



CITY OF OSAWATOMIE
439 Main Street
P.O. Box 37
Osawatomie, Kansas 66064
913-755-2146
FAX: 913-755-4164

NOTICE OF SPECIAL MEETING

The Council, being the Governing Body of the City of Osawatomie, Kansas.

You are hereby notified that pursuant to a written request, I have called and do hereby call a special meeting of the Council of the City of Osawatomie, Kansas, to be held in the CITY MANAGER'S OFFICE in said City at 7:00 p.m. on Tuesday, August 9, 2011 for the following purpose:

Executive Session to Discuss Personnel Matter of Nonelected Personnel (City Manager Contract Negotiations)

DATED this 9th day of August, 2011.

Philip A. Dudley, Mayor
City of Osawatomie, Kansas



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439 Main Street
P.O. Box 37
Osawatomie, Kansas 66064
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REQUEST FOR SPECIAL MEETING

We, the undersigned Council members being of the Governing Body of the City of Osawatomie, Kansas, respectfully request that a special meeting of the Council of the City of Osawatomie, Kansas, to be held in the CITY MANAGER'S OFFICE in said City at 7:00 p.m. on Tuesday, August 9, 2011 for the following purpose:

Executive Session to Discuss Personnel Matter of Nonelected Personnel (City Manager Contract Negotiations)

Respectfully Submitted:







**OSAWATOMIE CITY COUNCIL
AGENDA**

August 11, 2011

7:00 p.m., Memorial Hall

1. Call to order
2. Roll Call
3. Pledge of Allegiance
4. Consent Agenda

Consent Agenda items will be acted upon by one motion unless a Council member requests an item be removed for discussion and separate action

 - A. Approve Minutes of June 9 and June 23 City Council Meetings and July 14, July 21, July 27, July 28, July 29, August 1, August 2, and August 3 Council Meetings
 - B. Approve August 11 Agenda
 - C. Appropriation Ordinances 11-13 & 11-14
5. Comments from the Public; Presentations

Citizen participation will be limited to 5 minutes. Please stand & be recognized by the Mayor
6. Public Hearing – none
7. Unfinished Business
 - A. Approve Invoice(s) for Pacific, 14th, Brown Streets Project – Request No. 10
 - B. Technical/Facility Review of the Electric Utility
 - C. 2012 Budget
8. New Business
 - A. Appointments – Library Board
 - B. Approve Automated Control System for Sewer Plant
9. Council Reports
10. Mayor's Report
11. City Manager's Report
12. Executive Session - personnel matter of nonelected personnel (City Manager's contract)
13. Adjournment

2012 BUDGET HEARING – AUGUST 25, 2011

MEETING/WORK SESSION – August 25, 2011

REGULAR MEETING – September 8, 2011

Osawatomie, Kansas. **June 9, 2011.** The Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:00 p.m. Council members present were Dickinson, Govea, Farley, Hunter, Klein, LaDuex, and Maichel. Absent was Moon. Also present were City Attorney Wetzler, and City Clerk Elmquist. Visitors were Ben Maimer, Larry Ratley, Jim Mitzner, Jeff Walmann, Doug Singer, Webster Hawkins, Travis Perry, and Kevin Grey.

CONSENT AGENDA. Approval of the Minutes of May 12 and May 26 Meetings, approval of June 9 Agenda, and approval of Appropriation Ordinances 11-9 & 11-10. Motion made by Maichel, seconded by Govea to approve the consent agenda. Yeas: All.

Public Participation; Presentations: none

Public Hearing: none

Unfinished Business:

APPROVE INVOICE(S) FOR PACIFIC, 14TH, BROWN STREETS PROJECT – REQUEST NO. 8. Motion made by Hunter, seconded by Maichel to approve Pay Request No. 8. Yeas: All.

New Business:

APPOINTMENTS.

Public Housing Authority	Larry Ratley	Doug Singer
	Ben Maimer	Jeff Walmann
	Jim Mitzner	

Motion made by Hunter, seconded by Maichel to approve the appointments. Yeas: All.

CHESTNUT MANOR. Motion made by Hunter, seconded by Maichel to move ahead with selling Chestnut Manor Apartments. Yeas: All. Motion made by Maichel, seconded by Hunter to recess to allow the Public Housing Authority to finish the sale of Chestnut Manor. Yeas: All. Council reconvened. The Public Housing Authority approved giving the authority to Chairman Ratley to sign the deed for the sale of Chestnut Manor.

PROCLAMATION – KANSAS BUSINESS APPRECIATION MONTH. Motion made by Hunter, seconded by Dickinson to approve the proclamation. Yeas: All

CONSIDER APPROVAL OF FIREWORKS STANDS & FIREWORKS DISPLAY. The following fireworks vendor requested approval of the Council:

J & C Fireworks	Charlie Brand	605 O’Neal
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Motion made by Maichel, seconded by Hunter to approve the fireworks stand. Yeas: Dickinson, Farley, Govea, Hunter, LaDuex, and Maichel. Abstention: Klein. Motion passed. Abstention counted as a prevailing vote.

CITY MANAGER SEARCH. The agreement with the League of Kansas Municipalities for services to assist the City in filling the City Manager position is for a base bid of \$4,362.30 and also a budget of \$1,500 for advertising the position. Motion made by Hunter, seconded by Maichel to accept the contract as presented. Yeas: All. Mayor announced selection of the committee to narrow down the applicants to include Mayor Dudley, President Hunter, Vice-President Moon, Councilmember Govea, former Mayor Tom Speck, and others being added as needed. Objections were raised by Farley, Klein and Maichel.

Council Reports:

LaDuex: The Library Pancake Feed was a success making almost \$1,000. The Economic Development Committee will be developing achievable goals and will then ask for the Council's approval to proceed.

Mayor's Report:

The Governing Body will ride in the parade.

City Manager's Report: none

Motion made by Hunter, seconded by Maichel to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatomie, Kansas. June 23, **2011**. The Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:30 p.m. Council members present were Dickinson, Farley, Govea, Hunter, Klein, LaDuex, Maichel, and Moon. Also present were City Manager Glendening, City Attorney Wetzler, and City Clerk Elmquist. Visitors were Dewain & Linda Crouch, Hillery McVey, Terry McVey, Larry Osborne, Greg Crouch, Joyce Schrader, Tracy Petersen, Jim & Katie Mitzner, Kirk & Shelagh Wright, Mitch Mastatsz, Virginia Adams, Nan Bewley, Doug Singer Joe Moreland, Joe Karhoff, Dave Slyter, Webster Hawkins, Travis Perry, and Kevin Grey. Boys Scouts attending were Charles Moffett, Jesus Gonzalez, Bailey Hixon, Dustin Botwinik, Peyton Fields, Joey Saterra and Assistant Scout Masters Greg & Christian Botwinik.

APPROVAL OF AGENDA. Motion made by Hunter, seconded by Moon to approve the agenda. Yeas: All.

PRESENTATION AND ACCEPTANCE OF 2010 AUDIT. The Council received the 2010 audit. Audrey Odermann of Lowenthal, Webb & Odermann answered questions. Motion made by Hunter, seconded by LaDuex to accept the 2010 Audit. Yeas: Dickinson, Govea, Hunter, LaDuex, and Moon. Nays: Farley, Klein, and Maichel. Motion passed.

DISCUSS PROMOTIONAL FEES. The resolution gives the City Manager the discretion to have promotional rates. Motion made by Farley, seconded by Klein to table. Yeas: Farley and Klein. Nays: Dickinson, Govea, Hunter, LaDuex, Maichel, and Moon. Motion failed. Motion made by Hunter, seconded by LaDuex to amend the agenda with the addition to approve promotional fees by resolution. Yeas: Dickinson, Govea, Hunter, LaDuex, Maichel, and Moon. Nays: Farley and Klein. Motion passed. Motion made by Hunter, seconded by Maichel to authorize the City Manager to establish special promotional rates from time to time. Yeas: Dickinson, Govea, Hunter, LaDuex, Maichel, and Moon. Nays: Farley and Klein. Motion passed. The Resolution was assigned No. 639.

RESOLUTION ADOPTING THE MIAMI COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN. Motion made by Council Member Moon, seconded by Govea to adopt the Miami County Multi-Jurisdictional Hazard Mitigation Plan. Yeas: All. The Resolution was assigned No. 640.

EXECUTIVE SESSION – PERSONNEL MATTER OF NONELECTED PERSONNEL. Motion made by Hunter, seconded by Moon at 8:17 p.m. to recess into executive session for personnel matter of nonelected personnel for a period of 20 minutes. Yeas: All. The City Manager and City Attorney were present. Meeting reconvened at 8:37 p.m. No action taken. Motion made by Hunter, seconded by Maichel to approve the independent contractor’s agreement for interim City Manager services with Don Jordan dba Jordan Consulting, LLC at \$3,750 per month beginning July 6. Yeas: Dickinson, Govea, Hunter, Klein, LaDuex, Maichel, and Moon. Abstained: Farley.

Motion made by Farley, seconded by Dickinson to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatomie, Kansas. **June 23, 2011.** The Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:30 p.m. Council members present were Dickinson, Farley, Govea, Hunter, Klein, LaDuex, ***Maichel***, and Moon. Also present were City Manager Glendening, City Attorney Wetzler, and City Clerk Elmquist. Visitors were Dewain & Linda Crouch, Hillery McVey, Terry McVey, Larry Osborne, Greg Crouch, Joyce Schrader, Tracy Petersen, Jim & Katie Mitzner, Kirk & Shelagh Wright, Mitch Mastatsz, Virginia Adams, Nan Bewley, Doug Singer Joe Moreland, Joe Karhoff, Dave Slyter, Webster Hawkins, Travis Perry, and Kevin Grey. Boys Scouts attending were Charles Moffett, Jesus Gonzalez, Bailey Hixon, Dustin Botwinik, Peyton Fields, Joey Saterra and Assistant Scout Masters Greg & Christian Botwinik.

APPROVAL OF AGENDA. Motion made by Hunter, seconded by Moon to approve the agenda. Yeas: All.

PRESENTATION AND **ACCEPTANCE** OF 2010 AUDIT. The Council received the **2010** audit. Audrey Odermann of Lowenthal, Webb & Odermann answered questions. Motion made by Hunter, seconded by LaDuex to **accept** the 2010 Audit. Yeas: Dickinson, Govea, Hunter, **LaDuex**, and Moon. Nays: Farley, Klein, and Maichel. Motion passed.

