

Chapter XIX - ZONING REGULATIONS

Footnotes:

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Editor's note— As adopted by the City Council, July 17, 1995, effective date, December 1, 2019 (Including Amendments through 11/4/2019). Previous Zoning Regulations, adopted by the City Council on July 17, 1995, effective date, February 1, 2019, including amendments through October 1, 2018, derived from Ord. 1973, Sec. I, 1999; Ord. 1974, Sec. I, II, 1999; Ord. 1989, Sec. I, 2000; Ord. 2004, Sec. II, 2001; Ord. 2019, Sec. I—III, 2001; Ord. 2026, Sec. IV, 2002; Ord. 2027, Sec. II—IV, 2002; Ord. 2029, Sec. I—IV, 2002; Ord. 2044, Sec. II, 2003; Ord. 2048, Sec. II, 2003; Ord. 2049, Sec. II, III, 2003; Ord. 2058, Sec. I, 2003; Ord. 2060, Sec. I, 2003; Ord. 2068, Sec. I, II, 2004; Ord. 2093, Sec. II, 2005; Ord. 2094, Sec. II, 2005; Ord. 2095, Sec. IV, 2005; Ord. 2103, Sec. II, 2005; Ord. 2110, Sec. II, 2006; Ord. 2117, Sec. II, 2006; Ord. 2122, Sec. II, 2006; Ord. 2138, Sec. II, 2006; Ord. 2147, Sec. II, 2007; Ord. 2152, Sec. II, 2007; Ord. 2187, Sec. II, 2009; Ord. 2188, Sec. II, 2009; Ord. 2189, Sec. II, 2009; Ord. 2190, Sec. II, III, 2009; Ord. 2199, Sec. II—IV, 2009; Ord. 2208, Sec. II—IV, 2009; Ord. 2225, Sec. II, III, 2010; Ord. 2247, Sec. II, III, 2011; Ord. 2248, Sec. II, 2011; Ord. 2249, Sec. II, III, 2012; Ord. 2250, Sec. II, 2012; Ord. 2266, Sec. II, 2012; Ord. 2269, Sec. I, 2013; Ord. 2271, Sec. II, 2013; Ord. 2307, Sec. I, 2014; Ord. 2317, Sec. II—IV, 2014; Ord. 2322, Sec. I, 2015; Ord. 2350, Sec. I—IV, 2016; Ord. 2366, Sec. II—IV, 2017; Ord. 2392, Sec. I—V, 2018.

Chapter 19.01 - GENERAL PROVISIONS

19.01.005. - SHORT TITLE.

These regulations, including the zoning district map made a part hereof, shall be known, and may also be cited and referred to as the Prairie Village, Kansas, Zoning Ordinance and may also be cited as the Zoning Ordinance.

19.01.010. - PURPOSE AND INTENT.

This zoning ordinance is intended to serve the following purposes:

This title is adopted for the purpose and intent of:

- (a) Promoting the health, safety, morals, comfort and general welfare, and conserving and preserving the values of property throughout the city by providing that any building or structure hereinafter erected, constructed, reconstructed, moved or altered shall be compatible with its environs;
- (b) Lessening or avoiding congestion in the public streets and highways;
- (c) Securing safety from fire and other dangers;
- (d) Providing adequate light and air;
- (e) Preventing the overcrowding of land;
- (f) Avoiding undue concentration of population;
- (g) Facilitating the adequate provision of transportation, water, sanitary and storm sewerage, parks and other public requirements, all in accordance with the master city plan;
- (h) Restricting and regulating the height, number of stories, and size of buildings; the percentage of lot coverage; the size of yards, courts and other open spaces; the density of population;
- (i) Dividing the city into zones and districts; and

- (j) Regulating and restricting the location and use of buildings and land within each district or zone.

19.01.015. - AUTHORITY.

This chapter is adopted pursuant to the authority contained in Article 7 of Chapter 12 of the Kansas Statutes Annotated, and Amendments thereto, and Article 12, Section 5 of the Kansas Constitution.

19.01.020. - JURISDICTION.

This chapter shall be effective throughout the corporate limits of the City of Prairie Village.

19.01.025. - RELATIONSHIP TO OTHER PROVISIONS OF THE CODE.

- (a) The use of buildings and land within the city shall be subject to all other applicable provisions of the Prairie Village Municipal Code as well as this chapter, whether or not such other provisions of the Code are specifically cross-referenced in this chapter. Cross-references to other provisions of the Code in this chapter are for the convenience of the reader; lack of a cross-reference shall not be construed an indication that other provisions of the Code do not apply.
- (b) Where the conditions imposed by any provision of these regulations upon the use of land or structures are either more restrictive or less restrictive than comparable conditions imposed by any other provision of these regulations or any provision of any other law, ordinance, resolution, rule or regulations of any kind, the regulations which are more restrictive shall govern unless otherwise excepted or unless otherwise provided by law.

19.01.030. - RELATIONSHIP TO MASTER PLAN AND OTHER POLICIES.

It is the intention of the city that this chapter implement the planning policies adopted for the city reflected in the master plan and other planning documents. While the city reaffirms its commitment that this chapter and any amendment thereto be in conformity with adopted planning policies, the city hereby expresses its intent that neither this chapter nor any amendment thereto may be challenged merely on the basis of an alleged nonconformity with the master plan or other planning policy.

19.01.035. - RELATIONSHIP TO PRIVATE RESTRICTIONS.

The provisions of this chapter are not intended to abrogate any deed restriction, covenant, easement or any other private agreement or restriction on the use of land. Provided, that where the provisions of this chapter are more restrictive or impose higher standards than any such private restriction, the requirements of this chapter shall control. Where the provisions of any private restriction are more restrictive or impose higher standards than the provisions of this chapter, such private restrictions shall control if properly enforced by a person having the legal right to enforce such restrictions; private restrictions shall not be enforced by the city.

19.01.040. - SEVERABILITY.

It is hereby declared to be the intention of the city that the sections, subsections, paragraphs, sentences, clauses and phrases of this chapter are severable, and if any such section, subsection, paragraph, sentence, clause or phrase is declared unconstitutional or otherwise invalid by any court of competent jurisdiction in a valid judgment or decree, such unconstitutionality or invalidity shall not affect any of the remaining sections, subsections, paragraphs, sentences, clauses or phrases of this chapter.

If any court of competent jurisdiction shall adjudge invalid the application of any provision of these regulations to a particular property or structure, such judgment shall not affect the application of said provisions to any other property or structure.

19.01.045. - PENALTY FOR VIOLATIONS AND CIVIL REMEDIES.

- (a) The violation of any provision of this chapter is hereby declared to be a public offense and, pursuant to the authority of K.S.A. 12-761, a misdemeanor, and any person, firm, association, partnership or corporation convicted thereof shall be punished by a fine not to exceed \$500.00 or by imprisonment for not more than six months for each offense or both such fine and imprisonment. Each day's violation of this chapter shall constitute a separate offense.
- (b) The city shall have the authority to maintain civil suits or actions in any court of competent jurisdiction for the purpose of enforcing the provisions of this chapter and to abate nuisances maintained in violation thereof. In the event that any building or structure is or is proposed to be erected, constructed, altered, converted or maintained in violation of this chapter, or any building, structure or land is proposed to be used in violation of this chapter, the city attorney, or other appropriate authority of the city, may, in addition to any other remedies, institute injunction, mandamus or other appropriate action or proceeding to prevent such unlawful erection, construction, reconstruction, alteration conversion, maintenance or use, or to correct or abate such violation, or to prevent the occupancy of such building, structure or land.

19.01.050. - VESTING OF DEVELOPMENT RIGHTS.

- (a) For the purpose of single-family residential developments, development rights in such land use shall vest upon recording of a plat of such land. If construction is not commenced within five years of recording a plat, the development rights in such use shall expire.
- (b) For all purposes other than single-family developments, the right to use land for a particular purpose shall vest upon the issuance of all permits required for such use and construction has begun and substantial amounts of work have been completed under a validly issued permit.

Chapter 19.02 - DEFINITIONS

19.02.005. - DEFINITIONS GENERALLY.

For the purpose of this title, certain terms or words used herein shall be interpreted or defined as follows in this chapter:

- (a) Words used in the present tense include the future tense;

- (b) The singular includes the plural;
- (c) *Person* includes firms, associations, companies, corporations, governmental agencies and any other legal entity as well as an individual;
- (d) *Shall* is always mandatory;
- (e) *Used or occupied*, as applied to any land or building, includes the words intended, arranged or designed to be used or occupied.

19.02.010. - ACCESSORY BUILDING.

Accessory building or structure means a subordinate building or structure having a use customarily incidental to and located on the lot occupied by the principal use or building. A building housing an accessory use is considered an integral part of the principal building, when it has any part of a wall in common with the main building, or is under an extension of the main roof and is designed as an integral part of the principal building.

19.02.013. - ACCESSORY LIVING QUARTERS.

Accessory Living Quarter (ALQs) means a subordinate dwelling unit within a single-family dwelling that provides basic requirements for cooking, living, sleeping, eating and sanitation. ALQs may not be subdivided or otherwise segregated in ownership from the primary dwelling unit.

(Ord. 2027, Sec. III, 2002)

19.02.015. - ACCESSORY USE.

Accessory use means a use of building or land which is customarily incidental to and located on the same lot or premises as the principal building or use of the premises.

19.02.020. - ALLEY.

Alley means a minor way, dedicated to public use, which is used primarily for vehicular access to the back or the side of properties otherwise abutting on a street.

19.02.025. - ALTERATION.

Alteration means any addition, removal, extension, or change in the location of any exterior wall of a principal building or accessory building.

19.02.027. - AMBULATORY SURGICAL CENTER.

Ambulatory Surgical Center means an establishment with an organized medical staff of one or more physicians; with permanent facilities that are equipped and operated primarily for the purpose of performing surgical procedures; with continuous physician services during surgical procedures and until the patient has recovered from the obvious effects of

anesthetic and at all other times with physician services available whenever a patient is in the facility; with continuous registered professional nursing services whenever a patient is in the facility; and which does not provide services or other accommodations for a patient to stay overnight.

19.02.028. - ANIMAL CARE.

Animal Care means a personal service use offering care for domestic animals and pets. For the purposes of the use table and enabling retail uses in zoning districts, use is further refined by scale, intensity, and format to promote compatibility with other uses and development patterns:

- *Animal Care - Veterinary Office.* A small office (under 5,000 square feet) offering provisional medical care for animals, and where any boarding is only accessory to the medical care and to provide observation or continued medical treatment to animals.
- *Animal Care - Pet Daycare and Services.* A facility that provides care and non-medical services for pets, including daycare, grooming, and play, but offers no overnight boarding.
- *Animal Care - Animal Hospital.* A medium or large office (5,000 square feet or more) offering professional medical care for animals, where boarding is only accessory to the medical care and to provide observation or continued medical treatment to animals.
- *Animal Care - Boarding (non-accessory/non-medical).* A facility that offers overnight boarding for domestic animals and pets, unrelated to any medical care.

19.02.030. - ANTENNA.

Antenna, standard residential television receiving means any array made up of small size metal tubing and supporting members, having horizontal dimensions not exceeding ten feet, and which are commonly installed on or near residential buildings for the purpose of receiving television signals.

Antenna, standard residential radio receiving means an array made up of small size metal tubing and supporting members, having horizontal dimensions not exceeding ten feet, or one or more single wires mounted on masts, buildings, poles, etc., and which is commonly used for receiving radio signals.

Antenna, radio transmitting and receiving means an array or system of wires, tubing and supporting members, mounted on a mast or tower, which antenna is used for transmitting and receiving radio signals including amateur, citizens band and other special frequencies.

Antenna, dish receiving means a circular or similar shape element of metal, plastic or other similar material, used for receiving television signals beamed from a satellite.

19.02.035. - APARTMENT.

Apartment means a room or suite of rooms within an apartment house, arranged, intended or designed for a place of residence as a single housekeeping unit.

19.02.040. - APARTMENT BUILDING, GARDEN.

Garden apartment building means an apartment building having two living levels above grade and each unit having maximum exposure to outside light and air. Buildings with double loaded center hallways are not considered garden apartments. Landscaped open space is provided adjacent to each building including a reasonable amount of usable outdoor recreational area.

19.02.045. - APARTMENT HOUSE.

Apartment house means a building arranged, intended or designed to be occupied by three or more families living independently of each other.

19.02.047. - ASSEMBLY.

Assembly means a civic or institutional use designed to serve the community for regular or periodic events, including worship, civic, recreation, or entertainment. For the purposes of the use table and enabling assembly uses in zoning districts, the use is further refined by scale, intensity, and format to promote compatibility with other uses and development patterns:

- *Assembly - Small* (under 350 people/under 3 acres). A place of public assembly designed and located to serve immediately adjacent uses, and typically designed for fewer than 350 people and typically situated on less than five acres. Examples include a small neighborhood association clubhouse or meeting room, or small religious facility.
- *Assembly - Medium* (351—700 people/5—10 acres). Places of public assembly designed and located to serve community or civic needs for residents of nearby neighborhood(s), and typically designed for between 351—700 people or situated on 5—10 acres. Examples include a neighborhood association recreation center, larger meeting hall, or medium religious facility.
- *Assembly - Large* (751 people or more/greater than 10 acres). Places of public assembly designed and located to serve community or civic needs of a wide area, and typically designed for 701 or more people or situated in ten or more acres. Examples include a community/recreation center, event venues, or a large religious facility.

19.02.050. - AUTO WRECKING.

Auto wrecking means the collecting and dismantling or wrecking of used motor vehicles or trailers, or the storage, sale or dumping of dismantled, partially dismantled, obsolete, or wrecked motor vehicles or their parts.

19.02.055. - AVENUE.

Avenue means the standard designation established by the uniform street naming system for named north-south traffic arteries, such as Roe Avenue.

19.02.060. - BASEMENT.

Basement means a lower story, the floor of which lies below the finished exterior grade at the front of the building, the average elevation of said exterior grade being above the middle of the interior height of such story.

19.02.065. - BED AND BREAKFAST.

Bed and Breakfast means a dwelling used for rental purposes for periods of eight consecutive days or less.

19.02.070. - BLOCK.

Block means a piece or parcel of land entirely surrounded by streets, streams, parks or a combination thereof. In cases where platting is incomplete or disconnected, the Commission shall determine the outline of the block.

19.02.075. - BOARD.

Board means the Prairie Village Board of Zoning Appeals.

19.02.080. - BOARDING HOUSE OR LODGING HOUSE.

Boarding house or *Lodging House* means a building other than a hotel, occupied as a single housekeeping unit where lodging or meals are provided for compensation, pursuant to previous arrangements, but not for the public or transients.

19.02.085. - BUILDING.

Building means any structure having a roof supported by columns or by walls and intended for shelter, housing or enclosure of persons, animals or chattel.

19.02.087. - BUILDING COVERAGE.

Building coverage means that portion of a lot, which is covered by a structure or structures, excluding the first four feet of projecting roof eaves and excluding open, unenclosed and uncovered decks or other structures 30 inches or less in height.

(Ord. 2392, Sec. 1, 2018)

19.02.090. - BUILDING, DETACHED.

Detached Building means a building separated by open space from any other building on the same lot.

19.02.095. - BUILDING FRONT.

Building front means the face of a building containing the principal entrance, bearing the address numerals for mail delivery.

19.02.100. - BUILDING HEIGHT.

The vertical distance from grade plane to the average height of the highest roof surface.

(Ord. 2026, Sec. II, 2002; Ord. 2187, Sec. II, 2009)

19.02.105. - BUILDING LINE, FRONT.

Front building line means a line established, in general, parallel to the front street line between which and the front street line, no part of a building shall project, except as otherwise provided in this title.

19.02.110. - BUILDING OFFICIAL.

Building official means the person or persons authorized or empowered to administer the requirements of the Zoning Regulations.

19.02.115. - BUILDING, PRINCIPAL.

Principal building means the building housing the main use of the property on which it is situated.

19.02.120. - CLUB, PRIVATE.

Private club means a building or premises used for social, recreational, dining or philanthropic purposes, the normal use of which is limited to specific members, patrons or otherwise listed and enumerated persons, including clubs in connection with multiple family complexes.

19.02.125. - COMMISSION.

Commission means the Prairie Village City Planning Commission.

19.02.130. - COMMON WALL DWELLING.

Common wall dwelling means a building other than a condominium, designed for occupancy by more than one family, each family occupying a dwelling unit separated from the abutting units by a vertical wall extending at least the height of the dwelling unit. Such building shall be designed so that each dwelling unit may be owned in fee, the ownership to extend to the outside surface of exterior walls and to the centerline of common or party walls. A tract of land may be conveyed in fee concurrent with the sale of the dwelling unit, such tract to normally include at least the area covered by the dwelling unit plus rights of access or easement to other portions of the premises or to a public street.

19.02.135. - CONDOMINIUM DWELLING HOUSE.

Condominium dwelling house means a building containing two or more dwelling units, which dwelling units are separated by a party wall and which dwelling units are designed and intended to be separately owned in fee under the condominium statutes of the state.

19.02.140. - COURT, INNER.

Inner court means a court enclosed on all sides by exterior walls of a building or by exterior walls and lot lines on which walls are allowable.

19.02.145. - COURT, OUTER.

Outer court means an open, unoccupied space, bounded on two or three sides by exterior walls of a building, and on the other side or sides by yards, streets or alleys.

19.02.150. - CUL-DE-SAC.

Cul-de-sac means a street having one end open to traffic and being permanently terminated by a traffic turnaround.

19.02.155. - CURB LEVEL.

Curb level means the mean level of the curb in front of the lot, or in case of a corner lot, along that abutting street where the mean curb level is the highest.

19.02.160. - DAY CARE CENTER.

Day Care Center means a building or place where care, supervision, custody or control is provided for more than six unrelated children or more than two adults for up to 12 hours of any 24-hour day.

(Ord 2208, Sec. II, 2009)

19.02.165. - DAY CARE—FAMILY DAY CARE HOME.

Family Day Care Home means residence or building in which care, supervision, custody or control is provided for six or less unrelated children or not more than two adults for up to 12 hours of any 24-hour day.

(Ord 2208, Sec. II, 2009)

19.02.168. - DIAMETER AT BREAST HEIGHT (DBH).

Diameter at breast height or DBH means the diameter in inches of a tree as measured through the main trunk at the point four and one-half feet above the natural grade level.

(Ord. No. 2446, § I, 3-15-2021, eff. 6-1-2021)

19.02.170. - DISABILITY.

Disability means, with respect to a person:

- (a) A physical or mental impairment which substantially limits one or more of such person's major life activities;
- (b) A record of having such impairment; or
- (c) Being regarded as having such an impairment.

Such term does not include current, illegal use of or addiction to a controlled substance, as defined in Section 102 of the Controlled Substance Act (21 U.S.C. 802)

19.02.175. - DRINKING ESTABLISHMENT—BAR OR NIGHT CLUB.

Drinking establishment, Bar or Night Club means premises which may be open to the general public, where consumption of alcoholic liquor by the general public is sold and less than 50 percent of the income is generated from the sale of food consumed on the premises.

19.02.177. - DRIP LINE.

Drip line means a vertical line running through the outermost portion of the canopy of a tree and extending down to the ground.

(Ord. No. 2446, § I, 3-15-2021, eff. 6-1-2021)

19.02.180. - DRIVE.

Drive means the standard designation established by the uniform street naming system for diagonal streets, such as Juniper Drive.

19.02.185. - DRIVE-IN RESTAURANT.

Drive-in restaurant means any restaurant where ready-to-eat food or beverages are served to persons in vehicles parked on the premises.

19.02.190. - DRIVE-UP OR DRIVE-THROUGH ESTABLISHMENT.

Drive-up or drive-through establishment means any restaurant, financial institution or other enterprise where products, money or other items change hands between a person in a building and a person in a vehicle.

19.02.195. - DUMP.

Dump means a lot or land or part thereof used primarily for the disposal by abandonment, dumping, burial, burning or any other means and for whatever purpose, of garbage, sewage, trash, refuse, junk, discarded machinery, vehicles or parts thereof, or waste material of any kind.

19.02.200. - DWELLING.

Dwelling means a building or portion thereof, designed exclusively for residential occupancy, including one family, two family and multiple dwellings, boarding and lodging houses and apartment houses, but not motels, hotels, mobile homes or manufactured homes.

19.02.205. - DWELLING, MULTIPLE.

Multiple dwelling means a building or portion thereof, arranged, intended or designed for residential occupancy by three or more families, including apartment houses, garden apartments and townhouses.

19.02.210. - DWELLING, SINGLE-FAMILY.

Single-family dwelling means a building arranged, intended or designed for residential occupancy by one family.

19.02.215. - DWELLING, SENIOR ADULT.

Dwelling, senior adult means a building containing one or more living units which building and units are designed for exclusive occupancy by persons 55 years of age or older who are in generally good health. This type of residence does not contemplate continuous health care services but may include a resident nurse. Units may be in the form of complete apartments and/or may provide common dining and recreational facilities and activities.

19.02.220. - DWELLING, TWO FAMILY.

Two family dwelling means a building arranged, intended or designed for residential occupancy by two families; a duplex.

19.02.225. - EASEMENT.

Easement means a grant by the property owner to the public, a corporation, or persons of the use of a strip or parcel of land for specific purposes.

19.02.230. - FAMILY.

Family means one or more persons who are related by blood, marriage, or adoption, living together and occupying a single housekeeping unit; or a group of not more than three, not so related, living together by joint agreement and occupying a single housekeeping unit with single kitchen facilities, on a non-profit cost sharing basis; plus in either case, usual domestic servants and caregivers.

(Ord. 2027, Sec. I, 2002)

19.02.235. - FENCE.

Fence means a free standing structure, which is for the purpose of blocking a view or providing privacy; providing aesthetics; preventing intrusion, escape or trespass; or redirecting a person's direction of travel. A fence generally consists of woven fabric, (including chain link), boards, pickets, iron bars or similar materials and posts and columns made of wood, stone, brick, concrete or iron. This definition does not include solid walls as defined by this chapter.

(Ord. 2247, Sec. II, 2011)

19.02.240. - GARAGE, PRIVATE.

