p.m.

Adam Geffert
City Clerk/Planning Commission Secretary