DISCUSS PROMOTIONAL FEES. The resolution gives the City Manager the discretion to have promotional rates. Motion made by Farley, seconded by Klein to table. Yeas: Farley and Klein. Nays: Dickinson, Govea, Hunter, LaDuex, Maichel, and Moon. Motion failed. Motion made by Hunter, seconded by LaDuex to amend the agenda with the addition to approve promotional fees by resolution. Yeas: Dickinson, Govea, Hunter, LaDuex, Maichel, and Moon. Nays: Farley and Klein. Motion passed. Motion made by Hunter, seconded by Maichel to authorize the City Manager to establish special promotional rates from time to time. Yeas: Dickinson, Govea, Hunter, LaDuex, Maichel, and Moon. **Nays: Farley and Klein.** Motion passed. The Resolution was assigned No. 639.

RESOLUTION ADOPTING THE MIAMI COUNTY MULTI-JURISDICTIONAL HAZARD MITIGATION PLAN. Motion made by Council Member Moon, seconded by Govea to adopt the Miami County Multi-Jurisdictional Hazard Mitigation Plan. Yeas: All. The Resolution was assigned No. 640.

EXECUTIVE SESSION – PERSONNEL MATTER OF NONELECTED PERSONNEL. Motion made by Hunter, seconded by Moon at 8:17 p.m. to recess into executive session for personnel matter of nonelected personnel for a period of 20 minutes. Yeas: All. The City Manager and City Attorney were present. Meeting reconvened at 8:37 p.m. No action taken. Motion made by Hunter, seconded by Maichel to approve the independent contractor's agreement for interim City Manager services with Don Jordan dba Jordan Consulting, LLC at \$3,750 per month beginning July 6. Yeas: Dickinson, Govea, Hunter, Klein, LaDuex, Maichel, and Moon. Abstained: Farley.

Motion made by Farley, seconded by Dickinson to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatome, Kansas. **July 14, 2011.** The Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:00 p.m. Council members present were Dickinson, Farley, Govea, Hunter, Klein, LaDuex, Maichel, and Moon.. Also present were City Interim Jordan, City Attorney Wetzler, and City Clerk Elmquist. Visitors were Terry Upshaw, Kenny Diehm, Kirk & Shelagh Wright, Ted Bartlett, Danny Govea, Cindy Govea, Robert Kerr, Webster Hawkins, Travis Perry, and Kevin Grey.

CONSENT AGENDA. Approval of the Minutes of June 9 and June 23 Meetings, approval of July 14 Agenda, and approval of Appropriation Ordinances 11-11 & 11-12. Motion made by Maichel, seconded by Hunter to approve the July 14 Agenda, and approval of Appropriation Ordinances 11-11 & 11-12. Yeas: All. Motion made by Farley, seconded by Moon to table the minutes of June 9 and June 23 Meetings. Yeas: All.

Public Participation; Presentations:

Russell Davis, Lane, Kansas, owns rental property in the city. Is opposed to more government.

Public Hearing: none

Unfinished Business:

APPROVE INVOICE(S) FOR PACIFIC, 14TH, BROWN STREETS PROJECT – REQUEST No. 9. Motion made by Hunter, seconded by LaDuex to approve Pay Request No. 9. Yeas: All.

2012 BUDGET. Interim Manager Jordan discussed the assessed valuation, the mill levy, and what will be needed to operate at the same level.

New Business:

APPOINTMENTS. none

APPROVE ORDINANCE ADOPTING 2011 STANDARD TRAFFIC ORDINANCE. Motion made by Hunter, seconded by Moon to approve the 2011 Standard Traffic Ordinance. Yeas: All. The Ordinance was assigned No. 3683.

APPROVE ORDINANCE ADOPTING 2011 UNIFORM PUBLIC OFFENSE CODE. Motion made by Hunter, seconded by Moon to approve the 2011 Uniform Public Offense Code. Yeas: All. The Ordinance was assigned No. 3684.

Council Reports:

Moon: There will be Family Fun Days at the swimming pool on August 14 and at the Golf Course on August 7. The events are free and open to residents and owners of residential rental property.

Mayor's Report:

There will be a special meeting July 21 to review the applications submitted for the City Manager opening.

City Manager's Report: none

Motion made by Hunter, seconded by Maichel to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatomie, Kansas, **July 21, 2011.** The Special Council meeting was held in the City Manager's Office. Mayor Dudley called the meeting to order at 7:00 p.m. The purpose of the meeting was executive session to discuss personnel matter of nonelected personnel (City Manager Search). Council members present were Dickinson, Farley, Govea, Hunter, Klein, LaDuex, Maichel, and Moon. Visitor was Nathan Eberline.

Motion made by LaDuex, seconded by Hunter at 7:01 p.m. to recess into executive session for personnel matter of nonelected personnel for a period of one hour. Yeas: All. Nathan Eberline, League of Kansas Municipalities' League Executive/Administrative Position Search program, was present. Meeting reconvened at 8:00 p.m. No action taken. Motion made by Hunter, seconded by Maichel at 8:02 p.m. to recess into executive session for 30 minutes. Yeas: All. Meeting reconvened at 8:32 p.m. No action taken.

Motion made at 9:07 p.m. by Hunter, seconded by Dickinson to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatomie, Kansas, **July 27, 2011.** The Special Council meeting was held in the City Manager's Office. Mayor Dudley called the meeting to order at 5:04 p.m. The purpose of the meeting was executive session to discuss personnel matter of nonelected personnel (City Manager Search). Council members present were Dickinson, Farley, Hunter, Klein, LaDuex, Maichel, and Moon. Absent was Govea. Visitor was Nels Christensen.

Motion made by Hunter, seconded by Maichel at 5:05 p.m. to recess into executive session for personnel matter of nonelected personnel for a period of 90 minutes. Yeas: All. Meeting reconvened at 6:36 p.m. No action taken. Motion made by Moon, seconded by Hunter at 6:41 p.m. to recess into executive session for 7 minutes. Yeas: All. Meeting reconvened at 6:49 p.m. No action taken.

Motion made at 6:49 p.m. by Hunter, seconded by Dickinson to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatomie, Kansas. **July 28, 2011.** The Council meeting was held in Memorial Hall. Mayor Dudley called the meeting to order at 7:30 p.m. Council members present were Dickinson, Farley, Hunter, LaDuex, Maichel, and Moon. Absent were Govea and Klein. Also present were City Interim Jordan, City Attorney Wetzler, and City Clerk Elmquist. Visitors were Grady Atwater, Kirk & Shelagh Wright, Bret Glendening, Robert Kerr, Webster Hawkins, Terry Upshaw, Janet McRae, Amanda Perry, Travis Perry, and Beth Waddle.

APPROVAL OF AGENDA. Motion made by Dickinson, seconded by Moon to approve the agenda. Yeas: All.

Motion made by Hunter, seconded by Maichel to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatomie, Kansas, **July 29, 2011.** The Special Council meeting was held in the City Manager's Office. Mayor Dudley called the meeting to order at 5:00 p.m. The purpose of the meeting was executive session to discuss personnel matter of nonelected personnel (City Manager Search). Council members present were Dickinson, Farley, Hunter, LaDuex, Maichel, and Moon. Absent were Govea and Kline. Visitor was Jan Blase.

Motion made by Hunter, seconded by Moon at 5:01 to recess into executive session for personnel matter of nonelected personnel for a period of 90 minutes. Yeas: All.

Klein arrived at 5:07 p.m.

Meeting reconvened at 6:29 p.m. No action taken.

Motion made at 6:29 p.m. by Maichel, seconded by Hunter to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatomie, Kansas, **August 1, 2011.** The Special Council meeting was held in the City Manager's Office. Mayor Dudley called the meeting to order at 5:00 p.m. The purpose of the meeting was executive session to discuss personnel matter of nonelected personnel (City Manager Search). Council members present were Dickinson, Farley, Hunter, LaDuex, and Moon. Absent were Govea, Kline, and Maichel. Visitor was Barbara Liston-Garcia.

Motion made by Hunter, seconded by Moon at 5:01 p.m. to recess into executive session for personnel matter of nonelected personnel for a period of 60 minutes. Yeas: All.

Klein arrived at 5:03 p.m.

Meeting reconvened at 5:57 p.m. No action taken.

Motion made at 5:58 by Hunter, seconded by Moon to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Osawatome, Kansas, **August 2, 2011.** The Special Council meeting was held in the City Manager's Office. Mayor Dudley called the meeting to order at 5:00 p.m. The purpose of the meeting was executive session to discuss personnel matter of nonelected personnel (City Manager Search). Council members present were Dickinson, Farley, Hunter, Klein, and LaDuex. Absent were Govea, Maichel, and Moon. Visitor was Don Cawby.

Motion made by Hunter, seconded by Dickinson at 5:00 p.m. to recess into executive session for personnel matter of nonelected personnel for a period of 60 minutes. Yeas: All.

Moon arrived at 5:03 p.m.

Meeting reconvened at 6:00 p.m. No action taken.

Meeting was adjourned.

Ann Elmquist, City Clerk

Osawatome, Kansas, **August 3, 2011.** The Special Council meeting was held in the City Manager's Office. Mayor Dudley called the meeting to order at 5:00 p.m. The purpose of the meeting was executive session to discuss personnel matter of nonelected personnel (City Manager Search). Council members present were Dickinson, Farley, Hunter, LaDuex, and Maichel. Absent were Govea, Klein, and Moon. Visitor was Jacob Wood.

Motion made by Hunter, seconded by Dickinson at 5:00 p.m. to recess into executive session for personnel matter of nonelected personnel for a period of 60 minutes. Yeas: All. Meeting reconvened at 6:01 p.m. No action taken.

Moon arrived at 5:20 p.m.

Motion made by Hunter, seconded by Dickinson at 6:24 p.m. to recess into executive session for personnel matter of nonelected personnel for a period of 15 minutes. Yeas: All. Meeting reconvened at 6:40 p.m. No action taken.

Motion made at 6:40 by Hunter, seconded by Moon to adjourn. Yeas: All.