Private garage means an accessory building or portion of a main building used for storage of passenger vehicles.

19.02.245. - GARAGE, REPAIR.

Repair garage means a building or portion thereof, designed or used for the storage, care or repair of motor vehicles, which is operated for commercial purposes.

19.02.250. - GARAGE, STORAGE.

Storage garage means a building or portion thereof, providing storage for motor vehicles, with facilities for no other service.

19.02.254. - GRADE.

A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six feet from the building, between the building and a point six feet from the building.

(Ord. 2019 Sec. I, 2001; Ord. 2187, Sec. II, 2009)

19.02.255. - GRADE, ESTABLISHED.

Established grade means the elevation of the centerline of the streets as officially established by the city.

19.02.260. - GRADE, FINISHED.

Finished grade means the completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

19.02.265. - GROSS FLOOR AREA.

Gross floor area means the sum of the floor areas of the stories of the building, expressed in square feet measured from the exterior surface of the outside wall to the exterior surface of the outside wall and including all porches, utility rooms, stairways, corridors, storage rooms and other common space.

19.02.270. - GROUP HOME.

Group home means any dwelling occupied by not more than ten persons, eight or fewer of whom have a disability, who need not be related by blood or marriage, and not more than two of whom are staff residents, which or specifically otherwise permitted by law is licensed by the state or specifically otherwise permitted by law.

19.02.275. - HOME OCCUPATION.

Home occupation means any occupation of a service character, which is clearly secondary to the principle use of the premises as a dwelling place.

19.02.280. - HOSPITAL.

Hospital means a building used for the diagnosis, treatment or care of human ailments, unless otherwise specified.

19.02.285. - HOTEL OR MOTEL.

Hotel or motel means a building containing not less than 40 rooms intended or designed to be used or which are used, rented or hired out to be occupied or which are occupied by the traveling public for sleeping purposes and where no cooking facilities are provided in the rooms.

19.02.287. - IMPERVIOUS SURFACE COVERAGE.

Impervious surface coverage means that portion of the lot, which is covered by a structure, material, or other fixed physical element that does not allow the infiltration of ground water at the same rate of flow under natural conditions as undisturbed property and cannot be planted with landscape materials. Impervious area includes but is not limited to building footprint, driveways, sidewalks, patios, decks, pools and sheds.

(Ord. 2392, Sec. 1, 2018)

19.02.290. - JUNKYARD.

Junkyard means a place where waste, discarded or salvaged metals, used plumbing fixtures, and other materials are bought, sold, exchanged, stored, baled or cleaned, and places or yards for the storage of salvaged materials and equipment, but excluding pawnshops and establishments for the sale, purchase, or storage of used cars in operable condition, salvaged machinery, used furniture, and household equipment, and the processing of used, discarded or salvaged materials as part of manufacturing operations; salvage yard.

19.02.293. - KANSAS CHAMPION TREE.

Kansas champion tree means a tree of unique distinction, representing the largest tree of a species, located in the state of Kansas and recognized by the Kansas Forest Service. Such trees may be located on public and/or private property within Prairie Village.

(Ord. No. 2446, § I, 3-15-2021, eff. 6-1-2021)

19.02.295. - LANE.

Lane means the standard designation, established by the uniform street naming system for named local north-south streets occurring between the regularly assigned named streets, such as Granada Lane, west of Granada.

19.02.300. - LOT.

Lot means a parcel of land occupied or to be occupied by one main building or unit group of buildings, and the accessory buildings or uses customarily incidental thereto, including such open spaces as are required under these regulations, and having its principal frontage upon a public street. A lot as used in this title may consist of one or more platted lots, or tract or

tracts as conveyed, or parts thereof.

19.02.305. - LOT, CORNER.

Corner lot means a lot abutting upon two or more streets at their intersection.

19.02.306. - LOT COVERAGE.

Lot coverage shall have the same definition as building coverage, as set forth in section 19.02.087.

(Ord. 2019, Sec. I, 2001; Ord. 2048, Sec. II, 2003; Ord. 2392, Sec. 1, 2018)

19.02.310. - LOT DEPTH.

Lot depth means the mean horizontal distance from the front street line to the rear line of a lot.

19.02.315. - LOT, INTERIOR.

Interior lot means a lot whose sidelines do not abut upon a street.

19.02.320. - LOT LINE, FRONT.

Front lot line means the boundary between a lot and the street right-of-way on which it fronts. The front lot line of a corner lot shall be deemed as the least dimension adjacent to a street unless otherwise specified by the Building Official.

19.02.325. - LOT LINE, SIDE.

Side lot line means any lot boundary line not a front or rear line. A side lot line may be a party lot line, or a line bordering on an alley, street, or highway.

19.02.330. - LOT LINE, REAR.

Rear lot line means the boundary line which is opposite to and most distant from the front lot line. In cases of uncertainty, the Building Official shall determine the rear lot line.

19.02.335. - LOT, NET AREA OF.

Net area of a lot means area of lot, exclusive of street right-of-way.

19.02.340. - LOT, THROUGH.

Through lot means an interior lot having frontages on two non-intersecting streets, as distinguished from a corner lot.

19.02.345. - LOT WIDTH.

Lot width means the horizontal distance between the sidelines of the lot measured at the front building line.

19.02.350. - MANUFACTURED HOME.

Manufactured home means a structure, which is subject to the federal manufactured home construction and safety standards, established pursuant to 42 U.S.C. 5403.

19.02.355. - MANUFACTURED HOME, RESIDENTIAL DESIGN.

Manufactured home, residential design means a manufactured home on a permanent foundation which has: (A) minimum dimensions of 22 body feet on width, (B) a pitched roof and (C) siding and roofing materials which are customarily used on site-built homes.

19.02.360. - MASSAGE THERAPY BUSINESS.

Massage therapy business means a business that provides massage therapy as defined in chapter 5.38 of the Municipal Code, for an individual or client by a masseuse/masseur, which business is licensed in accordance with the requirements of chapter 5.38.

19.02.365. - MASTER CITY PLAN.

Master city plan means the comprehensive plan made and adopted by the city planning commission and city council indicating the general locations recommended for the major arterial traffic routes, streets, parks, public buildings, land use and other public improvements.

19.02.367. - MEDICAL OR DENTAL CLINIC OR OFFICE.

Medical or Dental Clinic or Office means an establishment where patients, who are not lodged overnight, and are admitted for examination and treatment by a person or group of persons practicing any form of healing or health building services, whether such persons be medical doctors, chiropractors, osteopaths, chiropractists, naturopaths, optometrists, dentists or any such profession, the practice of which is licensed in the State.

19.02.370. - MOBILE HOME.

Mobile Home means a transportable structure designed to be used as a year-round residential dwelling, and built prior to the effective date of the federal Mobile Home Construction and Safety Act of 1974, which became effective for all mobile home construction on June 15, 1976.

19.02.375. - MODULAR HOME.

Modular Home means a manufactured residential structure built to a nationally-recognized and accepted construction standard published by the Building Officials Conference of America (BOCA) or the International Conference of Building Officials (ICBO) and the unit is inspected and certified at the factory that it meets said standard.

19.02.380. - NONCONFORMITIES.

Nonconformities are of three types, which are defined as follows.

- (a) *Nonconforming Lot of Record*. A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the original adoption of zoning and/or subdivision regulations in the city and said lot does not comply with the lot width or area requirements in the district in which it is located;
- (b) *Nonconforming Structure*. An existing structure which does not comply with the lot coverage, height, area or yard requirements which are applicable to new structures in the zoning district in which it is located;
- (c) *Nonconforming Use*. An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

19.02.385. - NURSING OR CONVALESCENT HOMES.

Nursing or Convalescent Homes means an institution or agency licensed by the State for the reception, board, care, or treatment of three or more unrelated individuals, but not including group homes or facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

19.02.390. - OFF-STREET PARKING.

Off-Street Parking means an area that is laid out for the purpose of parking motor vehicles of residents, customers, employees or visitors and is not located on public right-of-way. Off-street parking shall be considered as an accessory use to the principal use for which the parking is provided.

19.02.395. - OFF-STREET LOADING SPACE.

Off-street loading space means space located outside of dedicated streets for standing of trucks and for loading and unloading them.

19.02.397. - OFFICE.

Office means a commercial use focused on employment and engaged in the administrative, technical, or unscheduled on-premise interaction with the public or clients. For the purposes of the use table and enabling retail uses in zoning districts, use is further refined by scale, intensity, and format to promote compatibility with other uses and development patterns:

- *Office - Small* (under 10,000 square feet). An office use with a building occupying under 10,000 square feet.
- *Office - General* (10,000—100,000 square feet). An office use with a building or group of buildings between 10,000 and 100,000 square feet.
- *Office - Large* (greater than 100,000 square feet). An office use with a building or group of buildings over 100,000 square feet.

19.02.400. - PAVED (DRIVEWAY), (STREET), (TRAFFICWAY).

Paved (driveway), (street), (trafficway) means a wearing surface constructed of solid impervious materials cemented together forming a homogeneous layer over a supporting base. Impervious materials shall include concrete, asphalt, brick and cobblestone.

19.02.405. - PEDESTRIAN WAY.

Pedestrian way means a right-of-way, dedicated to public use, which cuts across a block to facilitate pedestrian access to adjacent streets and properties.

19.02.407. - PERSONAL SERVICE.

Personal Service means a use engaged in the business of providing personal or professional services to the public that may include frequent or unscheduled interaction with clients or customers on-premises. Examples include a barbershop or beauty salon, travel agency, fitness center, health care offices, small equipment repair, tailor, bank, or personal financial services. For the purposes of the use table and enabling retail uses in zoning districts, use is further refined by scale, intensity, and format to promote compatibility with other uses and development patterns:

- *Personal Service - Small* (under 5,000 square feet). A personal service use occupying under 5,000 square feet.
- *Personal Service - General* (5,000—20,000 square feet). A personal service use occupying 5,000 to 20,000 square feet.
- *Personal Service - Large* (greater than 20,000 square feet). A personal service use occupying more than 20,000 square feet.

19.02.410. - PLANNED ZONING DISTRICT.

Planned zoning district means the zoning of a lot or tract to permit that development as specifically depicted on plans approved in the process of zoning that lot or tract.

19.02.415. - PLAT.

Plat means a map, plan or layout of a city, township, section or subdivision indicating the location and boundaries of individual properties.

19.02.417. - RETAIL.

Retail means a commercial use primarily engaged in the sale, lease, or rental of products to the general public with frequent interaction of patrons or consumers on premises. For the purposes of the use table and enabling retail uses in zoning districts, use is further refined by scale, intensity, and format to promote compatibility with other uses and development patterns:

- *Retail—Micro*. A retail use under 1,500 square feet.
- *Retail—Small*. A retail use at least 1,500 but less than 5,000 square feet.

- *Retail—General.* A retail use at least 5,000 but less than 20,000 square feet.
- *Retail—Large.* A large-scale retail use at least 20,000 but less than 80,000 square feet.
- *Retail —Warehouse.* A large-scale retail use at least 80,000 square feet.
- *Retail—Drive-through Food and Beverage.* A retail use serving food or beverages where a portion of the operations use facilities where food is ordered or delivered to customers in vehicles.
- *Retail—Outdoor Sales and Services.* A specific retail use where a portion of business is associated with services or merchandise that is displayed, whether seasonally or permanently. Examples include a garden center, machine or equipment yard, or nursery. This does not include accessory outdoor sales and display areas which may be permitted as an accessory use to an otherwise permitted use or may be permitted through a conditional or temporary use permit.

19.02.420. - RESTAURANT.

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 50 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.

19.02.425. - SERVICE STATION.

Service station means any area of land including structures thereon, that is used or designed to be used for the supply of gasoline or oil or other fuel for the propulsion of motor vehicles and which may include facilities used or designed to be used for polishing, greasing, washing, or otherwise cleaning or servicing such motor vehicles. This definition shall not include the washing of motor vehicles by automatic means such as high volume continuous line automated car washes.

19.02.430. - SIGN.

Sign means any words, numerals, figures, devices, designs or trademarks by which information is made known, such as are used to identify a building, structure or object, or designate or mention an individual, profession, firm, business, commodity or service.

19.02.435. - STORY.

Story that portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two successive tiers of beams or finished floor surfaces and for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters.

(Ord. 2187, Sec. II, 2009)

19.02.436. - STORY ABOVE GRADE PLANE.

Any story having its finish floor surface entirely above grade plane, except that a basement shall be considered a story where the foundation is exposed above grade on the front elevation to any extent not permitted by these standards or authorized exceptions.

(Ord. 2187, Sec. II, 2009; Ord. 2392, Sec. 1, 2018)

19.02.440. - STREET.

Street means a right-of-way, dedicated to public use, which provides the principal route of access to abutting property for vehicular and pedestrian traffic (see also traffic artery). All streets in Prairie Village which are not designated as traffic arteries are local streets also standard designation established by the uniform street naming system for numbered east-west streets.

19.02.445. - STREET GRADE.

Street grade means the officially established elevations of a street.

19.02.450. - STREET LINE.

Street Line means the dividing line between the street and the abutting property.

19.02.455. - STREET NETWORK.

- (a) *Arterial Street*: A street which provides for through traffic movement between and around areas and across the city with direct access to abutting property; subject to necessary control of entrances, exists and curb uses and is so designated for the comprehensive plan.
- (b) *Collector Street*: A street, which provides for traffic movement between arterial and local streets, with direct access to abutting property and is so designated in the comprehensive plan.
- (c) *Local Street*: A street, which provides direct access to abutting land and for local traffic movement, whether in business, industrial or residential areas.

19.02.460. - STRUCTURAL ALTERATIONS.

Structural alterations means any change in the supporting members of a building, such as bearing walls or partitions, columns, beams or girders, or any structural change in the roof, but not including extension or enlargement.

19.02.465. - STRUCTURE.

Structure means anything constructed or erected, which requires location on the ground or attached to something having a location on the ground, including but not limited to advertising signs, billboards, and poster panels; but exclusive of customary fences, boundary or retaining walls, or utility poles.

19.02.470. - SUBDIVIDER.

Subdivider means a person, firm or corporation undertaking the subdivision or resubdividing of a tract or parcel of land.

19.02.472. - TEMPORARY POLITICAL SIGN.

Temporary political sign means a sign relating to a candidate, political party, ballot issue, or other political issue to be voted upon in any public election, or relating to the expression or communication of constitutionally protected speech, other than commercial speech.

(Ord. 1944, Sec. 1, 1998)

19.02.475. - TERRACE.

Terrace means the standard designation established by the uniform street naming system for numbered east-west streets located between numbered streets.

19.02.480. - THEATER, MOTION PICTURE.

Motion picture theater means a building or part of a building devoted to the showing of motion pictures on a paid admission basis.

19.02.485. - THEATER, OUTDOOR DRIVE-IN.

Outdoor drive-in theater means an open lot or part thereof, with its appurtenant facilities, devoted primarily to the showing of motion pictures or theatrical productions, on a paid admission basis, to patrons seated in automobiles or on outdoor seats.

19.02.490. - TOWNHOUSE.

Townhouse means a building containing more than one dwelling unit with such dwelling units being separated by common walls as opposed to one unit being over another.

19.02.495. - TRUCK.

Truck includes tractor and trailer trucks, or any motor vehicle, which carries truck license.

19.02.499. - UTILITY BOX.

Any cabinet, pedestal, box, building or other equipment enclosure used for public utility services, public service corporations, or telecommunications providers including any associated equipment such as condensing units and generators. Traffic signal controllers shall not be considered utility boxes. Utility boxes with a footprint smaller than one and one half square foot, a pad of two square feet or less, and a height of 36 or less are exempt from this definition. Utility racks and open trellis-type structures for mounting equipment are not permitted. All equipment must be placed within a cabinet or enclosed structure that has an acceptable aesthetic design and has break away capability for safety.

All existing utility boxes are nonconforming structures and have all rights granted by chapter 19.40 Nonconformities. Utility boxes are exempt from section 19.40.015(b) Enlargement, Repair and Maintenance and section 19.40.015(c) Damage, Destruction and Demolition, and may be replaced provided that the replacement box is generally the same size as or smaller than the original utility box. This determination will be made by City staff.

(Ord. 2029, Sec. I, 2002; Ord. 2190, Sec. II, 2009)

19.02.500. - VARIANCE.

Variance means variation from a specific provision of this title as applied to a specific piece of property or structure.

19.02.502. - WALL, RETAINING.

A wall which may be constructed of wood, stone, brick, concrete, block or similar materials designed or built to retain soil or other materials from slumping, sliding or falling.

(Ord. 2247, Sec. II, 2011)

19.02.503. - WALL, SOLID.

A free standing structure, which is for the purpose of blocking a view or providing privacy; providing aesthetics; preventing intrusion, escape or trespass; or redirecting a person's direction of travel. A solid wall generally is constructed of brick, stone, concrete, block or similar materials or materials that are similar in appearance.

(Ord. 2247, Sec. II, 2011)

19.02.515. - YARD.

Yard means an open space at grade between a building and the adjoining lot lines, unoccupied and unobstructed by any portion of a structure from the ground upward, except as otherwise provided herein. In measuring a yard for the purpose of determining the width of a side yard, the depth of a front yard or the depth of a rear yard, the least horizontal distance between the lot line and the building or structure shall be used. Where lots abut a street that is designated a traffic artery on the thoroughfare plan, all yards abutting said street shall be measured from a line one-half the proposed right-of-way width from the centerline, or from the lot line, whichever provides the greater setback. On other lots, all yards abutting a street shall be measured from a line 25 feet from the centerline, or from the lot line, whichever provides the greater setback. Minimum front, side and rear yards are established within each zoning district.

19.02.520. - YARD, FRONT.

Front Yard means an unoccupied, open space, except as hereinafter provided, between the front street line of the lot and the wall of the building or structure nearest the street on which the lot fronts and the line of that wall extended to the side lines of the lot. The minimum depth of the front yard shall be determined by measuring the distance between the point of the wall of the building or the structure nearest the street and the front street line of the lot. The front yard of a corner lot shall be adjacent to that street on which the lot has its least dimension unless otherwise specified by the building official.

If the corner lot consists of all of more than two platted parcels of land each of whose least dimensions is on the same street as the other lots in the block, then the location of the front yard of this lot shall be on the same street as the other lots unless otherwise specified by the building official.

If a corner lot consists entirely of unplatted land or a combination of platted and unplatted land, the front yard shall be on that street on which there fronts the greater number of lots, whether platted or unplatted unless otherwise specified by the building official.

Any question as to the above requirements for a corner lot shall be determined by the building official.

19.02.525. - YARD, REAR.

Rear yard means an open space, unoccupied, except as hereinafter provided on the same lot with a building between the rear line of a building and that line extended, the side lines of the lot and the rear line of the lot. Where no rear line exists, a line parallel to the front street line and distanced as far as possible therefrom entirely on such lot and not less than ten feet long shall be deemed the rear line. The depth of the rear yard shall be the distance between the nearest point of the rear wall of the building and the rear line of the lot, or that line produced, measured at right angles to the rear line of the lot.

19.02.530. - YARD, SIDE.

Side yard means an open space, unoccupied, except as hereinafter provided, on the same lot with a building, situated between the building and the side line of the lot and extending through from the front yard to the rear yard.

19.02.535. - ZONING DISTRICT.

Zoning District means a section or sections of the zoning jurisdiction for which uniform regulations governing the use of land, the height, use, area, size, and intensity of use of buildings, land, and open spaces are herein established.

Chapter 19.04 - DISTRICTS AND DISTRICT MAPS

19.04.005. - DISTRICTS DESIGNATED.

In order to designate districts for the purposes of this title, the city is divided into the following zoning districts:

District R-1a, single-family residential district;

District R-1b, single-family residential district;

District R-2, two family residential district;

District R-3, garden apartment district;

District R-4, condominium or common wall dwelling house district;

District RP-1a and RP-1b, planned single family residential district;

District RP-2, planned two family residential district;

District RP-3, planned garden apartment district;

District RP-4, planned condominium or common wall district;

District C-0, office building district;

District C-1, restricted business district;

District C-2, general business district;

District C-3, special use business district;

District CP-0, planned office building district;

District CP-1, planned restricted business district;

District CP-2, planned general business district.

District MXD, planned mixed use district

19.04.010. - BOUNDARIES-ZONING MAP.

The boundaries of the districts designated by section 19.04.010 are established as shown on the map entitled "Prairie Village, Kansas, Zoning District Map" adopted by Ordinance No. 1688 on September 18, 1989, as amended by all annexations subsequent to the adoption of said map including zoning amendments from time to time adopted by due process of law. Said map, as amended from time to time, will be on file in the Office of the City Clerk.

19.04.015. - PLATTED LOT, BLOCK LINES.

Platted lot and block lines are shown on the maps mentioned in section 19.04.010. When definite distances are not shown on said map, the district boundaries are intended to be along existing street, alley or platted lot lines, or extensions of the same. If the exact location of such lines is not clear, it shall be determined by the building official, subject upon appeal to review by the board of zoning appeals, due consideration being given to location as indicated by the scale of the zoning map. Where, on account of any vacation proceeding or for any other cause, the streets, alleys or pedestrian ways differ from the streets, alleys or pedestrian ways as shown on the zoning map, the board of zoning appeals may apply the district designations on the map to the streets, alleys or pedestrian ways on the ground in such manner as to conform to the intent and purpose of this chapter.

19.04.020. - DISTRICT CLASSIFICATION—VACATED STREET, ALLEY.

When any street, alley or pedestrian way is vacated, the district classification for property contiguous thereto shall automatically be extended to the centerline of any such vacated street or alley.

19.04.025. - DISTRICT CLASSIFICATION—ANNEXATIONS.

All territory, which may hereinafter be annexed to the city, shall automatically be classed as lying and being in District R-1a until such classification shall have been changed by an amendment to this title, as provided by law.

19.04.030. - RESTRICTIONS.

No buildings or structures shall be erected, moved, altered, enlarged or used nor shall any land be used in said districts for other than one of the authorized uses in the district in which the building or land is located.

Chapter 19.06 - DISTRICT R-1a SINGLE FAMILY RESIDENTIAL DISTRICT

19.06.005. - PURPOSE AND INTENT.

