

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



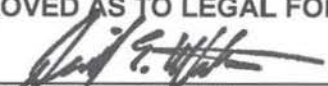
Eric Mikkelson, Mayor

ATTEST:



Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:



David E. Waters, City Attorney