Ann Elmquist, City Clerk

Record of Ordinances

ORDINANCE NO. 11-13

DATE WARRANTS ISSUED:
July 31, 2011

Page No. 1

AN ORDINANCE MAKING APPROPRIATION FOR THE PAYMENT OF CERTAIN CLAIMS.

Be it ordained by the Governing Body of the City of Osawatomie, 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 the respective funds in the city treasury the sum required for each claim.

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Payroll 07/01/11			92,009.80
Payroll 07/15/11			95,531.60
Payroll 07/29/11			104,118.56
FICA 07/01/11			6,722.51
FICA 07/15/11			7,285.83
FICA 07/29/11			7,651.43
KPERS			18,622.03
Crawford Sales	Budweiser	37900	111.75
City of Osawatomie	utilities	38040	12,079.85
Coventry	health insurance	38041	29,525.54
Delta Dental	dental insurance	38042	3,218.50
Kansas City Wilbert Vault	grave openings May, June	38043	4,431.88
S & R Enterprise	mowing weed lots	38044	850.00
Suddenlink	internet	38045	210.00
University of Kansas	operator exam	38046	85.00
Vision Service Plan	vision insurance	38047	1,023.75
Cheever's Auto Service	radiator	38048	225.00
City of Osawatomie	petty cash reimbursement	1259	5,384.42
Crawford Sales	Budweiser	38049	146.35
AT&T	RTU's	38050	221.24
Beachner Grain	weed killer, supplies	38051	94.85
Bill's Septic Service	cleaned septic tank	38052	275.00
Division of Accounts & Reports	2010 audited financial statements	38053	150.00
Kansas Municipal Utilities	3rd quarter dues	38054	2,192.00
Elliott Insurance, Inc. Paola	Quarterly premium	38055	40,573.00
KMEA-EMP	electricity, transmission	38056	48,340.67
KS Historical Society	reissue check 37780	38057	3.15
L & K Services, Inc.	refuse, tires, Jamboree	38058	31,869.04
Landmark National Bank	golf cart loan	38059	2,178.24
League of Kansas Municipalities	City Manager search	38060	2,181.15
Osa Recreation Commission	reimb for concession at pool	38061	157.25
University of Kansas	operator exam	38062	85.00
Brad Waggoner	Pro Shop	38063	2,128.36
Crawford Sales	Budweiser	38064	93.50
Midwest Distributors	Coors, Miller	38065	86.64
Pepsi Cola	Pepsi	38066	260.12
Bonner Springs Library	damage book	38067	15.00
Kansas Dept. of Revenue	sales tax	38068	11,802.56
Kansas Dept. of Revenue	compensating use tax	38069	875.98
Kansas Gas Service	power plant	38070	52.31

Record of Ordinances

DATE WARRANTS ISSUED:
July 31, 2011

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CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
KMEA - Nearman	electricity	38071	76,631.19
Miami County Internet Onramp	internet	38072	19.95
Reserve Account	postage meter	38073	1,200.00
Visa	supplies	38074	1,377.38
Coventry	health insurance	38075	34,660.78
Delta Dental	dental insurance	38076	3,398.59
Hoover's Upholstery	recovered truck seat	38077	325.00
Kansas Water Protection Fee	water protection, clean water	38078	1,675.61
Kansas City Power & Light	services	38079	2,105.64
Kansas Gas Service	services	38080	298.74
KS Employment Security Fund	unemployment	38081	2,421.97
Ricoh Americas Corporation	copier lease	38082	289.00
Sprint	service	38083	20.11
Suddenlink	internet	38084	59.95
Vision Service Plan	vision insurance	38085	1,821.00
Crawford Sales	Budweiser	38086	191.70
AASLH	registration	38087	295.00
Bradley A/C & Heating	service on ice machine	38088	75.00
CenturyLink	services	38089	2,250.33
CenturyLink	long distance	38090	433.42
CenturyLink	RTU's	38091	236.56
GCSA	membership	38092	340.00
KMEA - GRDA	electricity	38093	101,788.89
KMEA - Hydro	hydroelectricity	38094	3,126.85
Lybarger Oil, Inc.	fuel	38095	11,349.46
Wal-Mart	water, coffee, supplies	38096	189.90
City of Osawatomie	petty cash reimbursement	1260	511.70
			779,962.58
GO	233,997.06		
WT	46,020.90		
EL	316,152.84		
Emp Bn	88,108.96		
Refuse	31,944.04		
Rec	7,148.96		
RF	3,542.30		
Ind	50.74		
St Imp	4,463.90		
Sewer	19,915.06		
GC	28,286.09		
Trsm	331.73		
	779,962.58		

Record of Ordinances

ORDINANCE NO. 11-14

DATE WARRANTS ISSUED:
August 11, 2011

Page No. 1

AN ORDINANCE MAKING APPROPRIATION FOR THE PAYMENT OF CERTAIN CLAIMS.

Be it ordained by the Governing Body of the City of Osawatomie, 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 the respective funds in the city treasury the sum required for each claim.

CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
AAT, Inc.	fungicide	38099	480.00
Airgas Mid South, Inc.	oxygen cylinder	38100	81.38
All Med	sharps containers	38101	16.63
American Safety Utility Corp.	lineman's knife, gloves	38102	116.59
Analytical Services, Inc.	analytical service	38103	761.39
Baker & Taylor	books	38104	952.06
Bearing Headquarters Company	set screw collar	38105	74.46
BG Consultants, Inc.	street improvements	38106	1,373.56
Board of Police Commissioners	alert system user charges	38107	20.36
Bollings Bargain Bonanza	connectors, tarp	38108	20.90
Bowes Automotive Products	filters	38109	62.00
Bradley A/C & Heating	service call A/C Memorial Hall	38110	133.23
Brewer's Automotive Repair	tube	38111	10.80
C & G Merchants Supply, Inc.	chips, candy bars, supplies	38112	406.89
Certifion Corp	entersect police online	38113	79.00
Champion Brands, LLC	oil, supplies	38114	431.36
CMI, Inc.	mouthpieces	38115	43.86
Coleman Equipment, Inc.	switches	38116	34.51
Conrad Fire Equipment, Inc.	switch, connector	38117	50.87
Crash Technology Group	technician	38118	250.00
Cummins Central Power, LLC	fuel pump	38119	308.02
Demco	office supplies	38120	294.42
Digital Graphics	copier maintenance	38121	495.00
Diversified Supply	pliers, padlocks	38122	81.42
E-M Sales	tire mounting lube	38123	13.70
Edwards Fiberglass, Inc.	repair chlorine tank	38124	4,100.00
Electric Shop, Inc.	service call	38125	228.62
Electronically Speaking	shelves, supplies	38126	201.94
Environmental Laboratories, Inc.	analytical service	38127	217.00
Evco Wholesale Food Corp.	gatorade	38128	434.54
Void		38129	-
Family Center	parts	38130	773.34
Farwest Line Special Tires	apprentice kit	38131	1,021.77
Richard M. Fisher, Jr LLC	court appointed attorney	38132	200.00
Fort Bend Services, Inc.	polymer	38133	1,062.00
Gerken Rental	portable restrooms	38134	156.00
GNC Enterprise, Inc.	graffiti remover	38135	218.84
Grainger	pump, parts	38136	225.07
Graybar Electric Co.	electric line supplies	38137	8,522.68
Hach Company	chlorine reagent set	38138	309.55

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CLAIMANT	NATURE OF CLAIM OR SERVICE	CLAIM NUMBER	AMOUNT
Hanes Florist & Greenhouse	balloons, flowers	38139	147.00
Helena Chemical Co.	weed killer	38140	100.00
Heritage Tractor, Inc.	mower blade, springs	38141	84.47
Hutchinson Community College	tuition	38142	45.00
ITT Water & Wastewater	actuator	38143	13,420.00
John Deere Landscapes	herbicide, fertilizer	38144	1,122.96
Jordan Consulting, LLC	Interim City Manager	38145	3,750.00
KC Bobcat	grease kit	38146	112.57
KS Assoc. For Court Management	membership, conference	38147	100.00
Dept. of Health & Environment	analytical service	38148	692.00
Kansas One Call Concepts	locates	38149	106.40
Kansas State Treasurer	training funds	38150	438.00
Killough Construction, Inc.	asphalt	38151	2,527.78
Kincaid Ready Mix	concrete	38152	1,573.00
Knapheide Truck Equipment Center	snow plow mount	38153	2,006.00
Kriz-Davis Co.	electric line supplies	38154	3,640.64
Lacal Equipment, Inc.	drag shoes	38155	371.32
Louisburg Ford Sales, Inc.	rivet	38156	1.44
Lowenthal, Webb & Odermann, PA	final billing for audit	38157	2,095.00
Martin, Pringle Attorneys At Law	municipal matters, City Prosecutor	38158	5,324.88
Midwest Striping, Inc.	striping streets	38159	1,200.00
Void		38160	-
Void		38161	-
Void		38162	-
Void		38163	-
Moon's IGA	supplies	38164	1,015.83
Muffler Mart, Inc.	catalytic converter	38165	497.19
Navrat's	mousepad	38166	32.19
Void		38167	-
Void		38168	-
Nicholson Law Office LC	court appointed attorney	38169	725.00
NPG Newspapers, Inc.	ads	38170	225.00
Oil Patch Pump & Supply, Inc.	fittings	38171	76.97
Olathe Winwater Works	repair clamps, meter pit	38172	529.50
OMB's Express Police Supply	shirts, trousers, supplies	38173	316.94
Osawatomie Journal	ads	38174	158.75
Paola Hardware	coupling, stepladder	38175	66.35
R.E. Pedrotti Co.	labor, sensor	38176	1,004.86
Precision Ice Systems	ice machine	38177	2,110.00
Quill	office supplies	38178	549.20
R.M.I. Golf Carts	batteries, keys	38179	148.00
Red Bud Supply, Inc.	rope, signs	38180	170.69
Regency Coffee & Vending	coffee	38181	43.00
GS Robins	chemicals	38182	28,861.76
Ron's Small Engine, Inc.	weed eater string	38183	65.59



CITY OF OSAWATOMIE
439 Main Street
PO Box 37
Osawatomie, KS 66064
913-755-2146

PACIFIC, 14TH, BROWN STREETS PROJECT
CDBG GRANT # 10-PF-045
PAYMENT REQUEST
August 11, 2011
Payment Request No. 10

Claimant	Description	Document Number	Amount
Governmental Assistance Services 905 Joseph Drive Lawrence, KS 66049	administration	7/18/11	\$ 1,246.20
BG Consultants 4806 Vue Du Lac Place Manhattan, KS 66503	design services	7/14/11	\$ 184.50
BG Consultants 4806 Vue Du Lac Place Manhattan, KS 66503	inspector	7/14/11	\$ 1,189.06
Orr Wyatt Streetscapes 9812 E 56th Street Raytown, MO 64133-2804	construction	App #1	\$ 165,075.84
Orr Wyatt Streetscapes 9812 E 56th Street Raytown, MO 64133-2804	construction	App #2	\$ 108,739.80
	TOTAL		\$ 276,435.40

Approved by the Osawatomie City Council this 14th day of July, 2011 contingent upon approval by the funding agencies.