Prairie Village is, for the most part, a single-family residential community. Approximately 45 percent of the platted lots in the city are 65 feet wide or less, nearly all are concentrated in the north-central section of the city.

The balance of the lots range from 70 feet widths to more than one acre. This wide diversity of lot sizes requires two single-family residential districts, R-1a and R-1b. District R-1a establishes a minimum lot size of 10,000 square feet and a minimum of lot width of 80 feet. District R-1b establishes a minimum lot width of 60 feet and minimum lot area of 6,000 square feet. Additional regulatory procedures set out in the subdivision regulations further control the subdivision and resubdivision of land based upon the character of the surrounding neighborhood. Therefore, lots larger than this minimum will be required in areas where larger lots prevail nearby.

Districts R-1a and R-1b contain the traditional density standards, front, side and rear yard requirements and other regulatory measures. New development and redevelopment may, however, achieve needed flexibility by use of planned zoning procedures as set out in chapter 19.24.

It is the purpose and intent of chapters 19.06 and 19.08 to protect and sustain the property values, prevent the decline of physical conditions of private property, prevent conversions of dwellings to uses that are not in harmony with the neighborhood and generally assure a quality of life of the highest practical order.

(Ord. 1882, Sec. 2, 1995)

19.06.010. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

(Ord. 1882, Sec. 2, 1995; Ord. 2407, Sec. 2, 2019)

19.06.015. - DEVELOPMENT STANDARDS.

(a) *General Standards.* In District R-1a, the following lot and building development standards apply to buildings and

structures. For general exceptions, see chapter 19.44 "Height and Area Exceptions". Except for impervious coverage standards identified in sub-section (b), any deviation from these standards shall only be permitted by variances subject to the procedures and criteria of chapter 19.54.

Table 19.06.A - Development Standards

R-1a

Lot:

Width

80' minimum

Depth

125' minimum

Building Coverage

30% of lot, maximum

Impervious Surface Coverage

40% of lot, maximum

Building Setbacks:

Front

30' minimum

Side

7' minimum each side;
20% of lot width minimum between both sides; and
At least 14' between adjacent buildings

Street Side

15' minimum, or at least 50% of the depth of the front yard of any adjacent lot facing the same street, whichever is greater

Rear

25' minimum

Height:

Height

35' maximum, measured from the top of foundation to the highest point of the roof structure

Story Limit

2.5 stories

(b) *Lot Impervious Coverage Applicability and Exceptions.*

- (1) Applicability. The total lot impervious surface coverage standard shall only apply to the following situations:
 - a. Any new residential structure on a vacant lot;
 - b. A tear down or an existing residential structure and rebuild of a new residential structure;
 - c. Any remodel of an existing residential structure that adds more than 200 square feet to the existing footprint or tears down more than 10% of the existing structure associated with new construction; and
 - d. Any future development activity on any lot that has been subject to this standard according to a., b. or c.
- (2) Exceptions:
 - a. Any lot 10,000 square feet or less may have an unenclosed and uncovered deck or patio encroach up to 300 square feet that does not count to the impervious coverage standard.
 - b. The planning commission may grant exceptions to the total lot impervious coverage standard based on the process and criteria in 19.06.025, subsection F, and provided a drainage study has been approved by Public Works.

(Ord. 2392, Sec. 2, 2018)

19.06.020. - ACCESSORY BUILDINGS AND STRUCTURES.

(a) *Residential Uses.* All lots used for residential buildings may have the following accessory buildings.

- (1) One minor accessory storage building not exceeding 120 square feet for lots under 10,000 square feet, 200 square feet for lots over 10,000 square feet and no taller than ten feet high. The building shall be setback at least three feet from the side and rear lot line, and located at the rear of the principal building.
- (2) One major accessory building not exceeding 576 square feet and subject to the following design standards:
 - a. The height shall be no more than 20 feet, or no taller than the principal structure, whichever is less.
 - b. The building shall be designed compatible with the principal structure, including materials, windows and doors, roof form and pitch and architectural style and details.
 - c. The building shall be setback at least 60 feet from the front lot line, and at least 20 feet from any street side lot line.
 - d. The building shall be setback at least three feet from the side and rear property line, except that any portion of the structure above ten feet shall be setback a distance of at least 1/3 the height. For a pitched roof structure, portions of the structure may be up to three feet from the property, provided they are under ten feet high; however any portion between ten feet and 20 feet must be stepped back at least 1/3 the height.

(b) *Non-residential Uses.* Non-residential uses permitted in residential districts shall be allowed one accessory building for each one acre of lot area, up to a maximum of three structures. These buildings shall be limited to 300 square feet and 16 feet tall, provided they meet all principal building setbacks and are not visible or are

screened from the right-of-way by landscape. All other buildings shall be considered principal buildings and designed and approved subject to principal building standards, or as otherwise permitted through special use permits according to chapter 19.28.

- (c) *Building Coverage*. All accessory buildings and structures over 30 inches high shall count towards the overall 30 percent building coverage limit.

(Ord. 2392, Sec. 2, 2018)

19.06.025. - NEIGHBORHOOD DESIGN STANDARDS.

- (a) *Design Objectives*. The design objectives of the Neighborhood Design Standards are to:

- (1) Maintain and enhance the unique character of Prairie Village neighborhoods.
- (2) Promote building and site design that enhances neighborhood streetscapes.
- (3) Reinforce the existing scale and patterns of buildings in neighborhoods for new construction.
- (4) Manage the relationship of adjacent buildings and promote compatible transitions.
- (5) Enhance the quality, aesthetic character and visual interest within neighborhoods by breaking down larger masses and incorporating human scale details and ornamentation.
- (6) Locate and orient buildings to maintain the existing grade of the street, block, and lot frontages, and design them in a manner that reduces the perceived massing from the streetscape and abutting lots.

- (b) *Applicability*. These neighborhood design standards shall be applicable to the following situations:

- (1) Any new residential structure.
- (2) Construction activity that adds more than 200 square feet of building footprint to an existing residential structure.
- (3) Construction activity that alters the form or massing of the front elevation or roof of a residential structure.
- (4) Any future development activity of any scale on property that has been subject to paragraphs (1), (2), or (3) above.

With the exception of the frontage tree standards, the neighborhood design standards shall only apply to the extent of the proposed construction activity, and any portion of a building or site that does not conform to these standards but is existing and not part of the application may remain.

- (c) *Landscape and Frontage Design*. The following landscape and frontage design standards promote the character and quality of streetscapes, improve the relationship of lots and buildings to the streetscape, and provide natural elements and green space to compliment development.

- (1) *Frontage Trees*. All lots shall have at least one frontage tree. Lots with over 80 feet of street frontage shall have at least one tree per 50 feet to maintain an average spacing between 30 and 50 feet along the streetscape.
 - a. Existing street trees or private trees within the first 20 feet of the front lot line may count to this requirement provided the tree is healthy, and is protected from any damage during construction activity.
 - b. Frontage trees shall be selected from the latest version of the approved city right-of-way tree list.

- c. Frontage trees shall be at least two-inch caliper at planting.
 - d. Frontage trees shall be located in line with other trees on the block to create a rhythm along the streetscape and enclosure of the tree canopy. In the absence of a clearly established line on the block, the following locations shall be used, where applicable:
 - (i) Street trees center between the sidewalk and curb where at least six feet of landscape area exists;
 - (ii) Street trees four feet to eight feet from the back of curb where no sidewalk exists; or
 - (iii) Private frontage trees within the first five feet of the front lot line where any constraints in the right-of-way or on the lot would prevent other preferred locations.
 - e. Planting of any frontage trees in the right-of-way or any work in the right-of-way shall be coordinated with public works for permits, location, and planting specifications.
 - f. Planting of all frontage trees may be deferred for up to six months from completion of any site or right-of-way construction, through the site plan approval or public works right-of-way permit process, to allow for timely planting that ensures the health and survival of trees.
 - g. Plantings of all frontage trees shall be properly maintained. Trees that fail to grow within a one-year period or which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated. The city may order that any tree that dies or is in danger of dying be removed and replaced by the property owner.
- (2) *Green Space.* Lots shall maintain at least 60 percent of the lot between the front building line and the front lot line as green space - permeable areas planted with trees, shrubs, vegetative ground cover, or ornamental plants.
- a. Exceptions. Any lot less than 70 feet wide and fronting on a collector or arterial street as designated in section 13-203 of the City Code may reduce the frontage greenspace to 50 percent to allow for safe access and parking, provided the total lot impervious surface limit is maintained.
- (d) *Building Massing.* The following massing standards breakdown the volume of the buildable area and height into smaller scale masses to improve the relationship of the building to the lot, to adjacent buildings and to the streetscape, and shall apply in addition to the basic setback and height standards.
- (1) *Windows and Entrances.* All elevations shall have window and door openings covering at least:
- a. Fifteen percent on all front elevation or any street facing side elevation; and
 - b. Eight percent on other side elevations; and
 - c. Fifteen percent on rear elevations.
- Any molding or architectural details integrated with the window or door opening may count for up to three percent of this percentage requirement.
- (2) *Wall Planes:* Wall planes shall have varied massing by:
- a. Wall planes over 500 square feet shall have architectural details that break the plane into distinct masses of at least 20 percent of the wall plane. Architectural details may include:
 - (i) Projecting windows, bays or other ornamental architectural details with offsets of a minimum of 1.5 feet.

- (ii) Off-sets of the building mass such as step backs or cantilevers of at least two feet.
- (iii) Single-story front entry features such as stoops, porticos or porches.
- (iv) No projections shall exceed the setback encroachment limits of section 19.44.020.
- b. No elevation along the side lot line shall be greater than 800 square feet without at least four feet additional setback on at least 25 percent of the elevation.
- (3) *Garage Limits*. The following garage door standards maintain a human scale for front facades, create a relationship between the facade and the streetscape and limit the expression of the garage as the primary feature at the building frontage.
 - a. Garage doors shall not exceed more than nine feet wide for single bays or 18 feet wide for double bays and eight feet, two inches high.
 - b. Garages expressed as a separate mass on the front elevation shall be limited based on the width of the front facade as follows:

Table 19.06 B - Garage Mass Limits

Front Facade Width	Maximum width of garage mass
Under 48'	50% of elevation
48' to 60'	24'
Over 60'	40% of elevation

- c. Any lot or building configuration that permits more than two front garage entries shall require at least one of them to be off-set by at least two feet, or require side orientation of the garage entrances.
- d. Front-loaded garage wall planes shall be limited based on its position in relation to the main mass as follows:

Table 19.06 C - Garage Placement Limits

Placement in relation to main mass	Mass / wall plane limits
In front up to 4'	Front wall plane for the garage mass shall be limited to 360 s.f. max.
More than 4' but less than 12' in front	Overall wall planes for the garage mass shall be limited to 360 s.f.; The wall planes with the garage door shall be limited to 216 s.f. max;

	Any upper level gables, dormers or other wall planes shall cantilever or be offset at least 2' from the garage door plane; A front entry feature shall be established along at least 12' of the front elevation, and in front of or no more than 4' behind the garage entry.
12' or more in front	Prohibited, unless side oriented doors. Then, subject to a wall plane limit of no more than 360 square feet.
All others (flush or setback from the main mass)	Limited to same standards as main mass in Section (d)2. (i.e. 500 s.f. max elevations)

- e. On corner lots, an attached garage constructed as an integral part of the principal structure may have a minimum rear setback of 18 feet, provided the driveway entrance is off the side street, the garage is setback at least 25 feet from the side lot line, and the footprint of the garage is no more than 576 square feet.

(e) *Building Foundations.*

- (1) New residential structures shall establish the top of foundation between six inches and 24 inches above the finished grade along the front facade.
- (2) No new residential structure may be built with a top of foundation more than 12 inches higher than the top of foundation of a previous existing home, or the height allowed by sub-sections (1), whichever is less.
- (3) New residential structures or additions may raise the top of foundation an additional six inches for every additional five feet over the minimum side setback that the building sets back from both side property lines, up to 36 inches above the finished grade along the front facade.
- (4) Any elevation that has more than 24 inches of foundation exposed due to grade changes shall cover the foundation by extending the siding to within 24 inches of finished grade, or by covering the foundation with decorative materials such as stone or brick that compliments the principal materials of the building.
- (5) New residential structures or additions not meeting paragraphs (1) through (3) above shall be submitted to the planning commission for review. The planning commission may grant an exception based on the following criteria:
 - a. The design of the building elevations, and, specifically any design details that reduce the scale and massing of the building compared to what could otherwise be built under the zoning standards.
 - b. The relationship of the proposed dwelling to existing structures, and whether their grading, elevation, and design is appropriate for the context.
 - c. Any special considerations of the lot with respect to existing grades, proposed appropriate grades and the drainage patterns in relation to adjacent properties and the proposed structure.

(f) *Exceptions.* The planning commission may grant exceptions to the neighborhood design standards in this section 19 through the site plan review process, based upon the following criteria:

- (1) The exception shall only apply to the design standards in this section, and not be granted to allow something that is specifically prohibited in other regulations;
- (2) Any exception dealing with the placement of the building is consistent with sound planning, urban design and engineering practices when considering the site and its context within the neighborhood.
- (3) The placement and orientation of the main mass, accessory elements, garages and driveways considers the high points and low points of the grade and locates them in such a way to minimize the perceived massing of the building from the streetscape and abutting lots.
- (4) Any exception affecting the design and massing of the building is consistent with the common characteristics of the architectural style selected for the building.
- (5) The requested exception improves the quality design of the building and site beyond what could be achieved by meeting the standards - primarily considering the character and building styles of the neighborhood and surrounding properties, the integrity of the architectural style of the proposed building, and the relationship of the internal functions of the building to the site, streetscape and adjacent property.
- (6) The exception will equally or better serve the design objectives stated in section 19.06.025(a) and the intent stated for the particular standard being altered.

(Ord. 2392, Sec. 2, 3, 2018; Ord. 2407, Sec. 2, 2019)

19.06.045. - PARKING REGULATIONS.

Not less than two off street parking spaces shall be provided for each dwelling unit. Not less than one parking space shall be in a garage or carport, the remaining space or spaces and the access thereto shall be paved with a Portland cement concrete or hot-mix asphalt surface. For additional parking regulations see chapter 19.46.

(Ord. 1882, Sec. 2, 1995)

19.06.050. - SITE PLAN APPROVAL AND PUBLIC NOTICE.

- (a) All new buildings or structures and proposed expansions and enlargements of more than ten percent of the existing floor area of existing buildings except single family dwellings, group homes and residential design manufactured homes shall prepare and submit a site plan in accordance with chapter 19.32 Site Plan Approval prior to the issuance of a building permit.
- (b) Any teardown of an existing residential structure and any new principal residential structure on a vacant lot shall send notice to all property owners within 200 feet of the lot, excluding rights-of-way. Notice shall be sent by certified mail, return receipt requested, on a form provided by the city indicating the action requested, that plans are on file with the city for review, the contact information of the property owner, and the main contact for the proposed construction. The city shall not issue any permits until provided evidence that notice has been sent.
- (c) If application is made for a building permit for a building or structure, which is not required to submit a site plan and whose architectural style or exterior materials in the opinion of the building official vary substantially from

such style or materials which have been used in the neighborhood in which the building or structure is to be built, the plans and supporting information for such building or structure shall be submitted to the planning commission for review and approval as to its compatibility with the surrounding neighborhood. This paragraph shall not apply to single-family dwellings, group homes and residential design manufactured homes.

(Ord. 1882, Sec. 2, 1995; Ord. 2392, Sec. 3, 2018; Ord. 2407, Sec. 2, 2019)

Chapter 19.08 - DISTRICT R-1b SINGLE FAMILY RESIDENTIAL DISTRICT

19.08.005. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

(Ord. 1882, Sec. 3, 1995; Ord. 2407, Sec. 3, 2019)

19.08.015. - DEVELOPMENT STANDARDS.

- (a) *General Standards.* In District R-1b, the following lot and building development standards apply to buildings and structures. For general exceptions, see chapter 19.44 "Height and Area Exceptions". Except for impervious coverage standards identified in sub-section (b), any deviation from these standards shall only be permitted by variances subject to the procedures and criteria of chapter 19.54.

Table 19.08.A - Development Standards

R-1b	
Lot:	
Width	60' minimum
Depth	100' minimum
Building Coverage	30% of lot, maximum
Impervious Surface Coverage	40% of lot, maximum
Building Setbacks:	
Front	30' minimum

Side	6' minimum each side; 20% of lot width minimum between both sides; and At least 12' between adjacent buildings
Street Side	15' minimum, or at least 50% of the depth of the front yard of any adjacent lot facing the same street, whichever is greater
Rear	25' minimum
Height:	
Height	29' maximum, measured from the top of foundation to the highest point of the roof structure
Story Limit	2 stories

(b) *Lot Impervious Coverage Applicability and Exceptions.*

(1) *Applicability.* The total lot impervious surface coverage standard shall only apply to the following situations:

- a. Any new residential structure on a vacant lot;
- b. A tear down or an existing residential structure and rebuild of a new residential structure;
- c. Any remodel of an existing residential structure that adds more than 200 square feet to the existing footprint or tears down more than ten percent of the existing structure associated with new construction; and
- d. Any future development activity on any lot that has been subject to this standard according to a., b. or c.

2. *Exceptions:*

- a. Any lot 10,000 square feet or less may have an unenclosed and uncovered deck or patio encroach up to 300 square feet that does not count to the impervious coverage standard.
- b. The planning commission may grant exceptions to the total lot impervious coverage standard based on the process and criteria in section 19.08.025, subsection (f), and provided a drainage study has been approved by public works.

(Ord. 2392, Sec. 3, 2018)

19.08.020. - ACCESSORY BUILDINGS AND STRUCTURES.

(a) *Residential Uses.* All lots used for residential buildings may have the following accessory buildings.

- (1) One minor accessory storage building not exceeding 120 square feet for lots under 10,000 square feet, 200 square feet for lots over 10,000 square feet and no taller than ten feet high. The building shall be setback at least three feet from the front, side and rear lot line, and located at the rear of the principal building.
- (2) One major accessory building not exceeding 576 square feet and subject to the following design standards:
 - a. The height shall be no more than 20 feet, or no taller than the principal structure, whichever is less.
 - b. The building shall be designed compatible with the principal structure, including materials, windows and doors, roof form and pitch and architectural style and details.
 - c. The building shall be setback at least 60 feet from the front lot line, and at least 20 feet from any street side lot line.
 - d. The building shall be setback at least three feet from the side and rear property line, except that any portion of the structure above ten feet shall be setback a distance of at least one-third the height. For a pitched roof structure, portions of the structure may be up to three feet from the property, provided they are under ten feet high; however any portion between ten feet and 20 feet must be stepped back at least one-third the height.
- (b) *Non-residential Uses.* Non-residential uses permitted in residential districts shall be allowed one accessory building for each one acre of lot area, up to a maximum of three structures. These buildings shall be limited to 300 square feet and 16 feet tall, provided they meet all principal building setbacks and are not visible or are screened from the right-of-way by landscape. All other buildings shall be considered principal buildings and designed and approved subject to principal building standards, or as otherwise permitted through special use permits according to chapter 19.28.
- (c) *Building Coverage.* All accessory buildings and structures over 30 inches high shall count towards the overall 30 percent building coverage limit.

(Ord. 2392, Sec. 3, 2018)

19.08.025. - NEIGHBORHOOD DESIGN STANDARDS.

- (a) *Design Objectives.* The design objectives of the Neighborhood Design Standards are to:
 - (1) Maintain and enhance the unique character of Prairie Village neighborhoods.
 - (2) Promote building and site design that enhances neighborhood streetscapes.
 - (3) Reinforce the existing scale and patterns of buildings in neighborhoods for new construction.
 - (4) Manage the relationship of adjacent buildings and promote compatible transitions.
 - (5) Enhance the quality, aesthetic character and visual interest within neighborhoods by breaking down larger masses and incorporating human scale details and ornamentation.
 - (6) Locate and orient buildings to maintain the existing grade of the street, block, and lot frontages, and design them in a manner that reduces the perceived massing from the streetscape and abutting lots.
- (b) *Applicability.* These Neighborhood Design Standards shall be applicable to the following situations:
 - (1) Any new residential structure.
 - (2) Construction activity that adds more than 200 square feet of building footprint to an existing residential

structure.

- (3) Construction activity that alters the form or massing of the front elevation or roof of a residential structure.
- (4) Any future development activity of any scale on property that has been subject to paragraphs 1., 2, or 3. above.

With the exception of the frontage tree standards, the neighborhood design standards shall only apply to the extent of the proposed construction activity, and any portion of a building or site that does not conform to these standards but is existing and not part of the application may remain.

- (c) *Landscape and Frontage Design.* The following landscape and frontage design standards promote the character and quality of streetscapes, improve the relationship of lots and buildings to the streetscape, and provide natural elements and green space to compliment development.
 - (1) *Frontage Trees.* All lots shall have at least one frontage tree. Lots with over 80 feet of street frontage shall have at least one tree per 50 feet to maintain an average spacing between 30 and 50 feet along the streetscape.
 - a. Existing street trees or private trees within the first 20 feet of the front lot line may count to this requirement provided the tree is healthy, and is protected from any damage during construction activity.
 - b. Frontage trees shall be selected from the latest version of the approved City right-of-way tree list.
 - c. Frontage trees shall be at least two-inch caliper at planting.
 - d. Frontage trees shall be located in line with other trees on the block to create a rhythm along the streetscape and enclosure of the tree canopy. In the absence of a clearly established line on the block, the following locations shall be used, where applicable:
 - (i) Street trees center between the sidewalk and curb where at least six feet of landscape area exists;
 - (ii) Street trees four feet to eight feet from the back of curb where no sidewalk exists; or
 - (iii) Private frontage trees within the first five feet of the front lot line where any constraints in the right-of-way or on the lot would prevent other preferred locations.
 - e. Planting of any frontage trees in the right-of-way or any work in the right-of-way shall be coordinated with public works for permits, location, and planting specifications.
 - f. Planting of all frontage trees may be deferred for up to six months from completion of any site or right-of-way construction, through the site plan approval or public works right-of-way permit process, to allow for timely planting that ensures the health and survival of trees.
 - g. Plantings of all frontage trees shall be properly maintained. Trees that fail to grow within a one-year period or which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated. The city may order that any tree that dies or is in danger of dying be removed and replaced by the property owner.
 - (2) *Green Space.* Lots shall maintain at least 60 percent of the lot between the front building line and the front lot line as green space - permeable areas planted with trees, shrubs, vegetative ground cover, or ornamental plants.
 - a. Exceptions. Any lot less than 70 feet wide and fronting on a collector or arterial street as designated in

section 13-203 of the City Code may reduce the frontage greenspace to 50 percent to allow for safe access and parking, provided the total lot impervious surface limit is maintained.