Philip A. Dudley, Mayor

CITY OF OSAWATOMIE

CITY MANAGER'S REPORT

August 11, 2011

FOR PHASE II OF LIBRARY EXPANSION CONTRACT NEGOTIATIONS:

SFS Architecture presented their proposal for the design for Phase II of the library expansion project. Based on feedback received at the meeting they are revising the plans towards arriving at a final proposal. Expansion will require the development of handicapped parking in front of the library and a new parking lot across the alley in the back.

TECHNICAL/FEASIBILITY REVIEW OF OSAWATOMIE ELECTRIC UTILITY:

Sawvel and Associates, Inc. presented the results of their review at the July 28th Council Meeting. This generated contacts from KCP&L regarding the City's plans. This was deferred pending direction from the City Council on how to proceed. Specifically I am proposing the City Council:

- Decide whether the City Council wants to pursue an upgrade of electrical service for the city.
- If so, direct the City Manager and staff to work with KCP to get details regarding the costs and options for either 34.5-kV or 161-kV connection to present to the City Council so a full project plan can be developed.

OLD STONE CHURCH:

The roof needs to be replaced to maintain integrity of the structure. Working to determine where the funds can be found to do this project (approximately \$9,500).

Sewage Treatment

The automated control system no longer functions as needed and an upgrade is needed to assure the appropriate operations are maintained. This would be a sole source purchase from the company that built and assists with maintenance. Cost is \$25,450. I am requesting City Council approval to make this purchase.

Respectfully Submitted,

Don Jordan
Interim City Manager

Building Permit Activity for the Month of July 2011

Category	Total Permits	Total Value	Revenue received by City G.F.
New Single Family Dwellings	0	0	0
Re-roofs	2	\$12,375.00	\$60.00
Remodels	3	\$190,000.00	\$1,169.64
Accessory Buildings	2	\$7,200.00	\$194.40
Concrete	0	0	0
Mechanical	4	\$4,800.00	\$180.00
Repairs	4	\$27,200.00	\$30.00
Decks & Porches	1	\$1,600.00	\$30.00
Additions	0	0	0
Com. Buildings	0	0	0
Demolishing	1	\$200.00	\$30.00
Fences	0	0	0
Plumbing	6	\$35,000.00	\$840.00
Electrical	9	\$4,043.00	\$290.00
Ag. Buildings	0	0	0
Penalties	0	0	0
Plan Review	2	\$200.00	\$200.00
Zoning	1	\$250.00	\$250.00
Totals	35	\$282,868.00	\$3,274.04
Sewer Taps	0	0	0
Water Meters	0	0	0
Electric Meters	0	0	0

Accessory list includes detached accessory structures, storage sheds, signs and carports.

Concrete list includes driveways, sidewalks, concrete pads, porches, basements foundations & patios.

Terry E. Anderson
Building Official

OSAWATOMIE CITY COUNCIL

PUBLIC HEARING **WORK SESSION / MEETING AGENDA** **August 25, 2011** 7:00 p.m., Memorial Hall

WORK SESSION

- A. Call to Order
- B. Roll Call
- C. **PUBLIC HEARING – 2012 Budget**
- D. Work Session Items
 - 1. Memorial Hall Tables and Chairs
 - 2. Meetings at Remote Locations
- E. Adjournment of Work Session

REGULAR MEETING – 7:30 p.m.

- F. Call to Order
- G. Roll Call
- H. Approval of Agenda
- I. Council Items
 - 1. Adoption of 2012 Budget
 - 2. No-smoking Policy at Sports Complex
- J. City Manager Updates
- K. Adjournment of Regular Meeting

Notice Of Hearing

State of Kansas
City

2012

NOTICE OF BUDGET HEARING

The governing body of the
City of Osawatomie
will meet on the 25th day of August, 2011, at 7:00 p.m. at Memorial Hall for the purpose of
hearing and answering objections of taxpayers relating to the proposed use of all funds and the amount of ad valorem tax.
Detailed budget information is available at City Hall
and will be available at this hearing.

BUDGET SUMMARY

Proposed Budget 2012 Expenditures and Amount of Current Year Estimate for 2011 Ad Valorem Tax establish the maximum limits of the 2012 budget.
Estimated Tax Rate is subject to change depending on the final assessed valuation.

FUND	Prior Year Actual for 2010		Current Year Estimate for 2011		Proposed Budget for 2012		
	Expenditures	Actual Tax Rate*	Expenditures	Actual Tax Rate*	Expenditures	Amount of 2012 Ad Valorem Tax	Estimate Tax Rate*
General	2,363,557	22.721	2,250,499	19.318	2,291,543	514,514	22.340
Bond & Interest	406,758	5.699	412,878	8.529	544,658	251,791	10.933
Industrial	3,920		12,000		12,000		
Employee Benefits	578,958	20.309	546,408	20.899	521,318	458,346	19.901
Library	51,026				109,551		
Recreation	114,095	4.001	176,766	4.000	174,829	92,124	4.000
Public Safety Equipment	6,000				9,520		
Recreation Employee Benefits	13,094	0.500	13,096	0.500	12,629	11,315	0.500
Street Improvement	172,220		124,400		120,500		
Fire Insurance Proceeds	1		15,500		15,500		
Special Parks & Recreation	5,319		6,000		13,674		
Tourism	24,682		26,150		17,750		
Water	810,557		800,167		832,025		
Electric	3,893,714		3,435,451		3,765,012		
Refuse	363,517		376,950		376,700		
Sewer	796,662		763,990		837,988		
Rural Fire	22,900		35,000		35,000		
Revolving Fund							
Golf Course	285,555		313,307		282,892		
Special Revenue (911)	2,082				9,897		
Capital Projects - General	102,139		100,000		100,000		
Capital Improve. - Sewer	338						
Capital Improve. - Street							
Capital Improve. - Library Phase I	381,825						
Totals	10,398,919	53.230	9,408,562	53.246	10,082,986	1,328,290	57.674
Less: Transfers	1,260,211		829,100		864,100		
Net Expenditure	9,138,708		8,579,462		9,218,886		
Total Tax Levied	1,282,996		1,272,920				
Assessed Valuation	24,103,323		23,905,507		23,031,142		
Outstanding Indebtedness,							
January 1,	2009		2010		2011		
G.O. Bonds	495,000		6,410,000		6,121,000		
Revenue Bonds	75,000		0		0		
Other	3,022,002		2,784,476		2,336,772		
Lease Purchase Principal	482,887		238,970		192,452		
Total	4,074,889		9,433,446		8,650,224		

*Tax rates are expressed in mills

Ann Elmyranta, City Clerk
City Official Title

MEMO

TO: Don Cawby, City Manager

FROM: Dick Wetzler, City Attorney

DATE: August 23, 2011

RE: Regulation of Smoking a Animals at Public Facilities such as the Recreation Complex

I have attached to this memo several sample ordinances dealing with regulation of either smoking or animals. If you feel that this information would be helpful to the Council in adopting an appropriate ordinance, please forward to the Council.

As stated in a previous email, Kansas has a specific statute the deals with local regulation of smoking. K.S.A. 21-4013 provides:

Same; local regulation of smoking. Nothing in this act shall prevent any city or county from regulating smoking within its boundaries, so long as such regulation is at least as stringent as that imposed by this act. In such cases the more stringent local regulation shall control to the extent of any inconsistency between such regulation and this act.

At present there are specific state statutes that make smoking under certain circumstances unlawful. These provisions with statewide application are picked up annually by the City in the Uniform Public Offense Code [UPOC]. A copy of the smoking provisions from the UPOC are attached as exhibit A.

A second consideration, is that before the adoption of the provisions that have Statewide application, many Kansas cities had use their home rule authority to fashion ordinances that imposed limitations on smoking privileges in a many situations. Because, until recently, there were no state statutes regulating smoking, cities were permitted to freely legislate on the topic with few restrictions. There is no constitutional right to smoke in public places.

That said the UPOC section 10.24 prohibits smoking in "Public Places." In the UPOC, however, there is no definition of Public Places. However, state statute defines Public Places as

Smoking in a public place; definitions. As used in this act: (a) "Public place" means **enclosed indoor areas open to the public** or used by the general public including but not limited to: Restaurants, retail stores, public means of mass transportation, passenger elevators, health care institutions or any other place where health care services are provided to the public, educational facilities, libraries, courtrooms, state, county or municipal buildings, restrooms, grocery stores, school buses, museums, theaters, auditoriums, arenas and recreational facilities.

(b) "Public meeting" includes all meetings open to the public.

© "Smoking" means possession of a lighted cigarette, cigar, pipe or any other lighted smoking equipment.

That said it is clear that the Governing Body could prohibit smoking by identifying with some particularity that the definition of Public Places in the City of Osawatomie includes smoking at the sports complex with the exception of those areas, if any, where smoking is permitted by appropriate signs.

I have attached as Exhibit C a copy of a sample ordinance that identifies a number of places where smoking is not permitted.

Similarly, licensing of cats and dogs and the places where they may roam is pretty much fair game. I have attached a copy of an ordinance that Overland Park has that prohibits dogs at their Farmers Market. Exhibit D. Finally, I have attached a copy of an ordinance that permits the City Manager to designate additional restrictions that would have the force of law.

I think additional restrictions that the Council would like to impose could be accomplished by a simple ordinance. I suggest that the Council should agree as to what limitations they would like to impose and then those restrictions should be incorporated into a final ordinance for approval. There may well be other areas of the City that would not be public places and where additional restrictions would be appropriate and not overreaching.