- (d) *Building Massing.* The following massing standards breakdown the volume of the buildable area and height into smaller scale masses to improve the relationship of the building to the lot, to adjacent buildings and to the streetscape, and shall apply in addition to the basic setback and height standards.
- (1) *Windows and Entrances.* All elevations shall have window and door openings covering at least:
- a. Fifteen percent on front elevations or any street facing side elevations; and
 - b. Eight percent on other side elevations; and
 - c. Fifteen percent on rear elevations.
- Any molding or architectural details integrated with the window or door opening may count for up to three percent of this percentage requirement.
- (2) *Wall Planes:* Wall planes shall have varied massing by:
- a. Wall planes over 500 square feet shall have architectural details that break the plane into distinct masses of at least 20 percent of the wall plane. Architectural details may include:
 - (i) Projecting windows, bays or other ornamental architectural details with offsets of a minimum of 1.5 feet.
 - (ii) Off-sets of the building mass such as step backs or cantilevers of at least two feet.
 - (iii) Single-story front entry features such as stoops, porticos or porches.
 - (iv) No projections shall exceed the setback encroachment limits of section 19.44.020.
 - b. No elevation along the side lot line shall be greater than 800 square feet without at least four feet additional setback on at least 25 percent of the elevation.
- (3) *Garage Limits.* The following garage door standards maintain a human scale for front facades, create a relationship between the facade and the streetscape, and limit the expression of the garage as the primary feature at the building frontage.
- a. Garage doors shall not exceed more than nine feet wide for single bays, or 18 feet wide for double bays, and eight feet, two inches high.
 - b. Garages expressed as a separate mass on the front elevation shall be limited based on the width of the front facade as follows:

Table <u>19.08</u> B - Garage Mass Limits	
Front Facade Width	Maximum width of garage mass
Under 48'	50% of elevation
48' to 60'	24'

Over 60'	40% of elevation
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- c.

No more than two bays (two-single or one double door) shall be permitted on the front elevation. Any site or building configuration that permits three or more garage bays shall require side orientation or rear access for anything beyond two bays.
- d.

Front-loaded garage wall planes shall be limited based on its position in relation to the main mass as follows:

Table 19.08 C - Garage Placement Limits	
Placement in relation to main mass	Mass / wall plane limits
In front up to 4'	Front wall plane for the garage mass shall be limited to 360 s.f. max.
More than 4' but less than 12' in front	Overall wall planes for the garage mass shall be limited to 360 s.f.; The wall planes with the garage door shall be limited to 216 s.f. max; Any upper level gables, dormers or other wall planes shall cantilever or be offset at least 2' from the garage door plane; A front entry feature shall be established along at least 12' of the front elevation, and in front of or no more than 4' behind the garage entry.
12' or more in front	Prohibited, unless side oriented doors. Then, subject to a wall plane limit of no more than 360 square feet.
All others (flush or setback from the main mass)	Limited to same standards as main mass in section (d)2. (i.e. 500 s.f. max elevations)

- e.

On corner lots, an attached garage constructed as an integral part of the principal structure may have a minimum rear setback of 18 feet, provided the driveway entrance is off the side street, the garage is setback at least 25 feet from the side lot line and the footprint of the garage is no more than 576 square feet.

(e) *Building Foundations.*

- (1)

New residential structures shall establish the top of foundation between six inches and 24 inches above the

finished grade along the front facade.

- (2) No new residential structure may be built with a top of foundation more than 12 inches higher than the top of foundation of a previous existing home, or the height allowed by sub-sections 1., whichever is less.
- (3) New residential structures or additions may raise the top of foundation an additional six inches for every additional five feet over the minimum side setback that the building sets back from both side property lines, up to 36 inches above the finished grade along the front facade.
- (4) Any elevation that has more than 24 inches of foundation exposed due to grade changes shall cover the foundation by extending the siding to within 24 inches of finished grade, or by covering the foundation with decorative materials such as stone or brick that compliments the principal materials of the building.
- (5) New residential structures or additions not meeting paragraphs 1. through 3. above shall be submitted to the planning commission for review. The planning commission may grant an exception based on the following criteria:
 - a. The design of the building elevations, and, specifically any design details that reduce the scale and massing of the building compared to what could otherwise be built under the zoning standards.
 - b. The relationship of the proposed dwelling to existing structures, and whether their grading, elevation, and design is appropriate for the context.
 - c. Any special considerations of the lot with respect to existing grades, proposed appropriate grades and the drainage patterns in relation to adjacent properties and the proposed structure.
- (f) *Exceptions.* The planning commission may grant exceptions to the neighborhood design standards in this section 19.08.025 through the site plan review process, based upon the following criteria:
 - (1) The exception shall only apply to the design standards in this section, and not be granted to allow something that is specifically prohibited in other regulations;
 - (2) Any exception dealing with the placement of the building is consistent with sound planning, urban design and engineering practices when considering the site and its context within the neighborhood.
 - (3) The placement and orientation of the main mass, accessory elements, garages and driveways considers the high points and low points of the grade and locates them in such a way to minimize the perceived massing of the building from the streetscape and abutting lots.
 - (4) Any exception affecting the design and massing of the building is consistent with the common characteristics of the architectural style selected for the building.
 - (5) The requested exception improves the quality design of the building and site beyond what could be achieved by meeting the standards - primarily considering the character and building styles of the neighborhood and surrounding properties, the integrity of the architectural style of the proposed building, and the relationship of the internal functions of the building to the site, streetscape and adjacent property.
 - (6) The exception will equally or better serve the design objectives stated in section 19.08.025(a), and the intent stated for the particular standard being altered.

(Ord. 2392, Sec. 3, 2018; Ord. 2407, Sec. 3, 2019)

19.08.040. - PARKING REGULATIONS.

Not less than two off-street parking spaces shall be provided for each dwelling unit. Not less than one parking space shall be in a garage or carport, the remaining space or spaces and the access thereto shall be paved with a Portland cement concrete or hot-mix asphalt surface. For additional parking regulations see chapter 19.46.

(Ord. 1882, Sec. 2, 1995)

19.08.045. - SITE PLAN APPROVAL AND PUBLIC NOTICE.

- (a) All new buildings or structures and proposed expansions and enlargements of more than ten percent of the existing floor area of existing buildings except single family dwellings, group homes and residential design manufactured homes shall prepare and submit a site plan in accordance with chapter 19.32 Site Plan Approval prior to the issuance of a building permit.
- (b) Any teardown of an existing residential structure and any new principal residential structure on a vacant lot shall send notice to all property owners within 200 feet of the lot, excluding rights-of-way. Notice shall be sent by certified mail, return receipt requested, on a form provided by the city indicating the action requested, that plans are on file with the city for review, the contact information of the property owner, and the main contact for the proposed construction. The city shall not issue any permits until provided evidence that notice has been sent.
- (c) If application is made for a building permit for a building or structure, which is not required to submit a site plan and whose architectural style or exterior materials in the opinion of the building official vary substantially from such style or materials which have been used in the neighborhood in which the building or structure is to be built, the plans and supporting information for such building or structure shall be submitted to the planning commission for review and approval as to its compatibility with the surrounding neighborhood. This paragraph shall not apply to single-family dwellings, group homes and residential design manufactured homes.

(Ord. 1882, Sec. 2, 1995; Ord. 2392, Sec. 3, 2018; Ord. 2407, Sec. 3, 2019)

Chapter 19.10 - DISTRICT R-2 TWO FAMILY RESIDENTIAL DISTRICT

19.10.005. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

19.10.010. - HEIGHT AND AREA REGULATIONS GENERALLY.

One family dwellings constructed in this district shall comply with the height, front, side and rear yard requirements and minimum lot size requirements of District R-1a. Two family dwellings shall comply with the minimum requirements set forth in sections 19.10.015—19.10.045.

19.10.015. - HEIGHT.

No building or structure shall exceed 35 feet in height, measured as set out in section 19.02.100; nor shall it contain more than two and one half stories as set out in section 19.02.435.

19.10.020. - FRONT YARD.

The front yard requirements shall be 30 feet.

19.10.025. - SIDE YARD.

There shall be a side yard on each side of the dwelling, the total of which side yards shall be not less than 18 feet and neither side yard shall be less than seven feet. Not less than 15 feet shall be provided on the street side of a corner lot.

19.10.030. - REAR YARD.

The depth of the rear yard shall be not less than 25 feet.

19.10.035. - LOT WIDTH.

The width of the lot shall be not less than 80 feet.

19.10.040. - LOT AREA PER FAMILY.

Not less than 9,600 square feet of lot area shall be provided for each two family dwelling.

19.10.045. - MINIMUM DWELLING SIZE.

The minimum dwelling size shall be 1,100 square feet per family unit for living space, exclusive of garage, basement, storage space, open or screened porches, vestibules, patios and utility rooms.

19.10.046. - LOT COVERAGE.

Buildings and structures shall not cover more than 30 percent of the net lot area.

(Ord. 2019, Sec. II, 2001; Ord. 2060, Sec. I, 2003)

19.10.050. - PARKING REGULATIONS.

Two parking spaces shall be provided for each dwelling unit. (For additional parking regulations see chapter 19.46.)

19.10.055. - SITE PLAN APPROVAL.

All new buildings or structures and proposed expansions and enlargements of more than ten percent of the existing floor area of existing buildings except single family and two-family dwellings, group homes and residential design manufactured homes shall prepare and submit a site plan in accordance with chapter 19.32 Site Plan Approval prior to the issuance of a

building permit.

If application is made for a building permit for a building or structure, which is not required to submit a site plan and whose architectural style or exterior materials in the opinion of the building official vary substantially from such style or materials which have been used in the neighborhood in which the building or structure is to be built, the plans and supporting information for such building or structure shall be submitted to the planning commission for review and approval as to its compatibility with the surrounding neighborhood. This paragraph shall not apply to single-family and two-family dwellings, group homes and residential design manufactured homes.

Chapter 19.12 - DISTRICT R-3 GARDEN APARTMENT DISTRICT

19.12.005. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

19.12.010. - HEIGHT AND AREA REGULATIONS GENERALLY.

In District R-3, the height of buildings, the minimum dimensions of lots and yard, the minimum lot area per family permitted on any lot shall be as follows in sections 19.12.015—19.12-035 (for exceptions see chapter 19.44, height and area exceptions).

19.12.015. - HEIGHT.

No building or structure shall exceed 35 feet in height, measured as set out in section 19.02.100; nor shall it contain more than two and one half stories as set out in section 19.02.435.

19.12.020. - FRONT YARD.

The front yard requirement shall be 30 feet.

19.12.025. - SIDE YARD.

The side yard requirement shall be ten feet for two story and 15 feet for two and one-half story buildings; except that not less than 15 feet shall be provided on the street side of a corner lot.

19.12.030. - REAR YARD.

The rear yard requirement shall be 25 feet.

19.12.035. - LOT AREA PER FAMILY.

The minimum lot area for garden apartments shall be 2,500 square feet per family units; provided that in no case shall apartment buildings and carports, if any, cover more than 20 percent of the area of the lot or tract; the remaining eighty percent of the land to contain lawn, landscaped areas, recreation areas and open parking lots.

19.12.036. - LOT COVERAGE.

Buildings and structures shall not cover more than 30 percent of the net lot area.

(Ord. 2019, Sec. II, 2001; Ord. 2060, Sec. I, 2003)

19.12.040. - PARKING REGULATIONS.

Two parking spaces shall be provided for each dwelling unit. Parking shall not be permitted in the required side yard or within 15 feet of a street right-of-way. (For other parking requirements see chapter 19.46.)

19.12.045. - SITE PLAN APPROVAL.

All new buildings or structures and proposed expansions and enlargements of more than ten percent of the existing floor area of existing buildings except single family and two-family dwellings, group homes and residential design manufactured homes shall prepare and submit a site plan in accordance with chapter 19.32 Site Plan Approval prior to the issuance of a building permit.

If application is made for a building permit for a building or structure, which is not required to submit a site plan and whose architectural style or exterior materials in the opinion of the building official vary substantially from such style or materials which have been used in the neighborhood in which the building or structure is to be built, the plans and supporting information for such building or structure shall be submitted to the planning commission for review and approval as to its compatibility with the surrounding neighborhood. This paragraph shall not apply to single-family and two-family dwellings, group homes and residential design manufactured homes.

Chapter 19.14 - DISTRICT R-4 CONDOMINIUM OR COMMON WALL DWELLING DISTRICT

19.14.005. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

19.14.010. - HEIGHT AND AREA REGULATIONS.

In District R-4, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows in sections 19.14.015—19.14-040 (for exceptions see chapter 19.44, height and area exceptions).

19.14.015. - HEIGHT.

No building or structure shall exceed 35 feet in height, measured as set out in section 19.02.100; nor shall it contain more than two and one half stories as set out in section 19.02.435.

19.14.020. - FRONT YARD.

Any building hereafter constructed shall provide for a front yard the minimum depth of which shall be 30 feet.

19.14.025. - SIDE YARD.

There shall be a side yard on each side of the lot of not less than ten feet for two story buildings and 15 feet for two and one-half story buildings. No side yard shall be required on interior lots in common wall projects. Not less than 15 feet shall be provided on the street side of a corner lot.

19.14.030. - REAR YARD.

The depth of the rear yard shall be not less than 35 feet.

19.14.035. - LOT AREA PER FAMILY.

Every condominium or common wall dwelling house hereafter erected shall provide a lot area of not less than 3,500 square feet per dwelling unit.

19.14.040. - LOT SIZE.

The width of the lot shall be at least 150 feet.

19.14.041. - LOT COVERAGE.

Buildings and structures shall not cover more than 30 percent of the net lot area.

(Ord. 2019, Sec. II, 2001; Ord. 2060, Sec. I, 2003)

19.14.045. - PARKING REGULATIONS.

Two parking spaces shall be provided for each dwelling unit. Parking shall not be permitted in the required exterior side yards or within 15 feet of a street right-of-way. (See chapter 19.46 for additional parking requirements.)

19.14.050. - SITE PLAN APPROVAL.

All new buildings or structures and proposed expansions and enlargements of more than ten percent of the existing floor area of existing buildings except single-family dwellings, group homes and residential design manufactured homes shall prepare and submit a site plan in accordance with chapter 19.32 Site Plan Approval prior to the issuance of a building permit.

If application is made for a building permit for a building or structure, which is not required to submit a site plan and whose architectural style or exterior materials in the opinion of the building official vary substantially from such style or materials which have been used in the neighborhood in which the building or structure is to be built, the plans and supporting information for such building or structure shall be submitted to the planning commission for review and approval as to its compatibility with the surrounding neighborhood. This paragraph shall not apply to single-family dwellings, group homes and residential design manufactured homes.

Chapter 19.16 - DISTRICT C-0 OFFICE BUILDING DISTRICT

19.16.005. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

19.16.010. - HEIGHT AND AREA REGULATIONS GENERALLY.

In District C-0, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows in sections 19.16.015—19.10-035 (for exceptions see chapter 19.44, Height and Area Exceptions).

19.16.015. - HEIGHT.

Height of buildings in this district shall be measured in feet and no building or structure shall exceed 35 feet except that a greater height may be permitted by conditional use permit in accordance with chapter 19.30. In the case of office buildings, the height is measured as follows:

- (a) The maximum vertical distance in feet from the average finish grade abutting the building to the highest point of the roof or any parapet or mansard, or to the mean height between eaves and ridge of gable, hip and gambrel roofs. Heating, ventilating, air conditioning and elevator equipment located on flat roofs may extend above the maximum height not more than eight feet.
- (b) Finish grade in this instance shall not include such depressions as dock ramps, areaways and below grade stairways but shall be the ground elevation at the point where it is lowest.
- (c) The use of fills or berms to increase the height of the building is not permitted.

19.16.020. - FRONT YARD.

Any building or structure hereafter constructed shall provide a front yard the minimum depth of which shall be 30 feet.

19.16.025. - SIDE YARD.

There shall be a side yard on each side of the lot, such side yard to be not less than ten feet for one story buildings, 15 feet for two story buildings, and 20 feet for two and one-half story buildings. There shall be a side yard of not less than 15 feet of the street side of a corner lot.

19.16.030. - REAR YARD.

The depth of the rear yard shall be not less than 35 feet.

19.16.035. - RESIDENTIAL BUILDINGS.

Any residential building constructed or located in this district shall comply with the height, yard and area regulations of the district corresponding to that dwelling type. Single family dwellings and group homes shall comply with District R-1; two family dwellings shall comply with District R-2; garden apartment buildings shall comply with District R-3.

19.16.040. - SITE PLAN APPROVAL.

All new buildings or structures and proposed expansions and enlargements of more than ten percent of the existing floor area of existing buildings except single family and two-family dwellings, group homes and residential design manufactured homes shall prepare and submit a site plan in accordance with chapter 19.32 Site Plan Approval prior to the issuance of a building permit.

If application is made for a building permit for a building or structure, which is not required to submit a site plan and whose architectural style or exterior materials in the opinion of the building official vary substantially from such style or materials which have been used in the neighborhood in which the building or structure is to be built, the plans and supporting information for such building or structure shall be submitted to the planning commission for review and approval as to its compatibility with the surrounding neighborhood. This paragraph shall not apply to single-family and two-family dwellings, group homes and residential design manufactured homes.

19.16.045. - PARKING REGULATIONS IN DISTRICT C-0.

See chapter 19.46 off street parking and loading regulations.

Chapter 19.18 - DISTRICT C-1 RESTRICTED BUSINESS DISTRICT

19.18.005. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

19.18.010. - PERFORMANCE STANDARDS.

The following standards shall apply in District C-1:

- (a) No wholesale sales shall be conducted;
- (b) No merchandise or equipment shall be stored or displayed outside a building and no sales shall be conducted from a truck or other temporary vehicle or structure except as may be permitted in chapter 19.34;
- (c) All products shall be sold and all services rendered inside a building except that banks and savings and loan establishments may have a walk-up service and, if approved as a conditional use in accordance with chapter 19.30, a drive up service;
- (d) No noise, smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced;
- (e) Restaurants wherein alcoholic, wine and cereal malt beverages are sold for consumption on the premises provided that more than 50 percent of the total income of the restaurant is derived from the sale of food consumed on the premises. At the time of application for an annual liquor or cereal malt beverage permit, the applicant will submit a sworn statement that more than 50 percent of the income has and will in the future be derived from the sale of food. The business operation will not produce noise and commotion that may adversely affect the neighboring property and the premises will be maintained and managed to a level equal to that, which prevails in the neighborhood.

19.18.015. - HEIGHT AND AREA REGULATIONS GENERALLY.

In District C-1, the height of buildings, the minimum dimensions of lots and yards, and the minimum lot area per family permitted on any lot shall be as follows in sections 19.18.020—19.18.035 (for exceptions see chapter 19.44, height and area exceptions).

19.18.020. - HEIGHT.

No building or structure shall exceed 35 feet in height, measured as set out in section 19.02.100; nor shall it contain more than two and one half stories as set out in section 19.02.435.

19.18.025. - FRONT YARD.

A front yard of not less than 15 feet shall be provided.

19.18.030. - SIDE YARD.

No side yard is required except that where a side line of a lot in this district abuts upon the side line of a lot in a District R-1 to C-0 inclusive, a side yard shall then be provided the same as required in the district it abuts. A side yard of 15 feet shall be provided on the street of a corner lot.

19.18.035. - REAR YARD.

No rear yard is required except that where a rear line of a lot in this district abuts upon land in a District R-1 to C-0 inclusive a rear yard of not less than ten feet shall then be provided in this district.

19.18.040. - CANOPIES.

Where commercial buildings are built on or near street lines, marquees or canopies may be constructed over sidewalks in the public street for the protection of pedestrians from weather, subject to the following requirements:

- (a) Vertical clearance from surface of walk to lower surface of marquee or canopy structure shall be not less than eight feet;
- (b) Supporting columns shall be set back from the face of the curb not less than two and one-half feet;
- (c) The outer edge of the marquee or canopy structure shall not be closer than one and one-half feet to the vertical plane of the face of the curb;
- (d) The structure shall be capable of supporting a live load of 30 pounds per square foot of roof surface;
- (e) No building permit for marquee or canopies shall be issued until applicant has filed certificates of insurance approved by the city attorney holding the city harmless from any accidents incident of said marquee or canopy.

19.18.045. - SITE PLAN APPROVAL.

All uses including proposed expansions or enlargements of more than ten percent of the existing floor area of existing buildings shall prepare and submit a site plan in accordance with chapter 19.32 Site Plan Approval prior to the issuance of a building permit.

If application is made for a building permit for a building or structure, which is not required to submit a site plan and whose architectural style or exterior materials in the opinion of the building official vary substantially from such style or materials which have been used in the neighborhood in which the building or structure is to be built, the plans and supporting information for such building or structure shall be submitted to the planning commission for review and approval as to its compatibility with the surrounding neighborhood.

19.18.050. - PARKING REGULATIONS IN DISTRICT C-1.

See chapter 19.46 for off-street parking and loading regulations.

Chapter 19.20 - DISTRICT C-2 GENERAL BUSINESS DISTRICT

19.20.005. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

19.20.010. - PERFORMANCE STANDARDS.

The following performance standards shall apply in District C-2:

- (a) No noise, smoke, radiation, vibration or concussion, heat or glare shall be produced that is perceptible outside a building, and no dust, fly ash or gas that is toxic, caustic or obviously injurious to humans or property shall be produced;
- (b) Other merchandise which may appropriately be displayed or stored outside a building shall be kept off the public sidewalk or streets, shall not reduce the capacity of a parking lot below that required by this title, and shall not occupy an area greater than 20 percent of the ground floor area of the building, and no sale shall be conducted from a truck or other temporary vehicle or structure except as may be permitted in chapter 19.34;
- (c) Restaurants wherein alcoholic, wine and cereal malt beverages are sold for consumption on the premises provided that: more than 50 percent of the total income of the restaurant is derived from the sale of food consumed on the premises; at the time of application for an annual liquor or cereal malt beverage permit the applicant will submit a sworn statement that more than 50 percent of the income has and will in the future be derived from the sale of food; the business operation will not produce noise and commotion that may adversely affect the neighboring property and the premises will be maintained and managed to a level equal to that which prevails in the neighborhood.

19.20.015. - HEIGHT AND AREA REGULATIONS—GENERALLY.

In District C-2, the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted upon any lot shall be as follows in sections 19.20.020—19.20.035 (for exceptions see chapter 19.44, Height and Area Exceptions).

19.20.020. - HEIGHT.

No building or structure shall exceed 35 feet in height, measured as set out in section 19.20.100; nor shall it contain more than two and one half stories as set out in section 19.02.435.

19.20.025. - FRONT YARD.

Any building hereafter constructed and any vehicle parking, storage or display, shall provide a front yard the minimum depth of which shall be 15 feet.

19.20.030. - SIDE YARD.

No side yard is required except that where a side line of a lot in this district abuts upon the side line of a lot in a District R-1 to C-0 inclusive, a side yard shall then be provided the same as required in the district abutting it. A side yard of 15 feet shall be provided on the street side of a corner lot.

19.20.035. - REAR YARD.

No rear yard is required except that where a rear line of a lot in this district abuts upon land in a District R-1 to C-0 inclusive a rear yard of not less than ten feet shall then be provided in this district.

19.20.040. - PARKING REGULATIONS IN DISTRICT C-2.

See chapter 19.46 for off-street parking and loading regulations.

19.20.045. - SITE PLAN APPROVAL.

All uses including proposed expansions or enlargements of more than ten percent of the existing floor area of existing building shall prepare and submit a site plan in accordance with chapter 19.32 Site Plan Approval prior to the issuance of a building permit.

If application is made for a building permit for a building or structure, which is not required to submit a site plan and whose architectural style or exterior materials in the opinion of the building official vary substantially from such style or materials which have been used in the neighborhood in which the building or structure is to be built, the plans and supporting information for such building or structure shall be submitted to the planning commission for review and approval as to its compatibility with the surrounding neighborhood.

Chapter 19.22 - C-3 SPECIAL USE BUSINESS DISTRICT (SUB)

19.22.005. - PURPOSE AND INTENT.

Prairie Village is a fully developed mature community primarily residential in character. Many of the office and commercial areas are facing redevelopment because of demographic and market changes in the city. The existing office and commercial zoning districts provide a broad range of uses, many of which would not be compatible with the adjacent residential neighborhoods. The C-3 District provides the opportunity to limit the uses permitted at a specific location and the flexibility to change the permitted uses from one location to another. By specifying the uses permitted in the C-3 District, greater opportunities for redevelopment may be available while at the same time the residential quality of the adjacent areas will be preserved and maintained. The C-3 District is an applied for district because the uses must be specified and site plan approval is required. The site plan approval requirement minimizes the undesirable external impacts of a use or uses on surrounding property through the use of performance design standards.

19.22.010. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

19.22.015. - HEIGHT AND AREA REGULATIONS GENERALLY.

In District C-3 the height of buildings, the minimum dimensions of lots and yards and the minimum lot area per family permitted on any lot shall be as follows in sections 19.22.015—19.22-035 (for exceptions, see chapter 19.44, Height and Area Exceptions.)

19.22.020. - HEIGHT.

Height of buildings in this district shall be measured in feet and no building or structure shall exceed 36 feet except that an office building on a lot containing not less than four and one half acres may be constructed to a height exceeding 36 feet. In the case of office buildings, the height is measured as follows:

- (a) The maximum vertical distance in feet from the average finish grade abutting the building to the highest point of the roof or any parapet or mansard, or to the mean height between eaves and ridge of gable, hip and gambrel roofs. Heating, ventilating, air conditioning and elevator equipment located on flat roofs may extend above the maximum height not more than eight feet;
- (b) Finish grade in this instance shall not include such depressions as dock ramps, areaways and below grade stairways but shall be the ground elevation at the point where it is the lowest;
- (c) The use of foundation grading to increase the height of the building is not permitted;
- (d) Any building in District C-3 which is located on a four and one half acre or larger site and which exceeds 36 in height shall provide not less than the following setbacks:
 - (1) The front setback shall not be less than 60 feet for the building and 15 feet for parking areas.
 - (2) The side setback on the street side in the case of a corner lot shall not be less than 40 feet for the building and 15 feet for a parking area.
 - (3) Side setbacks not adjacent to a street shall be 30 feet and the rear setback shall be 70 feet.

19.22.025. - FRONT YARD.

Any building or structure hereafter constructed shall provide a front yard the minimum depth of which shall be 30 feet for the building and 15 feet for parking.

19.22.030. - SIDE YARD.

There shall be a side yard on each side of the lot, such side yard to be not less than ten feet for one story buildings, 15 feet for two story buildings, and 20 feet for two and one half story buildings. There shall be a side yard of not less than 15 feet on the street side of a corner lot.

19.22.035. - REAR YARD.

The depth of the rear yard shall not be less than 35 feet.

19.22.040. - RESIDENTIAL BUILDINGS.

Any residential building constructed or located in District C-3 shall comply with height, yard and area regulations of the district corresponding to that dwelling type: Single family dwellings and group homes shall comply with District R-1; two family dwellings shall comply with District R-2; garden apartment buildings shall comply with District R-3.

19.22.045. - SITE PLAN APPROVAL.

All applications for District C-3 shall be accompanied by a site plan and the site plan shall be prepared, reviewed and approved in accordance with chapter 19.32 Site Plan Approval.

No open parking areas shall be located closer than 15 feet to a public street, or no closer than eight feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than six feet above the finished grade shall comply with the setback regulations of the main building. Such parking setback and other open areas shall be brought to finish grade and planted with grass, shrubs and trees, and maintained to at least the average level of maintenance of the other developed property within the immediate neighborhood.

Off-street parking shall be provided on the premises in accordance with the requirements for each type of use permitted.

19.22.050. - PARKING REGULATIONS IN DISTRICT C-3.

See chapter 19.46 for off-street parking and loading regulations.

Chapter 19.23 - "MXD" PLANNED MIXED USE DISTRICT

19.23.005. - PURPOSE AND INTENT.

The zoning of property to the MXD, Planned Mixed Use District, is intended to encourage a variety of land uses in closer proximity to one another than would be possible with more conventional zoning districts, to promote sustainable development with projects that achieve a high level of environmental sensitivity and energy efficiency, to encourage design and construction using Leadership in Energy and Environmental Design "LEED" principles and practices; and to encourage building configurations that create a distinctive and memorable sense of place. Developments in this district are allowed and expected to have a mixture of residential, office and retail uses in a single structure or multiple structures along with public spaces, entertainment uses, and other specialty facilities that are compatible in both character and function and incorporate a coordinated consistent theme throughout the development. Developments are also expected to utilize shared parking facilities linked to multiple buildings and uses by an attractive and logical pedestrian network that places more emphasis on the quality of the pedestrian experience than is generally found in typical suburban development. Buildings are intended to be primarily multi-story structures with differing uses organized vertically rather than the horizontal separation of uses that commonly results from conventional zoning districts.

19.23.010. - USE REGULATIONS.

Permitted uses in this district are specified in chapter 19.27 "Zoning Districts and Uses." They are either generally allowed, allowed by conditional use permit review, or by special use permit. In addition, accessory uses may be permitted subject to chapter 19.34.

19.23.015. - BUILDING HEIGHT.

- (a) No maximum height; the height of buildings shall be as determined by the plan;
- (b) At least 50 percent of the total floor area, except for auditoriums, conference facilities, theaters, and other similar

uses, shall be located above the ground floor.

19.23.020. - FRONT YARD.

No minimum requirement. The front yard setback shall be established as shown on the plans.

19.23.025. - SIDE YARD.

No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district in which the MXD District abuts.

19.23.030. - REAR YARD.

No setback required except that where a lot line abuts the lot line of a residentially zoned property, a setback shall be required which is at least equal to the minimum setback required in the district in which the MXD District abuts.

19.23.035. - PRELIMINARY DEVELOPMENT PLAN SUBMITTAL.

A tract of land may be zoned "MXD" only upon approval of a preliminary development plan which shall include the following information:

- (a) Name of the project, address, boundaries, date, north arrow and scale of the plan;
- (b) Name and address of the owner of record, developer, and name, address and phone number of preparers;
- (c) All existing lot lines, easements, rights-of-way including area in acres or square feet;
- (d) The location and use of all existing and proposed buildings and structures within the development. The number and types of dwellings and square footage or floor area for office and commercial uses. All dimensions of height and floor area, all exterior entrances and all anticipated future additions and alterations. Preliminary sketches depicting the general style, design, size and exterior materials and colors of existing buildings to be retained and new buildings to be constructed. Said sketches shall include building elevations, but detailed drawings are not required.
- (e) The location of all existing and proposed public and private ways, driveways, sidewalks, ramps, curbs and fences; specific emphasis shall be placed on connectivity and walkability with and adjacent to the project;
- (f) Location of required parking areas including parking stalls, setbacks and loading and service areas and the type of pavement proposed;
- (g) A preliminary outdoor lighting plan in accordance with outdoor lighting regulations of the Zoning Ordinance plus a plan for the proposed lighting of public and private streets;
- (h) Sign standards including the location, height, size, materials and design of all proposed monument and structure mounted signage;
- (i) Location, type and screening details for all waste disposal containers;
- (j) Location, size and screening details for all external HVAC units antennas and other equipment;
- (k) A preliminary landscape plan showing all existing open space and trees to be retained, all proposed changes

to these features including the location, size and type of proposed plant material, and any proposed screening for adjacent properties which may include solid or semi-solid, fencing, walls or hedges or a combination thereof;

- (l) The location and size of all existing and proposed utility systems including:
 - (1) Sewer lines and manholes;
 - (2) Water lines and fire hydrants;
 - (3) Telephone, cable and electrical systems;
 - (4) Storm drainage system including drain pipes, culverts, catch basins, headwalls, endwalls, manholes, and drainage swales/ditches; and
 - (5) Structure mounted telecommunications equipment (satellite dishes, antennas, etc.).
- (m) A stormwater management plan including plans to prevent: (a) the pollution of surface or groundwater; (b) the erosion of soil both during and after construction; (c) excessive run-off, (d) and flooding of other properties, as applicable. Said plans shall include stormwater run-off calculations and shall provide for on-site stormwater management in accordance with Stormwater Management Regulations of the City Code;
- (n) Existing and proposed topography shown at not more than two-foot contour intervals and the location of flood plains. All elevations shall refer to U.S.G.S. datum and shall be compatible with Johnson County datum;
- (o) Zoning districts adjacent to the site;
- (p) Traffic flow patterns within the site including, entrances and exits, emergency access, loading and unloading areas, and curb cuts and street patterns within 200 feet of the site;
- (q) The planning commission may require a detailed traffic impact study for large uses, mixed use and multi-tenant developments, or for developments in heavy traffic areas to include:
 - (1) The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
 - (2) The projected traffic flow pattern within 1,000 feet of the site including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
 - (3) The impact of this traffic upon existing, abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as road capacity levels, shall also be given.
 - (4) The satisfying of traffic warrants for traffic signals and signs in accordance with MUTCD within 1,000 feet of the site.
- (r) A list of the uses proposed for the "MXD" District.
- (s) Off-street parking and loading shall be provided on the premises in accordance with the requirements for each type of use permitted, as set out in the off-street parking and loading regulations of the Zoning Ordinance except as follows:
 - (1) The planning commission may reduce the required parking after considering documentation and/or study provided by the applicant, staff's recommendation and giving decisive weight to all relevant facts, including but not limited to the following factors: availability and accessibility of alternative parking;

impact on adjacent properties and uses neighborhoods; existing or potential shared parking arrangements; the characteristics of the use, including hours of operation and peak parking demand times; design and maintenance of off-street parking that will be provided; and whether the proposed use is new or a small addition to an existing use.

- (2) Parking spaces on public and private streets may be counted towards the minimum requirements as set forth above; provided the on-street spaces are located on an adjacent or internal street that allows on-street parking. On-street parking spaces being counted towards the credit must be identified on plans at time of submittal to the city.
 - (3) No open parking areas shall be located closer than 15 feet to a public street, or no closer than eight feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than six feet above the finished grade, shall comply with the setback regulations of the main building. Such parking setback and other open areas shall be brought to finish grade and planted with grass, shrubs and trees, and maintained to at least the average level of maintenance of the other developed property within the immediate neighborhood.
- (t) Preservation of Natural Features: Mature trees, vegetative cover, watercourses and other natural site features shall be preserved to the greatest extent possible. Abrupt changes in natural slope shall be avoided. Preservation shall be directed toward:
- (1) Enhancing the quality of new development;
 - (2) Protecting the natural environment;
 - (3) Providing buffering between new development and surrounding properties;
 - (4) Preserving the character of existing neighborhoods;
 - (5) Handling of stormwater flows in natural channels;
 - (6) Maintaining existing vegetation along stream corridors as water quality filters; and
 - (7) Creation of rain gardens.
- (u) Submission of all easement and preliminary covenant documents that will be filed with the County.
- (v) A phasing plan if the project is not going to be constructed at one time.

19.23.040. - PUBLIC IMPROVEMENTS.

The planning commission may recommend and the city council may require the applicant to construct or install infrastructure improvements such as sidewalks, traffic signals, street lighting, pedestrian lighting, street widening and channelization, acceleration and deceleration lanes, waterlines, sewer lines, storm drainage improvements and other similar improvements that are related to the proposed project.

19.23.045. - PLANNING COMMISSION ACTION.

The planning commission shall hold one or more public hearings on the preliminary development and rezoning. Upon conclusion of the public hearing or hearings, the planning commission, by a majority of members present and voting, shall make a recommendation to the city council to approve the proposal as submitted, to approve the proposal subject to

conditions, or to deny the proposal.

19.23.050. - CITY COUNCIL ACTION.

Upon approval of the preliminary development plan and the rezoning of the property by the city council, a final development plan for the project shall be prepared and submitted to the planning commission for final approval. Permits for construction shall not be issued until final plans have been reviewed and approved by the planning commission. It is the intent of this chapter that the project as constructed shall conform closely to the preliminary plans reviewed and approved at the time of the public hearing.

19.23.055. - FINAL DEVELOPMENT OF PLAN GENERALLY.

Final plan for a project or a portion thereof shall not be approved if one or more of the following conditions, in the judgment of the commission, exist:

- (a) Final plans vary substantially from the concept of the development plan presented and agreed to at the time of rezoning;
- (b) The final plans would increase the density (number of units per acre) or intensity (concentration of development) of residential uses more than five percent;
- (c) The final plans would increase the floor area of nonresidential buildings by more than ten percent;
- (d) The final plans would increase by more than ten percent the ground covered by buildings or paved areas;
- (e) The final plans would increase the height of a building by one or more stories or four or more feet;
- (f) The final plans involve changes in ownership patterns or stages of construction that will lead to a different development concept, less architectural harmony or quality, or impose substantially greater loads on streets and neighborhood facilities;
- (g) The final plans vary from specific development or design criteria including traffic impact and stormwater management that may have been adopted by the planning commission or city council at the time the preliminary development plan and rezoning were approved.

Variations between the preliminary and final plans, which do not, in the judgment of the planning commission, violate or exceed the above seven criteria, shall be approved by the planning commission in its administrative role and no public hearing shall be required. If, however, variations and departures from the approved preliminary plan exceed the above criteria or are sought by the developer or other party at the time of final plan review or building permit application, the applicant shall request an amendment to the plan which shall be handled in the same manner as the approval of the original preliminary plan.

19.23.060. - FINAL DEVELOPMENT PLAN SUBMITTAL.

- (a) A detailed site plan showing the physical layout and design of all streets, easements, rights-of-way, lots, sidewalks, parking, blocks, greenspace, structures and uses.
- (b) Preliminary building plans, including floor plans, gross floor area of office and commercial uses and exterior elevations.

- (c) Final landscaping plans.
- (d) Copies of any easements and restrictive covenants and proof of recording of the same.
- (e) Proof of the establishment and activation of any entity that is to be responsible for the management and maintenance of any common open space.
- (f) Evidence that no lots, parcels, tracts or dwelling units in such development have been conveyed or leased prior to the recording of any restrictive covenants applicable to such planned development.
- (g) Such bonds and other documents that may have been required to guarantee the installation of required public improvements.
- (h) Drawings showing size, type and location of all monument and wall mounted signs.
- (i) Final lighting plan.
- (j) Final stormwater control plan.
- (k) Bond for public improvements and agreement to pay for City inspection services.

19.23.065. - RECORDING OF APPROVED PLAN.

After rezoning to a "MXD" district has been approved and the final plan has been approved by the planning commission there shall be filed with the Register of Deeds a statement that a development plan for the area has been approved. The statement shall specify the nature of the plan, the proposed density or intensity of land uses and other pertinent information sufficient to notify any prospective purchasers or users of land of the existence of such plan and any constraints thereon. The landowner shall submit this statement to the city clerk with the appropriate recording fee and the city shall be responsible for recording the statement.

19.23.70. - PUBLISHING OF ORDINANCE CHANGING THE ZONING.

The ordinance effectuating the zone change shall not be published until such time as the zoning and preliminary development plan have been approved by the city council.

Chapter 19.24 - PLANNED ZONING DISTRICT

19.24.005. - DESIGNATION OF EQUIVALENT DISTRICTS.

Planned zoning districts and their equivalent districts are as follows:

Planned District	Equivalent District
RP-1a Planned Single Family Residential	R-1a
Rp-1b Planned Single Family Residential	R-1b
RP-2 Planned Two Family Residential	R-2

RP-3 Planned Garden Apartment	R-3
RP-4 Planned Townhouse	R-4
CP-0 Planned Office Building	C-0
CP-1 Planned Restricted Business	C-1
CP-2 Planned General Business	C-2

Except in the case of standard single family subdivision, which may be zoned R-1 and areas requested for C-3, all rezoning of land within the City of Prairie Village shall hereafter follow planned zoning procedures as set out in this chapter.

19.24.010. - STATEMENT OF OBJECTIVES.

The zoning of land in Prairie Village to one of the planned districts (RP-1 to CP-2 inclusive) shall be for the purpose of encouraging and requiring orderly development and redevelopment on a quality level generally equal to or exceeding that which prevails in the City of Prairie Village, but permitting deviations from established and customary development techniques. The use of planned zoning procedures is intended to encourage efficient development and redevelopment of small tracts, innovative and imaginative site planning, conservation of natural resources and minimum waste of land. The following are specific objectives of this section:

- (a) A proposal to rezone land to a planned district shall be subject to the same criteria relative to compliance with the Prairie Village Comprehensive Plan, land use policies, neighborhood compatibility, adequacy of streets and utilities and other elements, which are established and customary development techniques in this city;
- (b) The submittal by the developer and the approval by the city of development plans represents a firm commitment by the developers that development will indeed follow the approved plans in such areas as concept, intensity of use, aesthetic levels and quantities of open space;
- (c) Deviations in yard requirements, setbacks and relationship between buildings as set out in standards of development in section 19.24.015 of this chapter, may be approved by the planning commission and city council if it is deemed that other amenities or conditions will be gained to the extent that an equal or higher quality of development will be produced;
- (d) Residential areas are to be planned and developed in a manner that will produce more usable open space, better recreational opportunities, safer and more attractive neighborhoods than under standard zoning and development techniques;
- (e) Commercial areas are to be planned and developed so as to result in attractive, viable and safe centers and

clusters as opposed to strip patterns along thoroughfares. Control of vehicular access, circulation, architectural quality, landscaping and signs will be exercised to soften the impact on nearby residential neighborhoods, and to assure minimum adverse effects on street system and other services of the community;

- (f) The developer will be given latitude in using innovative techniques in the development of land not feasible under application of standard zoning requirements;
- (g) Planned zoning shall not be used as a refuge from the standard requirements of the zoning district as to intensity of land use, amount of open space or other established development criteria;
- (h) Any building or portion thereof may be owned in condominium under K.S.A. 53-3101;
- (i) For purposes of this chapter, the terms "shopping center", "business park," "office park," or other grouping of buildings shall mean development that were planned as an integrated unit or cluster on property under unified control or ownership at the time the zoning was approved by the city. The sale, subdivision or other partition of the site after zoning approval does not exempt the project or any portion thereof from complying with development standards that were committed at the time of zoning.

19.24.015. - STANDARDS OF DEVELOPMENT.

- (a) The maximum height of buildings and structures shall be as set out in the standard requirements of the equivalent district.
- (b) The intensity of land use, bulk of buildings, the concentration of population, the amount of open space, light and air, shall be generally equal to that required in the equivalent district.
- (c) The density of residential dwelling units, the parking requirements and the performance standards shall be the same as in the equivalent district.
- (d) The permitted uses shall be the same as those permitted in the equivalent district provided that limitation may be placed on the occupancy of certain premises, if such limitation is deemed essential to the health, safety or general welfare of the community.
- (e) The planning commission may require assurance of the financial and administrative ability of any agency created by a developer for the purpose of maintaining common open space and facilities of a nonpublic nature.
- (f) The planning commission and city council may, in the process of approving preliminary and final plans, approve deviations from the standard requirements as follows, provided any deviation so approved shall be in keeping with accepted land planning principles and must be clearly set out in the minutes as well as on exhibits in the record:
 - (1) Setbacks of buildings and paved areas from a public street may be reduced to 50 percent of the standard requirement;
 - (2) Setbacks of buildings from a property line other than a public street, may be reduced to 60 percent of the standard requirement and setbacks of paved areas adjacent to property lines, other than street lines, to zero if existing or proposed development on said adjacent land justifies the same; Side yards between buildings may be reduced to zero;
 - (3) The foregoing deviations 1 through 4 may be granted by the planning commission and city council only when

compensating open space is provided elsewhere in the project, where there is ample evidence that said deviation will not adversely affect neighboring property nor will it constitute the mere granting of a privilege.