- (2) a practitioner or mid-level practitioner; Delivery of a prescription order, knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
- (3) Possession of a prescription order with intent to deliver it and knowing it to have been made, altered or signed by a person other than a practitioner or a mid-level practitioner;
- (4) Possession of a prescription-only drug knowing it to have been obtained pursuant to a prescription order made, altered or signed by a person other than a practitioner or a mid-level practitioner;
- (5) or Providing false information to a practitioner or mid-level practitioner for the purpose of obtaining a prescription-only drug.

(b) As used in this section:

- (1) **Pharmacist, practitioner, mid-level practitioner and prescription-only drug** shall have the meanings ascribed thereto by K.S.A. 65-1626 and amendments thereto.
- (2) **Prescription order** means a written, oral or telephone order for a prescription-only drug to be filled by a pharmacist. Prescription order does not mean a drug dispensed pursuant to such an order.

(c) The provisions of this section shall not be applicable to prosecutions involving prescription-only drugs which could be brought under the uniform controlled substances act and to which the provisions of K.S.A. 65-4127a or 65-4127b, or K.S.A. Supp. 65-4160 through 65-4164 and amendments thereto, would be applicable. (K.S.A. 21-4214)

Obtaining a prescription-only drug by fraudulent means is a Class A violation for the first offense.

10.21 **KNOWINGLY EMPLOYING AN ALIEN ILLEGALLY WITHIN THE TERRITORY OF THE UNITED STATES.**

Knowingly employing an alien illegally within the territory of the United States is the employment of such alien within the state of Kansas by an employer who knows such person to be illegally within the territory of the United States. The provisions of this section shall not apply to aliens who have entered the United States illegally and thereafter are permitted to remain within the United States, temporarily or permanently, pursuant to federal law. (K.S.A. 21-4409)

Knowingly employing an alien illegally within the territory of the United States is a Class C violation.

10.22 **ALCOHOL WITHOUT LIQUID MACHINE.**

It shall be unlawful for any person to:

- (a) Use any alcohol without liquid machine to inhale alcohol vapor or otherwise introduce alcohol in any form into the human body; or
- (b) Purchase, sell, or offer for sale an alcohol without liquid machine. (K.S.A. 21-4224)

Violation of this section is a Class A violation.

10.23 **TRAFFICKING IN COUNTERFEIT DRUGS.**

Trafficking in counterfeit drugs is intentionally manufacturing, distributing, dispensing, selling, or delivering for consumption purposes, or holding or offering for sale, any counterfeit drug.

Trafficking in counterfeit drugs which have a retail value of less than \$500 is a Class A violation. (K.S.A. Supp. 65-4167)

10.24 **SMOKING PROHIBITED.**

Exhibit A

(a) No person shall smoke in an enclosed area or at a public meeting including, but not limited to:

- (1) Public places;

- (2) taxicabs and limousines;
 - (3) restrooms, lobbies, hallways and other common areas in public and private buildings, condominiums and other multiple-residential facilities;
 - (4) restrooms, lobbies and other common areas in hotels and motels and in at least 80% of the sleeping quarters within a hotel or motel that may be rented to guests;
 - (5) access points of all buildings and facilities not exempted pursuant to subsection (d); and
 - (6) any place of employment.
- (b) Each employer having a place of employment that is an enclosed area shall provide a smoke-free workplace for all employees. Such employer shall also adopt and maintain a written smoking policy which shall prohibit smoking without exception in all areas of the place of employment. Such policy shall be communicated to all current employees within one week of its adoption and shall be communicated to all new employees upon hiring. Each employer shall provide a written copy of the smoking policy upon request to any current or prospective employee.
- (c) Notwithstanding any other provision of this section, 10.25 or 10.26, the proprietor or other person in charge of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, or a medical care facility, may designate a portion of such adult care home, or the licensed long-term care unit of such medical care facility, as a smoking area, and smoking may be permitted within such designated smoking area.
- (d) The provisions of this section shall not apply to:
- (1) The outdoor areas of any building or facility beyond the access points of such building or facility;
 - (2) private homes or residences, except when such home or residence is used as a day



- care home, as defined in K.S.A. 65-530 and amendments thereto;
- (3) a hotel or motel room rented to one or more guests if the total percentage of such hotel or motel rooms in such hotel or motel does not exceed 20%;
- (4) the gaming floor of a lottery gaming facility or racetrack gaming facility, as those terms are defined in K.S.A. 74-8702, and amendments thereto;
- (5) that portion of an adult care home, as defined in K.S.A. 39-923, and amendments thereto, that is expressly designated as a smoking area by the proprietor or other person in charge of such adult care home pursuant to subsection (c) and that is fully enclosed and ventilated;
- (6) that portion of a licensed long-term care unit of a medical care facility that is expressly designated as a smoking area by the proprietor or other person in charge of such medical care facility pursuant to subsection (c) and that is fully enclosed and ventilated and to which access is restricted to the residents and their guests;
- (7) tobacco shops;
- (8) a class A or class B club defined in K.S.A. 41-2601, and amendments thereto, which (A) held a license pursuant to K.S.A. 41-2606 *et seq.*, and amendments thereto, as of January 1, 2009; and (B) notifies the secretary of health and environment in writing, not later than 90 days after the effective date of this act, that it wishes to continue to allow smoking on its premises; and
- (9) a private club in designated areas where minors are prohibited. (K.S.A. Supp. 21-4010)

10.25

SMOKING; POSTING PREMISES. The proprietor or other person in charge of the premises of a public place, or other area where smoking is prohibited, shall post or cause to be posted in a conspicuous place signs displaying the international no smoking symbol and clearly stating that smoking is prohibited by state law. (K.S.A. Supp. 21-4010)

SMOKING PROHIBITED; PENALTIES

- (a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to fail to comply with all or any of the provisions of sections 10.24 through 10.26.
- (b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to allow smoking to occur where prohibited by law. Any such person shall be deemed to allow smoking to occur under this subsection if such person:
 - (1) Has knowledge that smoking is occurring; and
 - (2) acquiesces to the smoking under the totality of the circumstances.
- (c) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of 10.24.
- (d) Any person who violates any provision of sections 10.24 through 10.26, shall be guilty of a cigarette or tobacco infraction punishable by a fine:
 - (1) Not exceeding \$100 for the first violation;
 - (2) not exceeding \$200 for a second violation within a one year period after the first violation; or
 - (3) not exceeding \$500 for a third or subsequent violation within a one year period after the first violation.

For purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.

- (e) Each individual allowed to smoke by a person who owns, manages, operates or otherwise controls the use of any public place, or other

area where smoking is prohibited, in violation of subsection (b) shall be considered a separate violation for purposes of determining the number of violations under subsection (d).

- (f) No employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer reports or attempts to prosecute a violation of any of the provisions of sections 10.24 through 10.26. (K.S.A. Supp. 21-4012)

ARTICLE 11. OFFENSES AGAINST PUBLIC MORALS**11.1 PROMOTING OBSCENITY.**

- (a) Promoting obscenity is knowingly or recklessly:
 - (1) Manufacturing, issuing, selling, giving, providing, lending, mailing, delivering, transmitting, publishing, distributing, circulating, disseminating, presenting, exhibiting or advertising any obscene material or obscene device;
 - (2) Possessing any obscene material or obscene device with intent to issue, sell, give, provide, lend, mail, deliver, transfer, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise such material or device;
 - (3) Offering or agreeing to manufacture, issue, sell, give, provide, lend, mail, deliver, transmit, publish, distribute, circulate, disseminate, present, exhibit or advertise any obscene material or obscene device; or
 - (4) Producing, presenting, or directing an obscene performance or participating in a portion thereof which is obscene or which contributes to its obscenity.
- (b) Evidence that materials or devices were promoted to emphasize their prurient appeal shall be relevant in determining the question of the obscenity of such materials or devices.

Ex ~~A~~ B

11-808. EMERGENCIES. Whenever a lighting nuisance creates an emergency requiring immediate action to protect the public health, safety or welfare, the planning director or the chief of police may issue an immediate order directing the owner, occupant or other person in charge of the premises to take such action as is necessary to remove or abate the emergency. If circumstances warrant, the director of planning or chief of police may act to correct or abate the emergency. Said emergency order shall be in effect in lieu of the notice of violation.

(Ord. 1750C; 11-02-98)

11-809. PENALTY FOR VIOLATION OF ARTICLE.

- (a) Any person convicted of a violation of this article shall be punished for that violation by a fine of not less than \$50 but not more than \$500, or by imprisonment of not more than 180 days, or by both such fine and imprisonment. All fines imposed shall be in accordance with the minimum fine schedule set out in subsection (c) of this section.
- (b) Every day that a violation continues shall be considered a separate offense, for which the violator may be arrested, tried and convicted without serving another notice.
- (c) Whenever the penalty is to be a fine or a fine and imprisonment, the fine shall be no less than the minimum amount set out in the following:

..... First offense	\$ 50
..... Second offense	\$100
..... Third offense	\$300
..... Fourth and subsequent offense	\$500
- (d) In determining the applicable minimum fine, an offense shall be considered a subsequent offense only if the defendant has previously pleaded or been found guilty of causing or permitting the same nuisance at the same location.

(Ord. 1750C; 11-02-98)

11-810. NUISANCE, INJUNCTION. Any violation of this section is hereby declared to be a nuisance. In addition to any other relief provided by this section, the city attorney may apply to a court of competent jurisdiction for an injunction to prohibit the continuation of any violation of this section. Such application for relief may include seeking a temporary restraining order, temporary injunction and permanent injunction.

(Ord. 1750C; 11-02-98)

ARTICLE 9. SMOKING

11-901. PURPOSE. The purpose of this Ordinance is to promote the public health by decreasing exposure to secondhand smoke and creating smoke free environments for workers and citizens through regulation in the work place and all public places.

(Ord. 1773C; 01-18-99)

(Ord. 1777C; 02-16-99)

(Code 2000)

(Ord. 2195C; 11-20-06)

11-902.

DEFINITIONS. For the purposes of this Ordinance, the following words shall have the meanings respectively ascribed to them by this paragraph:

- a. **Employee.** Any person who performs services for an employer, with or without compensation.
- b. **Employer.** A person, partnership, association, corporation, trust, or other organized group of individuals, including the City or any agency thereof, which utilizes the services of one (1) or more employees.
- c. **Enclosed.** A space bounded by walls (with or without windows or doors) continuous from the floor to the ceiling, including, but not limited to, offices, rooms and all space(s) therein screened by partitions or Office Landscaping.
- d. **Open Office Landscaping.** Indoor areas without permanent walls, or walls that are not floor to ceiling; open space such as waiting areas and atriums; cubicles and/or open desk seating areas.
- e. **Place of Employment.** Any enclosed area under the control of a public or private employer which employees may enter during the course of employment, including, but not limited to, work areas, employee lounges and restrooms, conference and classrooms, employee cafeterias, private rooms in nursing homes, private meeting/conference rooms and halls not open to the general public while being used for private functions or located within private clubs and hallways. A private residence is not a "place of employment" unless it is used as a childcare, adult day care or health care facility.
- f. **Public Place.** Any enclosed area to which the public is invited or in which the public is permitted, including but not limited to, hotels, motels, banks, educational facilities, health facilities, laundromats, public transportation facilities, reception areas, production and marketing establishments, retail service establishments, retail stores, theaters, and waiting rooms. A private residence is not a "public place."
- g. **Service Line.** Any indoor line at which one (1) or more persons are waiting for or receiving service of any kind, whether or not such service involves the exchange of money.
- h. **Smoking.** Inhaling, exhaling, burning or carrying any lighted cigar, cigarette, pipe or other tobacco product.

- i. **Sports Arena.** Sports pavilions, gymnasiums, health spas, boxing arenas, swimming pools, roller and ice rinks, bowling alleys and other similar places where members of the general public assemble either to engage in physical exercise, participate in athletic competition, or witness sports events.

(Ord. 1777C; 02-16-99)

(Code 2000)

(Ord. 2195C; 11-20-06)

11-903. PROHIBITION OF SMOKING IN ENCLOSED PLACES OF EMPLOYMENT.

- (a) **Prohibition.** Smoking shall be prohibited in all enclosed places of employment within the City.
- (b) **Employer Responsibilities.** It shall be the responsibility of employers to:
 - 1. Provide a smoke-free workplace for all employees.
 - 2. Each employer having any enclosed place of employment located within the City shall adopt, implement, make known and maintain, a written smoking policy which shall contain the following requirement:
- (c) Smoking shall be prohibited in all enclosed facilities within a place of employment without exception. This includes common work areas, auditoriums, classrooms, conference and meeting rooms, private offices, elevators, hallways, medical facilities, cafeterias, employee lounges, stairs, restrooms and all other enclosed facilities.
- (d) The smoking policy shall be communicated to all employees within one (1) week of the adoption of this Ordinance and all employers shall provide a written copy of the smoking policy to each new employee upon hire and upon request to any existing or prospective employee.

(Ord. 1777C; 02-16-99)

(Code 2000)

(Ord. 2195C; 11-20-06)

(Ord. 2461C; 09-20-10)

11-904. PROHIBITION OF SMOKING IN PUBLIC PLACES.

(a) Smoking shall be prohibited in all enclosed public places within the City, including, but not limited to, the following places:

1. Any vehicle of public transportation, including but not limited to buses, limousines for hire and taxicabs.
2. Elevators.
3. Restrooms.
4. Libraries, educational facilities, childcare and adult day care facilities, museums, auditoriums, aquariums and art galleries.
5. Any health care facility, health clinics or ambulatory care facilities, including but not limited to laboratories associated with the rendition of health care treatment, hospitals, nursing homes, doctors' offices and dentists' offices. The statute allows adult care homes and long term care facilities to designate smoking areas.
6. Any indoor place of entertainment or recreation, including but not limited to gymnasiums, theaters, concert halls, bingo halls, billiard halls, betting establishments, bowling alleys, arenas and swimming pools.
7. Service lines.
8. Facilities primarily used for exhibiting a motion picture, stage, drama, lecture, musical recital, or other similar performance; provided, however, that smoking may take place on stage during live theatrical performances, where smoking is integral to the plot or storyline and prior notice is given to the audience.
9. Shopping malls.
10. Sports arenas, including enclosed places in outdoor arenas.
11. Bars. Statute allows private clubs.
12. Restaurants.
13. Convention facilities.
14. Hotels and motels, including sleeping rooms. Statute allows 20% of sleeping rooms
15. All public areas and waiting rooms of public transportation facilities, including but not limited to bus and airport facilities.
16. Any other area used by the public or serving as a place of work, including open office landscaping.
17. Every room, chamber, place of meeting or public assembly, including school buildings under the control of any board, council, commission, committee, including, but not limited to joint committees, or agencies of the City or any political subdivision of the state during such time as a public meeting is in progress, to the extent such place is subject to the jurisdiction of the City.
18. All enclosed facilities owned by the City.
19. Rooms in which meetings or hearings open to the public are held, except where such rooms are in a private residence.
20. Within a 10 foot radius of any doorway, open window or air intake leading into a building or facility that is not otherwise exempt under the provisions of this Ordinance.

- (b) The proprietor or other person in charge of the premises of a public place, or other area where smoking is prohibited, shall post or cause to be posted in a conspicuous place signs displaying the international no smoking symbol and clearly stating that smoking is prohibited by state law.

(Ord. 1777C; 02-16-99)

(Code 2000)

(Ord. 1993C; 06-02-03)

(Ord. 2195C; 11-20-06)

(Ord. 2461C; 09-20-10)

11-905. WHERE SMOKING IS NOT REGULATED. Notwithstanding any other provision of this Ordinance to the contrary, the following areas shall not be subject to the smoking restrictions of this Ordinance:

- (a) Private residences, not serving as enclosed places of employment or an enclosed public place, except when such residence is used as a day care home, as defined in K.S.A. 65-530.
- (b) An existing retail establishment whose primary business is the sale of tobacco products deriving not less than 65% of its gross receipts from the sale of tobacco and new retail establishments whose primary business is the sale of tobacco products which derive not less than 65% of gross receipts from the sale of tobacco and which are located in a stand-alone building not attached to or the part of any building devoted to other uses.
- (c) Outdoor seating areas at restaurants or bars, provided, however, that smoking may be allowed only if it does not violate 11-904 and that reasonable efforts are made to minimize the chance of smoke affecting the inside occupants of the establishment.

(Ord. 2195C; 11-20-06)

(Code 2000)

(Ord. 2461C; 09-20-10)

11-906. VIOLATION; PENALTY.

- a) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to fail to comply with all or any of the provisions of this ordinance.
- (b) It shall be unlawful for any person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, to allow smoking to occur where prohibited by law. Any such person shall be deemed to allow smoking to occur under this subsection if such person: (1) Has knowledge that smoking is occurring; and (2) acquiesces to the smoking under the totality of the circumstances.

- (c) It shall be unlawful for any person to smoke in any area where smoking is prohibited by the provisions of this ordinance.
- (d) Any person who violates any provision of this ordinance, shall be guilty of a cigarette or tobacco infraction punishable by a fine:
 - (1) Not exceeding \$100 for the first violation;
 - (2) Not exceeding \$200 for a second violation within a one year period after the first violation; or
 - (3) Not exceeding \$500 for a third or subsequent violation within a one year period after the first violation.

For purposes of this subsection, the number of violations within a year shall be measured by the date the smoking violations occur.

- (e) Each individual allowed to smoke by a person who owns, manages, operates or otherwise controls the use of any public place, or other area where smoking is prohibited, in violation of subsection (b) shall be considered a separate violation for purposes of determining the number of violations under subsection (d).
- (f) No employer shall discharge, refuse to hire or in any manner retaliate against an employee, applicant for employment or customer because that employee, applicant or customer reports or attempts to prosecute a violation of any of the provisions of this ordinance.
- (g) In addition to the fines established by this Section, violation of this Ordinance by a person having control of a public place or place of employment may result in the suspension or revocation of any permit or license issued by the City of Leawood to the person for the premises on which the violation occurred.

(Ord. 1777C; 02-16-99)
 (Code 2000)
 (Ord. 2195C; 11-20-06)
 (Ord. 2461C; 09-20-10)

11-907. PENALTY FOR VIOLATION OF ORDINANCE. Repealed.

See Section 11-906.

(Ord. 1777C; 02-16-99)
 (Code 2000)
 (Ord. 2195C; 11-20-06)
 (Ord. 2461C; 09-20-10)

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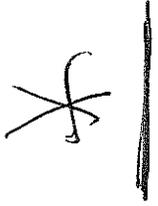
ARTICLE 4. SMOKING

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

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

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

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



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

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

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

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

- 11-404 AREAS WHERE SMOKING IS NOT REGULATED
- (a) Private residences, not serving as enclosed places of employment or an enclosed public place.
 - (b) Outdoor, unenclosed areas of restaurants, drinking establishments, and private clubs including but not limited to decks, patios, etc., but only to the extent that such areas are at least ten feet away from any doorway or opening leading to an enclosed area.
 - (c) Hotel and motel rooms that are rented to guests and are permanently designated as smoking rooms; provided, however, that not more than twenty percent (20%) of rooms rented to guests in a hotel or motel may be so designated.
 - (d) An existing retail establishment whose primary business is the sale of tobacco products and new retail establishments whose primary business is the sale of tobacco products which are located in a stand-alone building not attached to or the part of any building devoted to other uses.

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

- 11-405 RESPONSIBILITIES OF PROPRIETORS, OWNERS, AND MANAGERS
- (a) Any proprietor, owner or manager or other person in control of a place regulated by the provisions of this article shall not knowingly permit, cause, suffer or allow any person to violate the provisions of this Article in that place.
 - (b) It shall be unlawful for any proprietor, owner or manager or other person in control of a place regulated by the provisions of this Article to fail to provide and permanently affix conspicuous signs clearly visible from all major public entrances advising that smoking is prohibited in the place.
 - (1) All signs which are used to identify a non-smoking area shall use the primary words No Smoking and shall also include the international no smoking symbol and shall also state Pursuant to PVMC 11-403.
 - (2) All signs which are used to identify an area in which smoking is permitted shall use the primary words Smoking Permitted and shall also include the international smoking symbol.
 - (3) All signs which are used to identify both smoking and non-smoking areas shall be placed at a height and location easily viewable by a person entering the establishment and shall not be obscured or obstructed in any manner. Signs shall be proportionally conspicuous to the size or characteristics of the entranceway. In no case shall the primary lettering and international symbol on the signs be less than one inch in height.
 - (c) The absence of proper signage as required in this Section shall in no manner nullify the requirements of this Article.