- (g) The design of all planned projects, whether residential, commercial or other, shall be such that access and circulation by fire fighting equipment is assured and not hindered by steep grades, heavy landscaping or building spacing.

19.24.020. - PROCEDURES.

The procedure for zoning land to a planned district shall be as set out in chapter 19.52.

19.24.025. - CONFORMANCE TO COMPREHENSIVE PLAN.

In the consideration of a change to a planned zoning district the planning commission and city council shall determine whether the proposal conforms to master plans, special studies and policies normally utilized in making zoning decisions in Prairie Village.

19.24.030. - REZONING PROPERTY TO A PLANNED ZONING DISTRICT.

A tract of land may be zoned RP-1a through CP-2 inclusive only upon application by the owner or his agent, and only upon approval of a preliminary development plan. The proponents of a planned district shall prepare and submit to the city clerk the required copies of:

- (a) A preliminary development plan showing the property to be included in the proposed development, plus the area within 200 feet thereof.
- (b) The following items shall be included on the property to be developed:
 - (1) Existing topography with contours at five foot intervals and delineating and land areas subject to 100-year flood.
 - (2) Proposed location of buildings and other structures, parking areas, drives, walks, screening, drainage patterns, public or private streets and any existing easements;
 - (3) Sufficient dimensions to indicate relationship between buildings, property lines, parking areas and other elements of the plan;
 - (4) General extent and character of proposed landscaping and screening.
- (c) The following items shall be shown on the same drawing within the 200-foot adjacent area:
 - (1) Any public streets which are of record;
 - (2) Any drives which exist or which are proposed to the extent that they appear on plans on file with the city, except those serving single family houses;
 - (3) Any buildings which exist or are proposed to the extent that their location and size are shown on plans on file with the city. Single and two family residential buildings may be shown in approximate location and general size and shape;
 - (4) The location and size of any drainage structure such as culverts, paved or earthen ditches or stormwater sewers and inlets.

- (d) Preliminary sketches depicting the general style, size and exterior construction materials of the buildings proposed. In the event of several building types, such as apartments and townhouses are proposed on the plan, a separate sketch shall be prepared for each type. Such sketches shall include elevation drawings, but detailed drawings and perspectives are not required.
- (e) A schedule shall be included indicating total floor areas, number of dwelling units, land area, parking spaces, and other quantities relative to the submitted plan in order that compliance with requirements of this title can be determined. If the project is to be constructed in phases, the proposed sequence shall be indicated.

19.24.035. - PLANNING COMMISSION ACTION.

The planning commission shall hold one or more public hearings on the plan as provided in this chapter. Upon conclusion of the public hearing or hearings, the planning commission, by a majority of members present and voting, shall recommend approval, approval subject to conditions or denial to the city council.

19.24.040. - CITY COUNCIL ACTION.

Upon final approval of the preliminary plan and the rezoning of the property by the city council, final plans for construction of the project may be submitted for approval. Permits for construction shall not be issued until final plans have been reviewed and approved by the planning commission. It is the intent of this chapter that the project as constructed shall conform closely with the preliminary plans reviewed and approved at the time of the public hearing. Final plans for a project or a portion thereof shall not be approved if one or more of the following conditions, in the judgment of the commission, exist:

- (a) Final plans vary substantially from the concept of the development plan presented and agreed to at the time of rezoning;
- (b) The final plans would increase the density or intensity of residential uses more than five percent;
- (c) The final plans would increase the floor area of nonresidential buildings by more than ten percent;
- (d) The final plans would increase by more than ten percent the ground covered by buildings or paved areas;
- (e) The final plans would increase the height of a building by one or more stories or four or more feet;
- (f) The final plans involve changes in ownership patterns or stages of construction that will lead to a different development concept, less architectural harmony or quality, or impose substantially greater loads on streets and neighborhood facilities;
- (g) The final plans vary from specific development criteria that may have been adopted by the planning commission or city council at the time the preliminary development plan and rezoning were approved.

Variations between the preliminary and final plans, which do not, in the judgment of the planning commission, violate or exceed the above seven criteria, shall be approved by the planning commission in its administrative role and no public hearing shall be required. If, however, variations and departures from the approved preliminary plan exceed the above criteria or are sought by the developer or other party at the time of final plan review or building permit application, the applicant shall request an amendment to the plan which shall be handled in the same manner as the approval of the original preliminary plan.

19.24.045. - RECORDING OF APPROVAL.

After rezoning to a planned district has been approved there shall be filed with the register of deeds a statement that a plan for the area has been approved. The statement shall specify the nature of the plan, the proposed density or intensity of land uses and other pertinent information sufficient to notify and prospective purchasers or users of land of the existence of such plan and any constraints thereon. The landowner shall submit this statement to the city clerk with the appropriate recording fee and the city shall be responsible for recording the statement.

Chapter 19.25 - OVERLAY ZONING DISTRICTS

19.25.005. - OVERLAY DISTRICTS.

Overlay Districts are tools for dealing with special situations or accomplishing special zoning goals. As the name implies, Overlay Districts are "overlaid" on Base District classifications to alter the Base Zoning District regulations. Overlay Districts are shown on the Official Zoning District Map as suffixes to the applicable Base Zoning District classification. For example, an R-1a zoned Parcel that is included in the Neighborhood Conservation Overlay Districts would be shown on the map as R-1a-NC.

(Ord. 2266, Sec. II, 2012)

19.25.010. - DISTRICTS ESTABLISHED.

The following Overlay Zoning Districts are included in this Zoning Code:

District Name	Map Symbol
Neighborhood Conservation Overlay	NC

(Ord. 2266, Sec. II, 2012)

19.25.015. - PURPOSE.

The NC, Neighborhood Conservation Overlay District, is intended to:

- (1) Encourage development that conforms to the size, orientation and setting of existing buildings in a neighborhood or area;
- (2) Reduce the need for zoning variances for development that conforms to the size, orientation and setting of existing buildings in a neighborhood or area;
- (3) Provide building setbacks, lot dimensions and related physical characteristics; and
- (4) Foster development that is compatible with the scale and physical character of original buildings in a

neighborhood or area through the use of Development/Design Standards and guidelines.

(Ord. 2266, Sec. II, 2012)

19.25.020. - SELECTION CRITERIA.

A NC District shall be a geographically defined area that has a significant concentration, linkage or continuity of sites that are unified by physical development, architecture or historical development patterns. To be eligible for NC zoning, the area shall comply with the following criteria:

- (1) The general pattern of development, including streets, lots and buildings, shall have been established at least 25 years prior to the Effective Date;
- (2) The area shall possess built environmental characteristics that create an identifiable setting, character and association;

The designated area shall be a contiguous area of at least five acres in size. Areas of less than five acres may be designated as an NC Overlay District only when they abut an existing five acre or greater NC Overlay District.

(Ord. 2266, Sec. II, 2012)

19.25.025. - ESTABLISHMENT OF DISTRICT.

NC Zoning Districts are established in accordance with the Zoning Map Amendment procedures of Section 19.52, except as modified by the following provisions:

- (1) An application to establish a NC District may be initiated by the planning commission or the governing body;
- (2) Applications may also be initiated by petition when signed either by the owners of at least 51 percent of the area within the proposed NC District or by at least 51 percent of total number of landowners within the proposed district;
- (3) The planning commission shall hold public hearings and submit written recommendations to the governing body, regarding each application to establish a NC District;
- (4) The planning commission is responsible for reviewing NC zoning applications for compliance with the selection criteria of section 19.25.010 and for recommending development/design standards and guidelines for the district;
- (5) The planning commission is responsible for reviewing NC applications for its planning and zoning implications; and
- (6) The governing body is responsible for making a final decision to approve or deny the Overlay District Zoning.

(Ord. 2266, Sec. II, 2012)

19.25.030. - PROCEDURE.

Upon receipt of an application for NC zoning or upon initiation of a NC zoning application by the governing body or planning commission, the following procedures apply:

- (1) Unless otherwise expressly stated, the zoning map amendment procedures of chapter 19.52 apply;
- (2) Public hearings on NC zoning applications shall be held by the planning commission prior to consideration by the governing body; and
- (3) The planning commission shall make a recommendation that NC District zoning be approved, approved with conditions or denied. The planning commission's recommendation shall be submitted to the governing body. The item shall be placed on the governing body agenda after receipt of the planning commission's recommendation. The recommendation shall be accompanied by a report containing the following information:
 - (i) An explanation of how the area meets or does not meet the selection criteria contained in section 19.25.010;
 - (ii) In the case of an area found to meet the criteria in section 19.25.010:
 - a. A description of the general pattern of development, including streets, lots and buildings in the area; and
 - b. Development/design standards to guide development within the district;
 - (iii) A map showing the recommended boundaries of the NC District; and
 - (iv) A record of the proceedings before the planning commission.

(Ord. 2266, Sec. II, 2012)

19.25.035. - ALLOWED USES.

NC District Classifications do not affect the use of land, buildings or structures. The use regulations of the Base Zoning District control.

(Ord. 2266, Sec. II, 2012)

19.25.040. - DEVELOPMENT/DESIGN STANDARDS.

In establishing a NC District, the planning commission is authorized to propose, and the governing body is authorized to adopt, by ordinance, district-specific development and design standards (referred to herein as "Development/Design Standards") to guide development and redevelopment within NC Districts:

- (1) When development/design standards have been adopted, all exterior modifications requiring a city permit or approval within the designated NC District shall comply with those standards;
- (2) When there are conflicts between the development/design standards of the base zoning district and adopted NC District Development/Design standards, the NC Development/Design Standards will govern;
- (3) The development/design standards will be administered by city staff in accordance with adopted administrative policy.

(Ord. 2266, Sec. II, 2012)

19.25.045. - APPEALS.

- (1) Notwithstanding the procedure set forth in section 19.54, a person aggrieved by a decision of the city staff, determine whether the development/design standards have been met, may file a written appeal with the neighborhood conservation overlay district appeals committee. The appeal shall be filed within ten working days after the decision has been rendered.
 - (i) After the appeal before the neighborhood conservation overlay district appeals committee has been filed, the one representative from the planning commission (appointed by the chair) along with two representatives from the affected NC Overlay District area (appointed by the HOA board or the mayor in the absence of an active homes association) shall hold a public meeting to make a determination if the proposed modification meets the NC Development/Design Standards. The two representatives shall be appointed by the homes association board in which the NC Overlay District is located. In the absence of a homes association board, the mayor shall appoint the two representatives from a list of property owners within the NC Overlay District.
- (2) A person aggrieved by a decision of the planning commission, determining whether the development/design standards have been met, may file a written appeal with the board of zoning appeals. The appeal shall be filed within ten working days after the decision has been rendered.
- (3) The board of zoning appeals is the final decision-making authority in determining whether a proposed project meets the adopted development/design standards.
- (4) The board of zoning appeals has no authority to grant interpretations, exceptions or variances from the adopted development/design standards.
- (5) Within 30 days after the board of zoning appeal's final decision, in passing upon an appeal pursuant to this section, any person aggrieved by the decision may file an action in district court to determine the reasonableness of the decision.

(Ord. 2266, Sec. II, 2012)

19.25.050. - NC DISTRICTS ESTABLISHED.

As NC Districts are established by Ordinance, this section will be updated by reference to such NC Districts in the following table:

Neighborhood Conservation District Name	General Boundaries	Ordinance No.

(Ord. 2266, Sec. II, 2012; Ord. 2271, Sec. II, 2013; Ord. 2366, Sec. II, 2017)

19.25.055. - NC DISTRICT DEVELOPMENT/DESIGN STANDARDS ESTABLISHED.

As NC District Development/Design Standards and Administrative Policies are established by Ordinance, this section will be updated by reference to such standards and policies in the following table:

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Neighborhood Conservation District Name	Design Standards and Administrative Policies	Ordinance No.

(Ord. 2266, Sec. II, 2012; Ord. 2271, Sec. II, 2013; Ord. 2366, Sec. III, 2018)

19.25.060. - RESERVED FOR INCORPORATION BY REFERENCE OF DESIGN GUIDELINES ADOPTED.

(Ord. 2266, Sec. II, 2012; Ord. 2271, Sec. II, 2013; Ord. 2366, Sec. III, 2018)

Chapter 19.26 - FLOODWAY OVERLAY (FW) AND FLOODWAY FRINGE OVERLAY (FF) DISTRICTS

19.26.005. - INTERPRETATION.

In their interpretation and application, the provisions of this chapter shall be held to be minimum requirements and shall be liberally construed in favor of the governing body and shall not be deemed a limitation or repeal of any other powers granted by state statutes.

19.26.010. - DEFINITIONS.

Unless specifically defined below, words or phrases used in this chapter shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this chapter its most reasonable application.

- (a) *Actuarial rates*: or risk premium rates are those rates established by the administrator pursuant to individual community studies and investigations which are undertaken to provide flood insurance in accordance with 42 U.S.C. 4014 and the accepted actuarial principles. Actuarial rates include provisions for operating costs and allowances.
- (b) *Channel*: A natural or artificial watercourse of perceptible extent, with a definite bed and banks to confine and conduct continuously or periodically flowing water. Channel flow thus is that water which is flowing within the limits of a defined channel.
- (c) *Development*: Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
- (d) *Flood*: A temporary rise in streams flow or stage that results in water overlapping its banks and inundating areas adjacent to the channel. An unusual and rapid accumulation of runoff or surface waters from any source.
- (e) *Flood Elevation Determinations*: A determination of the water surface elevations of the 100-year flood; that is, the level of flooding that has a one percent chance of occurrence in any given year.

- (f) *Flood Insurance Rate Map (FIRM)*: The official map prepared by the Department of Housing and Urban Development Federal Insurance Administration for a community delineating where flood insurance may be sold and the risk zones applicable to such areas.
- (g) *Flood Insurance Study (FIS)*: The official report provided contains flood profiles and water surface elevations for various flood frequencies as well as the boundaries and water surface elevation of the 100-year flood.
- (h) *Flood Plain Management*: The operation of an overall program of corrective and preventative measures for reducing flood damage, including, but not limited to emergency preparedness plan, flood control works and flood plain management regulations.
- (i) *Flood Protection System*: Those physical structural works constructed specifically to modify flooding in order to reduce the extent of the area within a community subject to a special flood hazard. Such a system typically includes levees or dikes. These specialized modifying works are those constructed in conformance with sound federal engineering standards.
- (j) *Flood Proofing*: Any combination of structural and non-structural additions, changes or adjustments to structures, including utility and sanitary facilities, which would preclude the entry of water. Structural components shall have the capability of resisting hydrostatic and hydrodynamic loads and the effect of buoyancy.
- (k) *Floodway*: The channel of a river or other watercourse and the adjacent portion of the flood plain that must in order to discharge the 100-year flood without cumulatively increasing the water surface elevation more than one foot at any point assuming equal conveyance reduction outside the channel from the two sides of the flood plain.
- (l) *Floodway Fringe*: That area of the flood plain, outside of the floodway, that on the average is likely to be flooded once every 100 years (i.e., that has a one percent change of flood occurrence in any one year.)
- (m) *Historic Structure*: Historic Structure means any structure that is:
 - (1) Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
 - (2) Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
 - (3) Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior;
 - (4) Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
 - a. By an approved state program as determined by the Secretary of The Interior.
 - b. Directly by the Secretary of the Interior in states without approved programs.
- (n) *Lowest Floor*: The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area is not considered a building's lowest floor, provided that such enclosure is not built so as to

render the structure in violation of the applicable non-elevation design requirements of this chapter.

- (o) *Manufactured Home (Mobile Home)*: Manufactured Home (Mobile Home) means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For flood plain management purposes the term manufactured home also includes park trailers, travel trailers, and other similar vehicles placed on a site for greater than 180 consecutive days. For insurance purposes the term manufactured home does not include park trailers, travel trailers and other similar vehicles.
- (p) *New Construction*: New Construction means, for the purposes of determining insurance rates, structures for which the start of construction commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For flood plain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a flood plain management regulation adopted by a community and includes any subsequent improvements to such structures.
- (q) *100-Year Flood*: The base flood having a one percent change of annual occurrence.
- (r) *Overlay District*: A district which acts in conjunction with the underlying zoning district or districts.
- (s) *Regulatory Flood Protection*: An elevation one foot higher than the water elevation surface elevation of the regulatory flood.
- (t) *Regulatory Flood Elevation*: Elevation indicated on the F.I.R.M. as the elevation of the 100-year flood.
- (u) *Start of Construction*: For other than new construction or substantial improvements under the Coastal Barrier Resources Act (Pub. L. 97-348), includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition, placement, or other improvement was within 180 days of the permit date. The actual start means the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the state excavation or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor or other structural part of a building, whether or not that alteration affects the external dimensions of the building.
- (v) *Structure*: A walled and roofed structure including a gas or liquid storage tank, that is principally above the ground, including but without limitation to buildings, factories, sheds, cabins, and other similar uses.
- (w) *Substantial Damage*: Substantial damage means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
- (x) *Substantial Improvement*: Substantial improvement means any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the market value of the

structure before the start of construction of the improvement. This term includes structures, which have incurred substantial damage, regardless of the actual repair work performed. The term does not, however, include either: (1) any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions or (2) any alteration of a historic structure provided that the alteration will not preclude the structure's continued designation as a historic structure.

19.26.015. - APPLICATION OF PROVISIONS.

This chapter shall apply to all lands within the jurisdiction of the Prairie Village, Kansas identified on the Flood Insurance Rate Map (F.I.R.M.) as numbered and unnumbered A Zones and within the Zoning District FW and FF established in section 19.26.020 of this chapter. In all areas covered by this chapter, no development shall be permitted except upon a permit to develop granted by the city council or its duly designated representative under such safeguards and restrictions as the council or the designated representative may reasonably impose for the promotion and maintenance of the general welfare, health of the inhabitants of the city and where specifically noted in sections 19.26.045 through 19.26.060.

19.26.020. - DISTRICTS-ESTABLISHED.

The mapped flood areas within the jurisdiction of this chapter are hereby divided into the two following districts: A floodway overlay district (FW) and floodway fringe overlay district (FF) identified in the Flood Insurance Study (Flood Boundary and Floodway Map(s)). The boundaries of these districts shall be shown on the official zoning map. Within these districts all uses not meeting the standards of this chapter and those standards of the underlying zoning district shall be prohibited. These zones shall be consistent with the numbered and unnumbered A Zones as identified on the official FIRM and identified in the flood insurance study provided by the Federal Insurance Administration.

19.26.025. - DISTRICT-RULES FOR INTERPRETING BOUNDARIES.

The boundaries of the floodway and floodway fringe overlay districts shall be determined by scaling distances on the official zoning map. Where interpretation is needed to determine the exact location of the boundaries of the districts as shown on the official zoning map, as for example where there appears to be a conflict between a mapped boundary and actual field conditions, the enforcement official shall make the necessary interpretation. In such cases where the interpretation is contested, the board of zoning appeals will resolve the dispute. The regulatory flood elevation for the point in question shall be the governing factor in locating the district boundary on the land. The person contesting the location of the district boundary shall be given a reasonable opportunity to present his case to the Board and to submit his own technical evidence, if he so desires.

19.26.030. - ANALYSIS OF FLOOD HAZARD.

This chapter uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

- (a) Selection of regulatory flood which is based upon engineering calculations which permit a consideration of such flood factors as its expected frequency of occurrence, the area inundated, and the depth of inundation.

The regulatory flood selected for this chapter is representative of large floods known to have occurred in this region to occur on the particular streams subject to this chapter. It is in the general order of a flood which could be expected to occur on the average once every 100 years or has a one percent chance of occurrence in any one year, as delineated on the preliminary draft of the Federal Insurance Administrations Flood Insurance Study, and illustrative materials (FIRM) dated September 27, 1991, as amended.

- (b) Calculation of water surface profiles based upon a hydraulic engineering analysis of the capacity of the stream channel and overbank areas to convey the regulatory flood.
- (c) Computation of the floodway required to convey this flood without increasing flood heights more than one foot at any point.
- (d) Delineation of floodway encroachment lines within which not obstruction is permitted which would cause any increase in flood height.
- (e) Delineation of the floodway fringe, i.e., that area outside the floodway encroachment lines but which still is subject to inundation by the regulatory flood.

19.26.035. - PERMIT-REQUIRED.

No person, firm or corporation shall initiate any development or cause the same to be done without first obtaining a separate permit for development for each such building or structure.

19.26.040. - APPLICATION FOR PERMIT.

- (a) To obtain a permit, the applicant shall first file an application therefore in writing on a form furnished for that purpose. Every such application shall:
 - (1) Identify and describe the work to be covered by the permit for which application is made;
 - (2) Describe the land on which the proposed work is to be done by lot, block, tract and house and street address, or similar description that will readily identify and definitely locate the proposed building or work;
 - (3) Indicate the use or occupancy for which the proposed work is intended;
 - (4) Be accompanied by plans and specifications for proposed construction;
 - (5) Be signed by the permittee or his authorized agent who may be required to submit evidence to indicate such authority;
- (b) Within designed flood prone areas, be accompanied by elevations (in relation to mean sea level) of the lowest floor (including basement) or in the case of flood proofed non-residential structures, the elevation to which it has been flood proofed. Documentation or certification of such elevations will be maintained by the assistant building official.
- (c) Give such other information as reasonably may be required by the assistant building official.
 - (1) A typical valley cross-section showing the channel of the stream, elevation of land areas adjoining each side of the channel, cross-sectional areas to be corrupted by the proposed development and higher water information.
 - (2) Plan (surface view) showing elevations or contours of the ground; pertinent structure, fill or storage

elevations; size, location and spatial arrangement of all proposed and existing structures on the site; location and elevation of streets, water supply, sanitary facilities, photographs showing existing land uses and vegetation upstream and downstream, soil types, and other pertinent information.

(3) Profile showing the slope of the bottom of the channel or flow line of the stream.