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

- 11-406 PENALTIES FOR VIOLATION
- (a) A person who smokes in an area where smoking is prohibited by this Article shall be guilty of an infraction punishable by a fine as set forth in Section 1-116 of this Code.
 - (b) A person having control of a public place or place of employment and who fails to comply with the provisions of this Article shall be guilty of infraction punishable by a fine as set forth in Section 1-116 of this Code.

- (c) Each day on which a violation of this Article occurs shall be considered a separate and distinct violation.
 - (d) In addition to the fines established in Section 11-405(b) by a person having control of a public place or place of employment may also result in the suspension or revocation of any permit or license issued to the person for the premises on which the violation occurred.
 - (e) The City may further enforce this Article by maintaining any action in the appropriate court for injunction to enforce the provisions of this Article, to cause the correction of any such violation, for assessment and recovery of a civil penalty for such violation or to pursue other appropriate civil remedy.
(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)
- 11-407 NON-RETALIATION. No person or employer shall discharge, refuse to hire, or in any manner retaliate against an employee, applicant for employment, or customer because that employee, applicant, or customer exercises any rights afforded by this Article or reports or attempts to prosecute a violation of this Ordinance.
(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)
- 11-408 OTHER APPLICABLE LAWS. This Article shall not be interpreted or construed to permit smoking where it is otherwise restricted by other applicable laws.
(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)
- 11-409 LIBERAL CONSTRUCTION. This Article shall be liberally construed as to further its purposes
(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)
- 11-410 EFFECTIVE DATES
- (a) Except as provided below, this Article shall become effective upon adoption by the Governing Body and publication in the official City newspaper.
 - (b) As applied to restaurants and other food service establishments, this Article shall take effect and be in force from August 1, 2008, and after the publication of Ordinance 2168 in the official City newspaper.
(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005; Ord. 2168, Sec III, 2008)
- 11-411 ENFORCEMENT
- (a) The authority to administer the provisions of this Article is vested in the Chief of Police.
 - (b) Notice of the provisions of this Article shall be provided to all applicants for a business license.
 - (c) Any citizen who desires to register a complaint under this Article may initiate enforcement by contacting the Police Department.
(Code 1973, 10.09.040; Ord. 2109 Sec II, 2005)

DUELLAND PARK EX RD

Chapter 6.08 CONTROL AND IMPOUNDMENT OF DOMESTIC ANIMALS

Sections:

- 6.08.010 Ownership.
- 6.08.020 Dog and Cat Control.
- 6.08.025 Other Domestic Animals.
- 6.08.026 Animals Prohibited in Downtown Business District's Farmers Market.
- 6.08.030 Seizure.
- 6.08.040 Violation of 6.08.020 - Penalty Generally. (Repealed)
- 6.08.050 Violation of 6.08.020 - Penalty Procedure. (Repealed)
- 6.08.060 Redemption of Impounded Animal - Vaccination.
- 6.08.070 Procedure on Failure to Redeem.
- 6.08.080 Damage to Property.
- 6.08.090 Rabies Impoundment Procedures.
- 6.08.100 Notice of Impoundment of Biting Animal to Chief Animal Control Officer.
- 6.08.110 Notification of Owner of Impounded Animal.
- 6.08.120 Lien Against Animal Impounded - Sale or Disposal.
- 6.08.130 Alternatives for Confined Animal.
- 6.08.135 Violations; Penalties Generally.
- 6.08.140 Severability.

6.08.010 Ownership.

Any person owning, keeping or harboring a dog or cat for seven consecutive days shall be conclusively presumed to be the owner of such animal for purposes of this title. In addition, any person who signs a receipt for return of an animal from Animal Haven or any other animal shelter shall be presumed to be the owner, keeper or harborer of the animal.

(History: Ord. DAC-1679 §8, 91; DAC-697 §7, 72)

6.08.020 Dog and cat control.

- A. Dog Control. All dogs must be confined to the residential property of the owner, keeper or harborer of said dog; provided, dogs may be taken off the residential property of the owner, keeper or harborer when:
1. on a leash, no longer than 10 feet in length and the leash and animal are under the control of a responsible person. Whether a person is responsible shall be determined by giving due consideration to the size and temperament of the animal; provided, all dogs determined to be vicious and registered as vicious animals under the provisions of this chapter shall be muzzled when off the residential property of the owner, keeper or harborer and shall be under the control of an adult;
 2. the dog is confined in a cage or within the enclosed interior of a motor vehicle; provided, it is a violation of this Section for a dog to be transported in the open bed of a truck unless restrained in a cage or on a leash that will prevent the animal from jumping or falling off the vehicle;

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3. under the control of the owner, keeper or harborer and during the conduct of an AKC, UKC or other kennel club or organized dog club trial, show or exhibition;
4. under the control of the owner, keeper or harborer and during the conduct of legal hunting activities within the City or during the conduct of training a dog for legal hunting activities, provided that if such training includes the discharge of a firearm, the conditions of Overland Park Municipal Code Section 11.12.155 must be complied with; provided further, no training for hunting purposes will be conducted on any property without the permission of the landowner upon whose property the training is occurring; provided further that such training and/or hunting activities are prohibited from all public parks and recreational facilities.

For the purposes of this Section "confined to the residential property of the owner, keeper or harborer" shall mean, but not be limited to mean, confined either inside the residential structure of the owner, keeper or harborer, or if outside the residential structure of the owner, keeper or harborer, the dog shall be physically restrained on a chain or leash or within a suitable fence or other proper method of physical restraint from which it cannot escape or endanger public safety outside the suitable method of confinement; provided:

- a. If the dog is in the physical presence of its owner, keeper, or harborer and on its owner's, keeper's or harborer's property and under the demonstrated direct and immediate voice control of its owner, keeper or harborer, it shall be considered confined to the residential property of its owner, keeper or harborer. It shall not be considered confined to the residential property of the owner, keeper or harborer, if the dog is off the property of the owner, keeper or harborer, whether it is under the demonstrated direct and immediate voice control of its owner, keeper or harborer or not.
- b. Dogs shall not be considered confined to the premises of the residential property of their owner, keeper or harborer if the only restraining device is an electric fence. An electric fence is defined as a fence that shocks an animal or person upon the person or animal touching it.
- c. Dogs may be confined to the premises of the residential property of their owner, keeper or harborer by an electronic fence or an electronic collar. An electronic fence or electronic collar is defined as a fence or a collar that controls the movement of a dog by emitting an electrical shock when the animal wearing the collar nears the boundary of the owner's, keeper's or harborer's property. The collar may be controlled manually by a person or automatically in a predetermined manner. Dogs confined to residential property of the owner, keeper, or harborer, by an electronic fence or an electronic collar, shall not be permitted to be nearer than 10 feet away from any public sidewalk or property line that is contiguous to neighboring property. In addition, dogs are prohibited from being confined by an electronic fence or an electronic collar in the front yards of an owner's, keeper's or harborer's property. No dog having been found a dangerous animal by the animal control division shall be confined by an

electronic fence or an electronic collar. All owners, keepers or harborers of dogs who use an electronic fence shall clearly post their property to indicate to the public that a dog is confined to the property by an electronic fence or electronic collar. Electronic collars may not be used to control a dog when it is off its owner's, keeper's or harborer's property.

5. When within a fenced closure on city-owned property under the control of the Director of Parks and Recreation, provided the owner complies with any regulations posted by the Director.
- B. **Cat Control.** All cats must be under the control of their owner, keeper or harborer at all times. For the purpose of this Section, a cat shall be considered not under control and in violation of this Section in the following situations:
1. If a neighbor complains orally or in writing to the owner, keeper or harborer of a cat, that the cat is entering upon the neighbor's property, then the cat's presence on the neighbor's property at any time subsequent to the neighbor's complaint shall constitute a violation of this Section;
 2. If a cat causes injury to persons or animals.
 3. If a cat causes damage to property off its owner's, keeper's or harborer's property to include, but not limited to, breaking, bruising, tearing up, digging up, crushing or injuring any lawn, garden, flower bed, plant, shrub or tree in any manner or defecating or urinating upon any private property.
- C. The provisions of this Section shall not apply to any property zoned RUR, PRUR, RLD or PRLD that is annexed into the City pursuant to Ordinance No. A-2719 unless and until the property is rezoned.

(History: Ord. DAC-2771 §2, 2009; DAC-2825 §1, 2009; DAC-2728 §1, 2008, modified during codification under authority of K.S.A. 12-3015; DAC-1679 §9, 91; DAC-1385 §5, 86; DAC-1311 §4, 85; DAC-1091 §2, 80; DAC-697)

6.08.025 Other Domestic Animals.

- A. All domestic animals, excluding dogs and cats, but including cows and horses, although not limited thereto, shall be enclosed with a fence sufficiently close, composed of posts and rails; posts and palings; posts and planks or palisades; posts and wire; rails alone, laid up in the manner commonly called a worm fence; or turf, with ditches on each side, of stone; or a hedge in existence on July 1, 1986, composed either of thorn or Osage orange.
- B. Fences required under this section are as set out in K.S.A. 29-102 et.seq (1986 Session Laws) or any amendments thereto, which are incorporated by reference as if set out in full herein.
- C. It shall be unlawful for any domestic animal except as provided in 6.08.020 to run at large.
- D. If any domestic animal, other than dogs or cats, break free of their lawful enclosure, and trespass on land owned by another person, the owner or occupant of the land may take

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into possession such animal trespassing, and keep the same until damages can be collected pursuant to K.S.A. 29-408 (1986 Session Laws).

(History: Ord. DAC-1385 §6, 86)

6.08.026 Animals Prohibited in Downtown Business District's Farmers Market.

It shall be unlawful for any person to permit, suffer or allow a dog, cat or other domestic animal to enter or remain upon any portion of the property designated as the Downtown Business District's Farmers Market, during those periods the market is open for business to include any time designated for "setting up" market displays, provided "service dogs" as defined by K.S.A. 39-1108 may be upon market property when assisting an individual.