- (d) The assistant building official shall review all building permit applications to determine if the site of the proposed development is reasonably safe from flooding and that all necessary permits have been received as required by Federal or State law (including Section 404 of the Federal Water Pollution Control Act Amendments of 1972, 33 U.S. Code 1334) and make recommendations for development in all locations which have flood hazards.

19.26.045. - DISTRICT STANDARDS.

- (a) No permit for development shall be granted for new construction, substantial improvements and other improvements within A Zones unless the conditions of this section are satisfied.
- (b) All areas identified as unnumbered A Zones on the FIRM are subject to inundation of the 100-year flood; however, the water surface elevation was not provided. The unnumbered A Zones shall be subject to all development provisions of this chapter except those sections relating to elevation or flood proofing. When base flood elevation data has not been provided in accordance with section 19.26.030, paragraph A, then the assistant building official shall obtain, review, and reasonably utilize any base flood elevation or floodway data available from a Federal, State, or other source, in order to administer the provisions included in chapter 19.26.
- (c) New construction, substantial improvements, prefabricated buildings and other developments shall be designed or anchored to prevent the flotation, collapse or lateral movement due to flooding and will require:
- (1) New or replacement water to supply systems and/or sanitary infiltration of flood waters into the systems and discharges from the systems into the flood waters; and on-site waste disposal systems shall be located so as to avoid impairment of them or contamination from beyond applicable environmental control limits during flooding;
- (2) Subdivision proposals and other proposed new development shall be required to assure that: (a) all such proposals are consistent with the need to minimize flood damage, (b) all public utilities and facilities, such as sewer, gas, electrical, and water systems are located, elevated, and constructed to minimize or eliminate flood damage, (c) adequate drainage is provided so as to reduce exposure to flood hazards, and (d) proposals for development of five acres or 50 lots whichever is lesser include within such proposals the regulatory flood elevation;
- (3) New development and substantial improvements shall: (a) use construction materials and utility equipment that are resistant to flood damage, and (b) use construction methods and practices that will minimize flood damage, consistent with economic practicability;
- (4) Utility and Sanitary Facilities - All utility and sanitary facilities shall be flood proofed up to the regulatory flood protection elevation so that any space below the regulatory flood protection elevation is water tight with walls substantially impermeable to the passage of water with structural components having the capability of

resisting hydrostatic and hydrodynamic loads and effects of buoyancy. Electrical, heating, ventilation, plumbing, and air conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding;

- (5) Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or located so as to prevent water from entering or accumulating within the components during conditions of flooding. Rate study incorporated by references section 19.26.030 of this chapter;
- (6) The use of construction materials and utility equipment that are resistant to flood damage. Moreover, construction methods and practices will minimize flood damage;
- (7) The governing body of the city is to ensure that the flood carrying capacity within the altered or relocated portion of any watercourse is maintained. The city will notify, in riverine situations, adjacent communities and the States Coordinating Office prior to any alteration of relocation of a watercourse, and submit copies of such notifications to the administrator. Moreover, the city will work with appropriate State and Federal agencies in every way possible in complying with the National Flood Insurance Program in accordance with the National Flood Disaster Protection Act of 1973;
- (8) Storage of Material and Equipment:
 - a. The storage or processing of materials that are in time of flooding buoyant, flammable, explosive, or could be injurious to human, animal or plant life is prohibited.
 - b. Storage of other material or equipment may be allowable if not subject to major damage by floods and firmly anchored to prevent flotation or if readily removable from the area within the time available after flood warning.
- (9) Fully enclosed areas below the lowest floor that are subject to flooding shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square foot of enclosed area subject to flooding shall be provided. The bottom of all openings shall be no higher than one foot above grade. Openings may be equipped with screens, louvers, valves, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.

19.26.050. - FLOODWAY OVERLAY DISTRICT-PERMITTED USES.

Permitted uses in the floodway overlay district are as follows:

Only uses having a low flood-damage potential and not obstructing flood flows shall be permitted within the floodway district to the extent that they are not prohibited by any other ordinance and provided they do not require structures, fill, or storage of materials or equipment. No use shall increase the flood levels of the regulatory flood elevation. These uses are subject to the standards of section 19.26.045.

- (a) Agricultural uses such as general farming, pasture, nurseries, forestry.
- (b) Residential uses such as lawns, gardens, parking, and plan areas.
- (c) Non-residential areas such as loading areas, parking, airport landing strips.

- (d) Public and private recreational uses such as golf courses, archery ranges, picnic grounds, parks, wildlife and natural preserves.

19.26.055. - FLOODWAY FRINGE OVERLAY DISTRICT-PERMITTED USES.

- (a) Permitted uses in the Floodway Fringe Overlay District are as follows:

Any use permitted in section 19.26.050 shall be permitted in the Floodway Fringe Overlay District. No use shall be permitted in the district unless the standards of section 19.26.045 are met.

- (b) Standards for the Floodway Fringe Overlay District are as follows:

- (1) Require new construction or substantial improvements of residential structures to have the lowest floor, including basement elevated to or above the regulatory flood elevation.
- (2) Require new construction or substantial improvements of non-residential structures to have the lowest floor, including basement, elevated to or above the regulatory flood elevation or, together with attendant utility and sanitary facilities, to be flood proofed up to the level.

Within zones FF all new construction and substantial improvements of residential structures have the lowest floor, including basement, elevated above the crown of the nearest street to or above the depth number specified on the official FIRM.

Non-residential structures, within zones FF, together with attendant utility and sanitary facilities may be flood proofed to or above the depth number specified on the official FIRM.

19.26.060. - CERTIFICATION AND INFORMATION.

- (a) Flood Proofing - applicants shall provide certification by a registered professional engineer or architect that the flood proofing plans are adequate to be water tight with walls impermeable to the passage of water and withstand the hydrostatic and hydrodynamic forces associated with the 100-year flood.
- (b) Flood proofing of residential structures will not be allowed unless the community is specifically granted an exception from the provisions of this chapter by the Administrator of the Federal Insurance Administration.
- (c) Elevation of Property - the applicant shall provide information identifying the elevation of the property in relation to mean sea level of the lowest flood (including the basement of the proposed structure) to which structures are flood proofed. In addition, the applicant shall provide this information for the second lowest floor when the lowest floor is below grade on one of or more sides.
- (d) The assistant building official will maintain the records certification when issuing development permits in conformance with this section.

19.26.065. - VARIANCES.

- (a) Where by reason of exceptional narrowness, shallowness, shape of topography, or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any provision of this chapter would result in peculiar and exceptional hardship upon the owner of the property as an unreasonable

deprivation of use as distinguished from the mere grant of a privilege, the board of zoning appeals may authorize a variance from strict application so as to relieve the demonstrable difficulties or hardships, provided that such a variance may only be granted if:

- (1) The structure is to be erected on a lot of one-half acre or less in size and such lot is contiguous to and surrounded by lots with existing structures constructed below the regulatory flood protection elevation;
 - (2) The structure is listed on the National Register of Historic Places, the State Inventory of Historic Places to be restored or reconstructed.
- (b) Variances shall not be issued except upon: (i) a showing of good and sufficient cause, (ii) a determination that failure to grant the variance would result in exceptional hardship to the applicant, and (iii) a determination that the variance issuance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, create nuisances, cause fraud on or victimization of the public, or conflict with existing local or state laws or ordinances.
- (c) Variances may only be issued upon a determination that the applicant requesting a variance shall meet the minimum necessary standards of this chapter to afford relief.
- (d) A community will notify the applicant that the issuance of a variance to locate a structure at an elevation below the 100-year flood level will result in increased actuarial rates for flood insurance coverage.

19.26.070. - NONCONFORMING USES.

- (a) A structure or the use of a structure or premises which was lawful before the passage or amendment of the ordinance but which is not in conformity with the provisions of this chapter may be continued subject to the following conditions:
- (1) No such use or substantial improvement of that use shall be expanded, changed, enlarged, or altered in a way which increases its nonconformity;
 - (2) If such use is discontinued for six consecutive months, any future use of the building premises shall conform to this chapter. The utility department shall notify the assistance building official in writing of instances of nonconforming uses where utility services have been discontinued for a period of three months;
 - (3) Uses or adjuncts thereof which are or become nuisances shall not be entitled to continue as nonconforming uses.
- (b) If any nonconforming use or structure is destroyed or damaged by more than 50 percent of its fair market value by any means, including flood, it shall not be reconstructed unless it is reconstructed in conformity with the provisions of this chapter. This limitation does not include the cost of any alteration to comply with existing state or local health, sanitary, building, or safety codes or regulations or the cost of any alteration of a structure listed on the National Register of Historic Places or a State Inventory of Historic Places.

19.26.075. - APPEAL TO CITY COUNCIL.

Where a request for a permit to develop or a variance is denied by the assistant building official, the applicant may apply for such permit or variance directly to the board of zoning appeals.

The board of zoning appeals may grant or deny such request by appropriate resolution adopted within 60 days after the state of such application to the board of zoning appeals.

19.26.080. - AMENDMENTS.

The regulations, restrictions, and boundaries set forth in this chapter may from time to time be amended, supplemented, changed, or appealed to reflect any and all changes in the National Flood Disaster Protection Act of 1973, provided, however, that no such action may be taken until after a public hearing in relation thereto, at which parties in interest and citizens shall have an opportunity to be heard. At least 15 days notice of the time and place of such hearing shall be published in a newspaper of general circulation in Johnson County, Kansas. Prior to the adoption thereof, the governing body shall submit to the Chief Engineer of Water Resources of the State Board of Agriculture any ordinance, regulation or plan proposing to create or to effect any change in a flood plain zone or district, or that proposes to regulate or restrict the location and use of structures, encroachments and uses of land within such an area. The regulations of this chapter in compliance with the National Flood Insurance Program Regulations as published in the Federal Register, Volume 41, Number 207, dated October 26, 1976.

19.26.085. - WARNING-DISCLAIMER OF LIABILITY.

The degree of flood protection required by this chapter is considered reasonable for regulatory purposes and is based on engineering and scientific methods of study, larger floods may occur on rare occasions or the flood height may be increased by man made or natural causes, such as ice jams and bridge openings restricted by debris. This chapter does not imply that areas outside floodway and floodway fringe district boundaries or land uses permitted within such districts will be free from flooding or flood damages. This chapter shall not create liability on the part of Prairie Village, Kansas or any officer or employee thereof for any flood damages that may result from reliance on this chapter or any administrative decision lawfully made thereunder.

19.26.090. - COMPLIANCE TO PROVISIONS REQUIRED.

No structure, land, or water shall hereafter be used and no structure shall be located, extended, converted or structurally altered without the full compliance with the terms of this chapter and other applicable regulations.

19.26.095. - EFFECT OF PROVISIONS ON EXISTING STANDARDS.

It is not intended by this chapter to repeal, abrogate or impair any existing easements, covenants, or deed restrictions. However, where this chapter imposes greater restrictions, the provision of this chapter shall prevail. All other ordinances inconsistent with this chapter are hereby repealed to the extent of the inconsistency only.

19.26.100. - ENFORCEMENT.

The building official of the city is hereby designated as the council's duly designated enforcement officer under this chapter.

19.26.105. - PENALTIES FOR VIOLATION.

Violation of the provisions of this chapter or failure to comply with any OT its requirements (including violations of conditions and safeguards established in connection with grants of variances or special exceptions) shall constitute a misdemeanor. Any person who violates this chapter or fails to comply with any of its requirements shall upon conviction thereof be fined not more than \$100.00, and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

Nothing herein contained shall prevent the Governing Body of Prairie Village, Kansas or other appropriate authority from taking such other lawful action as is necessary to prevent or remedy any violation.

19.26.110. - SEVERABILITY.

If any section, clause, provision, or portion of this chapter is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this chapter shall not be affected thereby.

Chapter 19.27 - ZONING DISTRICTS AND USES

19.27.010. - ALLOWED USES.

Table <u>19.27</u> : Allowed Uses										
■ = use is generally permitted, subject to general zoning district development and design standards.										
<i>O = use requires Special Use Permit and discretionary review by Planning Commission and City Council per Section 19.32</i>										
<i>Uses</i>	<i>R-1A</i>	<i>R-1B</i>	<i>R-2</i>	<i>R-3</i>	<i>R-4</i>	<i>C-O</i>	<i>C-1</i>	<i>C-2</i>	<i>C-3</i>	<i>MXD</i>
<i>Residential Uses</i>									itted uses in the C-0, C-2 and C-2 districts	uses in the R-3. C-0, C-2 and C-2 districts
Single family dwellings	■	■	■	■		■				
Two-family dwellings			■	■		■				
Garden Apartment Building or Apartment House				■		■				
Condominium					■					

Nursing and convalescent home	O	O	O	O	O	O	O	O
Group home	■	■	■	■		■		
<i>Civic Uses</i>								
Golf courses (not mini-golf or commercial driving range)	■	■	■	■		■		
Public parks and rec areas	■	■	■	■	■	■	■	■
Assembly - Small (under 350 / under 5 ac.)	■	■	■	■	■	■	■	■
Assembly - Medium (351 to 700 / 5 - 10 ac.)	O	O	■	■	■	■	■	■
Assembly - Large (701 + / over 10 ac.)							O	O
City hall, police, fire stations	■	■	■	■		■	■	■
Public libraries, museums, art galleries	■	■	■	■		■	■	■
Public schools, college and university centers operated by local district or state	■	■	■	■		■	■	■
Private schools	O	O	O	O	O	O	O	O
Country clubs/private	O	O	O	O	O	O	O	O

and commercial district and uses shall be specified based on a development plan, however should be based on combinations of the perm

nixed-use district and uses shall be specified based on a development plan, however should be based on combinations of the permitted

clubs w/ food/alcohol								
Cemeteries	O	O	O	O	O	O	O	O
Columbarium	O	O	O	O	O	O	O	O
Hospital								O
Commercial Uses								
Retail - Micro (under 1.5K)						■	■	■
Retail - Small (1.5 - 5K)						O	■	■
Retail - General (5K - 20K)							O	■
Retail - Large (20K-80K)								■
Retail - Warehouse (80K+)								O
Retail - Drive through food and beverage							O	O
Retail -Outdoor Sales and Services								O
Office - Small (under 10K)						■	■	■
Office - General (10K - 100K)						■		■
Office - Large (over 100K)								O
Personal Service - Small (under 5K s.f.)						■	■	■

No specific uses permitted. C-3 is a planned

No specific uses permitted. MXD is a planned r

Personal Service - General (5K - 20K s.f.)						■	O	■		
Personal Service - Large (more than 20K s.f.)								■		
Animal Care - Veterinary Office						O	■	■		
Animal Care - Pet Daycare							O	■		
Animal Care - Animal Hospital								■		
Animal Care - Boarding (non-accessory / non- medical)							O	O		
Bed and Breakfast						■				
Day Care Centers	O	O	O	O	O	■	■	■		
Nursery sales office / greenhouse (wholesale or retail)							O	O		
Service Stations (non-car wash)							O	O		
Car wash (w/ or w/o service station)							O	O		
Skating rinks / commercial recreation							O	O		
Mortuary / Funeral						O	O	O		

Home										
Bar / Night Club						>	O	O		
Utility storage Buildings (non residential)						O	O	O		

Chapter 19.28 - SPECIAL USE PERMITS

19.28.000. - GOVERNING BODY.

Governing body means 12 members of the city council plus the mayor for a total of 13 members.

(Ord. 2199, Sec. IV, 2009)

19.28.005. - GENERAL.

Special uses are those types of uses which, due to their nature, are dissimilar to the normal uses permitted within a given zoning district or where product, process, mode of operation, or nature of business or activity may be detrimental to the health, safety, welfare or property values of the immediate neighborhood and its environs unless it is designed in a manner that is compatible with surrounding properties. Within the various zoning districts, specific uses may be permitted only after additional requirements are complied with as established within this section. In no event shall a special use permit be granted where the special use contemplated is not specifically listed as a special use in the zoning regulations.

19.28.010. - APPLICATION.

A special use permit application shall be initiated by the owner of the property affected. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owners. If the property is under contract or option to purchase, the name and current mailing address of the purchaser shall also be shown on the application. All applications shall be made on forms prescribed by the city planning commission and duly filed with the city clerk or their designee.

(Ord. 2199, Sec. V, 2009)

19.28.015. - FILING FEE.

A fee as established by the city council shall accompany each application for a special use permit. In addition, the applicant is obligated to pay all costs incurred by the city, including publication costs, consultant's charges for application review, if necessary, court reporter costs, costs of the original transcript of the hearing of the planning commission and as

many copies of the transcript as necessary. Simultaneously with the payment of the filing fee, the applicant shall accompany each application with a cost advance as specified by the city council to be used by the city to pay for said costs. If the costs are less than the stipulated cost advance, the city shall refund the difference to the applicant. If the costs are more than the stipulated cost advance, the city shall so notify the applicant who is obligated to pay such excesses forthwith.

19.28.020. - PUBLIC HEARING NOTICE.

All such applications shall be scheduled for hearing not later than the second regular monthly meeting of the planning commission following the date of the earliest publication period available as required by law. Any such hearing may, for good cause, in the discretion of the planning commission, be continued for a definite time to be specified in the record of the commission. Notice of such hearing shall be published in one issue of the official newspaper of Prairie Village, such notice to be published not less than 20 days or more than 40 days, exclusive of the days of the publication and hearing, prior to the date of said hearing before the commission. The application area shall be designated by legal description or a general description sufficient to identify the property under consideration. If a general description is used, said notice shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. In addition to such publication, the applicant shall be responsible for mailing notice of such proposed special use permit to all the owners of lands located within 200 feet, except public streets and ways, of the application area at least 20 days prior to the hearing, thus providing an opportunity to all interested parties to be heard. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in the form of a letter describing the proposed special use. A copy of the publication notice shall be included and such mailed notices shall be addressed to the owners of land mentioned above and not to non-owner occupants. Failure to receive such notice shall not invalidate any subsequent action taken. The applicant shall file with the city clerk or their designee, not less than six days prior to the date of the hearing, an affidavit to the effect that such notices were indeed mailed in compliance with this title.

In the case of an application for a special use which may, in the opinion of the commission or governing body, substantially change traffic patterns, or create traffic congestion, either body may, by motion, require that the applicant procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study. Such study shall show whether or not the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner and that vehicular ingress and egress from the site onto public streets will function in an orderly and efficient manner.

(Ord. 2199, Sec. V, 2009)

19.28.025. - POSTING OF PROPERTY.

Each applicant for a special use permit shall within 48 hours of filing such application, place a sign upon the lot, tract or parcel for which the application was filed. Said sign shall be furnished by the city and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth. Said signs shall read as follows:

SPECIAL USE PERMIT
APPLICATION NUMBER. . . .
PUBLIC HEARING AT CITY HALL

BEFORE PLANNING
COMMISSION ON

.....

CITY OF PRAIRIE VILLAGE, KANSAS

Unauthorized Removal, Defacing, or Destruction of
this Sign Punishable upon Conviction by

Fine not Exceeding \$100.00 and/or not more than 30 days imprisonment.

Said sign shall be maintained and kept in place by the applicant until the conclusion of the public hearing before the planning commission, or until withdrawal of the application, at which time the sign shall be removed by the applicant. The applicant shall file an affidavit at the time of said public hearing before the planning commission that the sign was placed and maintained to said hearing date as required by this title. No application shall be heard by the planning commission unless such affidavit has been filed.

The bottom of said sign shall be a minimum of two feet above the ground line. Said sign shall be placed within five feet of the street right-of-way line, in a central position on such lot, tract or parcel of land and shall have no visual obstructions thereto. If the lot, tract or parcel of land has more than one street abutting thereto, the sign shall face the street with the greatest traffic flow. If the lot, tract, or parcel of land is larger than five acres, a sign as required by this title shall be placed so as to face each of the streets abutting thereto.

It is a misdemeanor for any person to remove, deface or destroy any sign provided for by this title. Any person, upon conviction thereof, shall be fined a sum not to exceed \$100.00, or imprisoned in jail for not more than 30 days or be both so fined and imprisoned.

19.28.030. - APPLICATION INFORMATION.

- (a) The applicant shall submit a statement in writing justifying the special use permit applied for, and indicating under which article and section of the zoning regulations the special use is specifically listed.
- (b) The applicant shall prepare and submit 14 copies of the site plan at the time of filing the application as specified in chapter 19.32 Site Plan Approval as well as any other information which would be helpful to the planning commission in consideration of the application.
- (c) The applicant shall have first applied for a license(s) or official accreditation from the appropriate agency if required by law, submitting written evidence of such action with the application for the special use permit.

19.28.035. - FACTORS FOR CONSIDERATION.

The planning commission and governing body shall make findings of fact to support their decision to approve or disapprove a special use permit.

- (a) The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitations;
- (b) The proposed special use at the specified location will not adversely affect the welfare or convenience of the public;

- (c) The proposed special use will not cause substantial injury to the value of other property in the neighborhood in which the special use is to be located;
- (d) The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the special use will not dominate the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will so dominate the immediate neighborhood consideration shall be given to:
 - (1) The location, size, nature and height of buildings, structures, walls, and fences on the site; and
 - (2) The nature and extent of landscaping and screening on the site.
- (e) Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such residential uses from any injurious effect.
- (f) Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- (g) Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
- (h) Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.
- (i) Architectural style and exterior materials are compatible with such style and materials used in the neighborhood in which the proposed building is to be built or located.

It is not necessary that a finding of fact be made for each factor described herein. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable.

(Ord. 1973, Sec. I, 1999; Ord. 2199, Sec. V, 2009)

19.28.040. - PLANNING COMMISSION ACTION.

After the public hearing, the planning commission, by a majority of members present and voting, shall be required to recommend approval, approval subject to conditions, or denial of the special use permit to the governing body. If the planning commission fails to make a recommendation it shall be deemed to have made a recommendation of disapproval. The planning commission shall submit its recommendation and the reasons therefore to the governing body.

(Ord. 2199, Sec. V, 2009)

19.28.041. - PROTEST.

Regardless of whether or not the planning commission recommends approval or disapproval of a special use permit, if a valid protest petition against such special use permit is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing, signed by the owners of record of 20 percent or more of the total area required to be notified of the proposed special use permit, excluding streets and public ways, such special use permit shall not be passed except by at least a three-fourths vote (ten votes) of all members of the governing body.