(History: Ord. DAC-2123 §1, 98)

6.08.030 Seizure.

When a law enforcement officer or Animal Control Officer detects an animal in violation of 6.08.020 and 6.08.025, the officer shall determine, when possible, the owner of such animal. If the owner can be determined, such animal may still be seized and impounded in the discretion of the officer.

(History: Ord. DAC-2771 §3, 2009; DAC-1385 §7, 86; DAC-1311 §5, 85; DAC-697 §10(part), 72)

6.08.040 Violation of 6.08.020 - Penalty Generally.

Repealed.

(History: Ord. DAC-1679 §10, 91; DAC-1512 §1, 88; DAC-1385 §8, 86; DAC-1311 §6, 85; DAC-1104 §1, 81; DAC-1091)

6.08.050 Violation of 6.08.020 - Penalty Procedure.

Repealed.

(History: Ord. DAC-1311 §27, 85; DAC-1104 §2, 81; DAC-1091)

6.08.060 Redemption of Impounded Animal - Vaccination.

Redemption of an animal impounded under the provisions of this section shall be permitted upon payment of any pound fees and any veterinarian fees then due and owing. In the event the animal has not been vaccinated for rabies when the owner seeks to redeem the animal, the owner shall be required to sign a written acknowledgment of receipt of the animal which includes a written promise to the City to have the animal vaccinated and duly licensed with the City within seven days after receipt of the animal. If a registered veterinarian determines it would be temporarily dangerous to the health of the animal to vaccinate it during this seven-day period, the owner will be given an extension of up to 30 days after the animal's release from impoundment in which to obtain the vaccination. In either event, the license tag required by 6.04.030 shall be withheld pending final vaccination.

(History: DAC-1311 §7, 85; DAC-697 §10)

6.08.070 Procedure on Failure to Redeem.

The City shall have a lien against any animal seized pursuant to 6.08.030 for its keep. If after seven days from the date of seizure the animal has not been redeemed, the City shall have the right to dispose of the animal through sale to any private individual and apply the sale proceeds

to the expense incurred in keeping the animal. If after seven days from date of seizure, the animal has not been redeemed or sold, then it may be given away or humanely destroyed unless there is good reason, in the opinion of the impounding veterinarian, to suspect the presence of rabies in such animal; it may then be retained at the discretion of the impounding veterinarian. (History: DAC-1311 §8, 85; DAC-697 §11)

6.08.080 Damage to Property.

It shall be unlawful for the owner, keeper or harbinger of any animal to permit, suffer or allow such animal to go upon any sidewalk, parkland, or private or public property and break, bruise, tear up, dig up, crush or injure any lawn, flower bed, plant, shrub, tree or garden in any manner whatsoever, or for the animal to defecate or urinate on any such property, provided it shall not be a violation for an animal to defecate on public property if the owner, keeper or harbinger cleans the property immediately; provided it shall not be a violation for an animal to urinate on public property as long as the animal does not urinate on flower beds, shrubs, bushes, trees or other plants, not to include grass.

(History: Ord. NOI-2287 §10, 2001; DAC-1679 §11, 91; DAC-1311 §9, 85; DAC-697 §14)

6.08.085 Injury to Person or Animal.

It shall be unlawful for the owner, keeper or harbinger of any animal to permit such animal to:

- A. Cause injury to people.
- B. Bite or cause injury to any person or other animal.

(History: Ord. DAC-2771 §4, 2009)

6.08.090 Rabies Impoundment Procedures.

Except as provided in 6.08.130, a dog, cat, or ferret which bites, scratches, or otherwise causes an abrasion that breaks the skin of a person shall immediately be quarantined at the owner's expense by City personnel with a City authorized impounding agent or a licensed veterinarian, for a period of ten days. 1) If the owner is known and is present or is available to make arrangements, and the injury occurs during regular office hours, the animal will be impounded with a veterinarian of the owner's choice whose place of business is in Johnson County, Kansas, for a period of ten days. 2) If the injury occurs after normal business hours, and the owner is unable or unavailable to make arrangements for impounding of the animal, the animal will be impounded at a City authorized impounding agent until the next business day at which time the owner must make arrangements for the animal to be transferred to the facility of a licensed veterinarian whose place of business is in Johnson County, Kansas, for the remainder of the confinement period. The total period of confinement of the animal is to be for a period of not less than ten days from the date of the actual bite, scratch or abrasion. Any animal quarantined at the City's impound agent shall be transferred to a licensed veterinarian whose place of business is located within Johnson County, Kansas, no later than the next business day upon payment of all fees.

(History: Ord. DAC-2199 §1, 2000; DAC-1311 §10, 85; DAC-880 §2, 76; DAC-711 §3, 72)

6.08.100 Notice of Impoundment of Biting Animal to Chief Animal Control Officer.

In all cases of impoundment under this Section, the veterinarian or City-authorized impounding agent with whom the dog, cat, or ferret is impounded, shall give immediate written notice to the Chief Animal Control Officer that such animal has been confined and will be confined not less than 10 days nor more than 12 days.

(History: Ord. DAC-2771 §5, 2009; DAC-2199 §2, 2000; DAC-1311 §11, 85; DAC-711 §3(part), 72; DAC-697 §15(B), 72)

6.08.110 Notification of Owner of Impounded Animal.

If the address of the owner of the animal can be determined, the Chief of Police shall make reasonable effort to notify the owner that the animal is impounded under the provisions of 6.08.090 through 6.08.130 and the owner must redeem the animal and pay all pound fees, any veterinarian fees and any license and penalty fees then due and owing the City. Upon redemption, the owner must transfer the animal to a licensed veterinarian as required by 6.08.090.

(History: Ord. DAC-2199 §3, 2000; DAC-711 §3(part), 72; DAC-697 §15(C), 72)

6.08.120 Lien Against Animal Impounded - Sale or Disposal.

The City shall have a lien against the animal for its keep and if, after the period of impoundment provided in 6.08.090 through 6.08.130, the animal has not been redeemed by the owners, the City shall have the right to order disposal of the animal through sale to any private individual and apply the sale proceeds to the expense incurred in keeping the animal. If the animal is not redeemed or sold after the period of impoundment, it may be given away or humanely destroyed.

(History: Ord. DAC-711 §3(part), 72; DAC-697 §15(D), 72)

6.08.130 Alternatives for Confined Animal.

1. In the event the investigating officer determines:
 - A. That the animal owner has no prior animal violations; and
 - B. That the animal is not vicious nor likely to attack or bite someone else; and
 - C. That the animal had an effective rabies inoculation and was duly licensed under this title at the time of the injury, then, the animal need not be impounded in accordance with Section 6.08.090 but the following alternative procedure shall be followed:
 - (1) If the injured person, his/her parent, or guardian desires that the animal be impounded and agrees in writing to pay for its board during the period of impoundment, it shall be so impounded for the period specified in Section 6.08.090 notwithstanding any other provision of this title.
 - (2) If the injured party, his/her parent, or guardian is unwilling to agree in writing to pay for the animal's board during the period of impoundment, the animal shall be permitted to remain on the property of its owner or keeper; provided no animal shall be allowed to remain on the property of its owner or keeper under this Section unless such person signs a written

agreement to keep the animal confined to the property for the period specified in Section 6.08.090 and further agrees to allow the animal to be examined periodically to determine its physical condition during the confinement period. If the owner or keeper is unwilling to sign such an agreement, the animal shall be immediately impounded in accordance with Section 6.08.090.

2. If the animal was not duly licensed with the City but otherwise met the requirements of this paragraph for home confining the animal, the animal must be confined outside the home as required by this Section, provided, should the owner license the animal during the ten day confinement period, the animal may be confined at home in accordance with the standards set forth in this Section for any remaining portion of the confinement period.
3. Animal Control officers shall have the authority to remove an animal from home confinement and place it with an animal shelter or veterinarian at any time during home confinement if the animal becomes ill during the quarantine period or the Animal Control officer develops reasonable suspicion that any conditions of home confinement or requirements of this Code, are not being followed.

(History: Ord. DAC-2756 §1, 2009; DAC-2199 §4, 2000; DAC-1679 §12, 91; DAC-880 §3, 76; DAC-711 §3, 72)

6.08.135 Violations; Penalties Generally.

Unless specific penalties are otherwise provided herein, the following penalties shall apply. Upon a first conviction for violation of this chapter, the Court shall assess a fine of no less than \$50. Upon a second conviction, the Court shall assess a fine of no less than \$150. Upon a third or subsequent conviction, the Court shall assess a fine of no less than \$500. Provided that no prior conviction shall be considered in determining the penalty to be assessed if 24 months have elapsed between the date of the violation and the date of the conviction next immediately preceding the sentencing date.

No person shall be eligible for a parole, suspension or reduction of any part of said fine. In addition to any such fine imposed, the Court may impose a jail term of up to 30 days, except that portion of any fine or combinations of fines assessed from the same set of operative facts that exceed \$200 may be suspended for not less than 12 months on the condition the violator have no further violations of the animal control laws during that period.

(History: Ord. DAC-1735 §3, 92; DAC-1679 §12, 91)

6.08.140 Severability.

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

(History: Ord. DAC-1311 §12, 85)

Chapter 6.08

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10.08.160 Penalty for Violations.

Violation of any provision of this chapter is a public offense and any person, firm, association, partnership or corporation convicted thereof shall be punished as provided in 1.12.010.
(History: Ord. PR-763 §16, 73)

10.08.170 Rules and Regulations.

The Director of Parks and Recreation is hereby authorized to make and enforce such additional rules and regulations as may be necessary for the management and operation of any of the lands, buildings, structures or facilities that are placed under the supervision of the Director of Parks and Recreation by action of the Governing Body or the City Manager. This regulatory authority shall be supplementary to any specific such authority contained elsewhere in the Overland Park Municipal Code. Such rules and regulations shall have the force and effect of law and the violation of those rules shall constitute a public offense and shall be enforced in the same manner as other violations of the Municipal Code. Violation of any adopted rules and regulations shall be grounds for eviction from the park lands, buildings or facilities and the denial, revocation or suspension of any permit issued or privilege granted by the Parks and Recreation Department. These rules and regulations must be approved by the Director and either posted in a conspicuous place in or on the park lands, buildings structures or facilities or be maintained in written form and available to the public in the office of the Director of Parks and Recreation prior to their becoming effective.

(History: Ord. PR-2233 §1, 2000)