Valid protest petitions must be signed and acknowledged by each and every owner(s) of property protesting a given action. The word "owner(s)" for purposes of protest petitions shall include all those individuals that may have ownership in subject real property or property within the notification area. If the property is owned by joint tenancy, all such owners must sign the petition by their own hand to be valid, unless the petition itself clearly indicates that one tenant has the legal authority to sign for and on behalf of the other. In the event a corporation, partnership or other organization meets the requirements to protest an action and desires to sign a petition, the following must appear on the petitions for such an organization to be counted with the petition: a) the proper name in which title to their property is held; and b) the address of their property; and c) the name of the individual signing on behalf of the corporation, partnership or other organization; and d) some indication of capacity or authorization of the individuals to sign on behalf of the corporation, partnership or organization.

To be a valid protest petition, the signature of each owner(s) signing the petition must be properly notarized.

(Ord. 2269, Sec. I, 2013)

19.28.045. - GOVERNING BODY ACTION.

After receipt of the planning commission's recommendation, the governing body may:

- (a) Adopt such recommendation by simple majority (seven votes) and if the recommendation is to approve, adopt an ordinance to that effect;
- (b) Override such recommendation by a two-thirds majority vote of the membership of the governing body (nine votes) and if it is to approve a change, adopt an ordinance to that effect; or
- (c) Return such recommendation to the planning commission with a statement specifying the basis for the governing body's failure to approve or disapprove by a simple majority of the quorum present.

If the governing body returns the recommendations, the planning commission may resubmit its original recommendations giving the reasons therefore or submit a new and amended recommendation. If the planning commission fails to deliver its recommendation to the governing body following the planning commission's next regular meeting, such inaction shall be deemed a resubmission of the original recommendation. Upon the receipt of any such recommendation, the governing body may adopt or may revise or amend and adopt such recommendation by a simple majority (seven votes) thereof or it need take no further action.

(Ord. 2199, Sec. V, 2009)

19.28.050. - CONDITIONS OF APPROVAL.

In granting a special use permit, the planning commission and governing body may impose such conditions, safeguards and restrictions upon the premises benefited by the special use as may be necessary to reduce or minimize any potentially injurious effect of such special uses upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

(Ord. 2199, Sec. V, 2009)

19.28.055. - EXPIRATION OF SPECIAL USE PERMITS.

All special use permits shall be valid for the length of time set forth in the approving ordinance provided, however, that all such permits shall expire when the use for which the permit has been issued is discontinued or abandoned, for a period of six consecutive months. Such use shall not thereafter be reestablished or resumed, unless a new permit is issued following the procedures set forth herein.

19.28.060. - ASSIGNMENT.

Special use permits may be assigned, conveyed or transferred to another owner or operator subject to a signed statement by the new owner or operator that he/she has read the conditions of approval and agrees to be bound by the terms of approval.

(Ord. 1973, Sec. II, 1999)

19.28.065. - REVOCATION OF SPECIAL USE PERMITS.

Special use permits may be revoked by the Governing Body for:

- (a) A violation of the ordinances of this city including, but not limited to, the zoning regulations;
- (b) A violation of the district regulations; and
- (c) A violation of non-compliance with the conditions, limitations or requirements contained in the special use permit or these regulations.

(Ord. 2199, Sec. V, 2009)

19.28.070. - SPECIFICALLY LISTED SPECIAL USE PERMITS.

Any of the following uses may be located in any district by special use permit in accordance with section 19.28.005: unless otherwise noted:

- (a) Country clubs, or private clubs or clubs which serve food and alcoholic, wine and cereal malt beverages;
- (b) Cemeteries;
- (c) Columbariums;
- (d) Hospitals;
- (e) Nursery sales office, building, greenhouse, or area (wholesale or retail);
- (f) Nursing and convalescent homes as defined by state statutes; but not including group homes;
- (g) Buildings, structures, towers and premises for public utility services or public service corporations whether located in public right-of-way or on easements on private property except that the following shall be specifically excluded from the special use permit requirements: utility poles; utility boxes; and underground utility lines.
- (h) Assembly. Where assembly uses are listed as a special use in certain districts, the application should be reviewed particularly in regard to:

- (1) The intensity of the use in terms of activity and noise;
 - (2) The scale of the building and associated site elements compared to patterns in the area;
 - (3) Potential impacts of the use on adjacent property from anticipated operations and activities;
 - (4) The benefits of the use to other permitted uses in the district compared with the potential detriment of the use on the character of the area.
- (i) Dwellings for senior adults, as defined herein, and including handicapped adults. Dwellings may be in the form of townhouses, apartments or congregate type living quarters. Nursing care or continuous health care services may be provided on the premises as a subordinate accessory use. Not less than seven hundred square feet of land shall be provided for each occupant in an apartment or congregate dwelling unit and not less than five hundred square feet of land shall be provided for each bed in a nursing or continuous care facility. Not less than three off-street parking spaces shall be provided on the premises for every four apartments or congregate living units, one space shall be provided for every five beds in any nursing facility, and not less than one space shall be provided for each employee on the premises on the maximum shift, provided, however, that this section shall not apply to group homes; Standards for height and setback of buildings applicable to such dwellings shall be those permitted in residential zoning districts R-1 through R-4;
 - (j) Service stations in C-1, C-2 & C-3 Districts only; not including automatic car wash; provided that all gasoline storage tanks shall be located below the surface of the ground. Display and service racks for new stock normally carried by filling stations, including oils and tires, may be placed outside the building during business hours;
 - (k) Automatic and semiautomatic car washes, continuous line car washes, self-service car washes, manual car washes and all other car washing facilities located separately or in relation to the operation of a service station in C-1, C-2 and C-3 Districts only;
 - (l) Skating rinks, arcades and similar commercial recreation facilities in C-1, C-2 and C-3 Districts only provided such use shall be not less than two hundred feet from any existing clinic, hospital, school, church or district R-1 to R-4 inclusive, unless approved by the Governing Body under such restrictions as seem appropriate after consideration of noise and other detrimental factors incidental to such use;
 - (m) Mortuaries and funeral homes - in C-0, C-1, C-2 & C-3 Districts only;
 - (n) Day Care Centers in residential districts;
 - (o) Drinking Establishments - Bar or Night Club - C-1, C-2, & C-3 Districts only:
 - (1) The initial approval shall be for a period of three years;
 - (2) Subsequent renewals may be for periods up to ten years but shall not be in excess of the lease term or options thereof;
 - (p) Accessory uses to motels includes but not limited to restaurants, banquet rooms, liquor, notions and magazine counters, vending machines, beauty and barbershops, flower and gift shops; provided all are within the main building and designed to serve primarily the occupants and patrons of the motel or hotel;
 - (q) Accessory uses to hospitals including, but not limited to, residential quarters for staff and employees, nursing or convalescent quarters, storage and utility buildings, food service and vending machines, laundry and other similar services for hospital personnel, visitors and patients;

- (r) DELETED.
- (s) DELETED.
- (t) Private Schools, Colleges and University Education Centers.
- (u) Retail. Where retail uses are listed as a Special Use in certain districts, the application should be reviewed, particularly in regard to:
 - (1) The intensity of the use in terms of activity and noise;
 - (2) The scale of the building and associated site elements compared to patterns in the area;
 - (3) Potential impacts of the use on adjacent property from anticipated operations and activities; and
 - (4) The benefits of the use to other permitted uses in the district compared with the potential detriment of the use on the character of the area.

(Ord. 1909, Sec. II, 1997; Ord. 1919, Sec. I, 1997; Ord. 2029, Sec. II, 2002; Ord. 2190, Sec. III, 2009; Ord. 2407, Section XII, 2019)

19.28.075. - REAPPLICATION WAITING PERIOD.

In the case of denial of an application by the governing body, the applicant must wait a period of six months from the date of denial before reapplying for approval of a special use permit unless the legal description of the property has substantially changed or the new application is for a special use permit that is a different use than the original.

The city administrator, or his/her designee, shall determine if an application concerns "substantially the same" property, development and land use as a prior application. The landowner may appeal such determination to the planning commission.

The Governing Body may waive the waiting period for good cause shown. ;hn0; (Ord. 2307, Sec. I, 2014)

Chapter 19.30 - CONDITIONAL USE PERMITS

19.30.005. - PURPOSE AND INTENT.

The intent of conditional use permits are to ensure that specific uses, specific formats of uses, or site and building design elements of specific uses have an elevated site plan review to ensure that it is sited and operated in a compatible manner with the specific context. This review process provides an elevated site plan review for situations we expect to be compatible with the zoning district, but where administrative judgment is reserved and conditioned on a specific site plan. Approvals may be specific conditions that the use or site element must meet, elevated scrutiny of the general site plan criteria for the particular use or site, or limited time periods where performance and operation of the proposed plan may be reevaluated periodically.

(Ord. 2407, Sec. XIII, 2019)

19.30.010. - APPLICABILITY.

The conditional use permit process applies to any uses identified as a conditional use in the use table in chapter 19.27 as well as any use or site element listed in section 19.30.050 that has specific conditions to be applied on a case by case basis.

(Ord. 2407, Sec. XIII, 2019)

19.30.020. - PROCEDURE.

The process for a conditional use permit shall be the same as a site plan provided in chapter 19.32.

(Ord. 2407, Sec. XIII, 2019)

19.30.030. - CRITERIA.

In making a decision on a conditional use permit and site plan, the planning commission shall evaluate the following criteria that are relevant to the request:

- (a) The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations, and use limitations;
- (b) The proposed conditional use meets any specific standards or limitations for the particular use listed in this chapter.
- (c) The proposed conditional use meets all of the site plan review criteria in section 19.32.030.
- (d) The proposed conditional use at the specified location is adequately planned, designed, located, and limited to not cause any impacts on the character of the area, the public streetscape, or adjacent property, different from any other permitted use.
- (e) In meeting these criteria, the planning commission may place additional conditions that it deems appropriate to ensure that the criteria are met based on the particular context, site, or plan.

(Ord. 2407, Sec. XIII, 2019)

19.30.040. - EFFECT OF DECISION.

In deciding on a conditional use permit, the planning commission may:

- (a) Approve the application based upon the proposed site plan.
- (b) Approve the application based upon additional conditions to the proposed site plan, or any additional limitations on the design or operations of the proposed use.
- (c) Deny the application, and state specific circumstances that make the use or design incompatible with that site.
- (d) In approving any application, the planning commission may place a reasonable time limit on the permit. The reasonableness of any time limit shall be balanced based on the level of initial investment in the use, the potential for any conflicts or changes in impacts over time, and the need for periodic review to ensure conformance with the site plan and any other conditions.
- (e) Conditional use permits may be assigned, conveyed, or transferred to another owner or operator, subject to a signed statement by the new owner or operator that they will abide by all conditions of the approval.

- (f) Appeal of a decision on a conditional use permit may be made by the applicant, a government official, or agency impacted by the decision, or any person aggrieved by the decision where detrimental effects on a property or business interest may be shown. Appeals shall be filed with the city clerk within 15 days of the planning commission decision. Appeals will be heard by the city council at its next regular scheduled meeting. The city council shall consider the appeal under the same procedures and criteria of the planning commission, and the city council may make any decision that was available to the planning commission, except that it must find a clear error by the planning commission in applying the facts to the criteria in order to over-ride the decision. Provided, this section shall not apply to any person who is availing themselves of the appeal provisions set forth in K.S.A. 66-2019(h)(6), as amended, as codified in Section 19.33.020(e) of the city zoning regulations (or in Federal Communications Commission (FCC) Declaratory Ruling dated September 27, 2018, in WT Docket Nos. 17-79 and 17.84 (FCC 18-133, 33 FCC Rcd 9088), to the extent such FCC Declaratory Ruling applies and/or is in effect.

(Ord. 2407, Sec. XIII, 2019)

19.30.050. - SPECIFICALLY LISTED CONDITIONAL USES.

The following uses may be permitted by conditional use permit:

- (a) Temporary use of land for commercial or industrial purposes; provided that any building or structure constructed thereon which is not otherwise permitted in the district in which such land is situated, and any stored equipment or material shall be removed upon the date of expiration of the conditional use permit, which permit shall be valid for not more than two years.
- (b) Off-street parking lots and parking structures;
- (c) Drive-up services for non-food businesses may be approved in C-O, C-1, or C-2 by a conditional use permit provided the following criteria are met:
 - (1) The service area and any circulation or stacking areas are designed and located in a way that minimizes impacts on any adjacent residential uses. This may include locating the service area at a remote part of the site, using enhanced screening and buffering of service areas, limiting the hours of operation and anticipated peak times of the operations, or demonstrating other operational or technical controls that will clearly meet the city's noise ordinance standards.
 - (2) The access and circulation does not present any disruption to surrounding traffic patterns in the street, any pedestrian access points to the site, or along the streetscape beyond ordinary vehicular access.
 - (3) No food or beverage services are permitted. Drive-through retail food and beverage services require a special use permit according to the procedures and criteria in section 19.28.
- (d) Satellite dish antennas, with a diameter of one meter or greater and those not permitted in section 19.34.040 (d); and non-commercial transmitting and receiving antennas and towers;
- (e) Property Maintenance Facilities. Buildings, structures and premises for property maintenance facilities, and uses;
- (f) Limited Outdoor Sales and Services - The limited display of merchandise or services on a sidewalk or an

exterior private area of a site associated with the otherwise permitted non-residential use and building. The merchandise display or services are further limited by the following, unless otherwise permitted:

- (1) It only occurs during business hours;
 - (2) All merchandise or equipment other than furniture associated with customer seating is removed from the site and brought indoors during non-business hours; and
 - (3) The display or service area is designed in a manner that is incidental to or integrates with the building and other site design elements in a manner that minimizes potential impacts on adjacent property.
- (g) Utility boxes or accessory equipment (as defined in chapter 19.33) that have a footprint larger than 12 square feet in area, a pad greater than two and one-half times the area of the utility box footprint or greater than 32 square feet; or have a height of more than 56 inches, except to the extent the same constitutes an eligible facilities request under chapter 19.33 of the city zoning regulations.
- (1) For utility boxes, facilities, or accessory equipment to be located in the public right-of-way, and for which a conditional use permit is required, in addition to the factors set forth in section 19.30.030 above, consideration shall be given to the requirements and design standards set forth in chapter 13, article 5 of the City Code (use and Occupancy of the Public Right-of-Way), as amended from time to time.
 - (2) Prior to consideration by the planning commission, the applicant must hold a neighborhood meeting and invite all persons to whom notice is required to be given under the citizen participation policy. The applicant must consider and receive input on whether it is feasible to incorporate or adopt the city's design standards or requirements, and what other reasonable alternatives are available based on the circumstances, context, and streetscape designs and constraints of the specific site. The applicant must present the results from the neighborhood meeting as part of the justification for any conditional use permit request.

(Ord. 2407, Sec. XIII, 2019)

Chapter 19.32 - SITE PLAN APPROVAL

19.32.005. - PURPOSE AND INTENT.

The intent of site plan approval is to further the purposes of these regulations by ensuring that redevelopment and new development are designed in a manner which reasonably protects visual environmental qualities and property values in the City of Prairie Village and assures adequate management of stormwater and safe vehicular access.

19.32.010. - APPLICABILITY.

All uses except single-family and two-family dwellings, group homes and residential design manufactured homes including proposed expansions or enlargements of more than ten percent of the existing floor area of existing buildings shall prepare and submit a site plan in accordance with chapter 19.32 Site Plan Approval prior to the issuance of a building permit.

19.32.015. - APPLICATION.

Each application for site plan approval shall be submitted to the city signed by the owner of record or his agent, accompanied by 14 copies of the site plan and the appropriate filing fee.

19.32.020. - AUTHORITY.

Building permits shall not be issued for use of any land or proposed construction in which site plan approval is required, unless site plan approval has been granted by the planning commission. The planning commission may require revisions to the site plan, building designs, materials or any other element in order to improve the compatibility of the proposal. The decision of the planning commission may be appealed to the governing body by the applicants by filing a notice with the city clerk within ten working days after the planning commission has issued its decision.

19.32.025. - SUBMISSION REQUIREMENTS.

The site plan shall include the following data, details, and supporting information which are found to be relevant to the proposal. All site plans shall be prepared by a registered architect, registered landscape architect or licensed professional engineer. The number of pages submitted will depend on the proposals size and complexity.

Site plans shall be prepared at a minimum scale of one inch equals 20 feet on standard 24" x 36" sheets. Items required for submission include:

- (a) Name of the project, address, boundaries, date, north arrow and scale of the plan;
- (b) Name and address of the owner of record, developer, and name, address and phone number of preparers;
- (c) All existing lot lines, easements, rights-of-way including area in acres or square feet;
- (d) The location and use of all existing and proposed buildings and structures within the development. All dimensions of height and floor area, all exterior entrances and all anticipated future additions and alterations. Typical elevations, showing building materials and colors;
- (e) The location of all present and proposed public and private ways, driveways, sidewalks, ramps, curbs and fences;
- (f) Location of required parking areas including parking stalls, setbacks and loading and service areas and the type of pavement proposed;
- (g) The location, height, intensity and bulb type (e.g., fluorescent, sodium incandescent) of all external lighting fixtures. The direction of illumination and methods to eliminate glare onto adjoining properties;
- (h) The location, height, size, materials and design of all proposed signage;
- (i) Location, type and screening details for all waste disposal containers;
- (j) A landscape plan showing all existing open space and trees to be retained, all proposed changes to these features including the location, size and type of proposed plant material, and any proposed screening for adjacent properties which may include solid or semi-solid, fencing, walls or hedges or a combination thereof;
- (k) The location of all exist and proposed utility systems including:
 - (1) Sewer lines and manholes.

- (2) Water lines and fire hydrants.
- (3) Telephone, cable and electrical systems.
- (4) Storm drainage system including drain lines, culverts, catch basins, headwalls, endwalls, manholes, and drainage scales.
- (l) Plans to prevent: (a) the pollution of surface or groundwater; (b) the erosion of soil both during and after construction; (c) excessive run-off, (d) and flooding of other properties, as applicable. Said plans shall include stormwater run-off calculations and shall provide for on-site stormwater management in accordance with Chapter 14, Article 2 Stormwater Management of the City Code;
- (m) Existing and proposed topography shown at not more than two-foot contour intervals and the location of flood plains. All elevations shall refer to U.S.G.S. datum;
- (n) Zoning districts adjacent to the site;
- (o) Traffic flow patterns within the site, entrances and exits, loading and unloading areas, curb cuts on the site and within 100 feet of the site.

The Planning Commission may require a detailed traffic study for large uses, mixed use and multi-tenant developments, or for developments in heavy traffic areas to include:

- a. The projected number of motor vehicle trips to enter or leave the site, estimated for daily and peak hour traffic levels;
- b. The projected traffic flow pattern including vehicular movements at all major intersections likely to be affected by the proposed use of the site; and
- c. The impact of this traffic upon existing, abutting public and private ways in relation to existing road capacities. Existing and proposed daily and peak hour traffic levels, as well as road capacity levels, shall also be given.

19.32.030. - STANDARD OF APPROVAL.

In making a determination that the site plan meets the standards of the zoning ordinance and that the standards are appropriately applied to the specific site, the planning commission shall give consideration to the following criteria:

- (a) *Generally.*
 - (1) The plan meets all applicable standards.
 - (2) The plan implements any specific principles or policies of the comprehensive plan that are applicable to the area or specific project.
 - (3) The plan does not present any other apparent risks to the public health, safety, or welfare of the community.
- (b) *Site Design and Engineering.*
 - (1) The plan provides safe and easy access and internal circulation considering the site, the block, and other surrounding connections, and appropriately balances vehicle and pedestrian needs.
 - (2) The plan provides or has existing capacity for utilities to serve the proposed development.

(3) The plan provides adequate management of stormwater runoff.

(4) The plan provides proper grading considering prevailing grades and the relationship to adjacent sites.

(c) *Building Design.*

(1) The location, orientation, scale, and massing of the building creates appropriate relationships to the streetscape and to adjacent properties.

(2) The selection and application of materials will promote proper maintenance and quality appearances over time.

(3) The architectural design reflects a consistent theme and design approach. Specifically, the scale, proportion, forms and features, and selection and allocation of materials reflect a coordinated, unified whole.

(4) The building reinforces the character of the area and reflects a compatible architectural relationship to adjacent buildings. Specifically, the scale, proportion, forms and features, and materials of adjacent buildings inform choices on the proposed building.

(d) *Landscape Design.*

(1) The plan creates an attractive aesthetic environment and improves relationships to the streetscape and adjacent properties.

(2) The plan enhances the environmental and ecological functions of un-built portions of the site.

(3) The plan reduces the exposure and adverse impact of more intense activities or components of the site or building.

(Ord. 2407, Sec. XIV, 2019)

19.32.035. - IMPROVEMENTS.

The planning commission may require the construction or installation of infrastructure improvements such as sidewalks, traffic signals, street widening and channelization, acceleration and deceleration lanes, storm drainage improvements and other similar improvements that are related to the proposed project.

19.32.040. - SITE PLAN MODIFICATIONS.

Minor modifications may be made to an approved site plan by the applicant with approval of the building inspector and without reapproval of the planning commission provided that the modifications do not:

(a) Vary the proposed gross residential density or intensity of use by more than five percent, nor

(b) Increase by more than ten percent the floor area proposed for non-residential use; nor

(c) Increase by more than five percent the total ground area covered by buildings or the height of buildings; nor

(d) Substantially change the design of plan so as to significantly alter:

(1) Pedestrian or vehicular traffic flow.

(2) The juxtaposition of different land uses.

(3) The relation of open space to residential development.

(4) The architectural appearance and building materials selected for the project.

If, in the opinion of the building official, a site plan is substantially changed from the approved plan, the applicant shall resubmit the plan to the planning commission for approval.

Chapter 19.33 - WIRELESS COMMUNICATION FACILITIES

19.33.005. - INTENT.

Numerous provisions of state and federal law grant authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless facilities, towers, and antennae. As the city has diverse and unique landscapes that perpetuate the identity of its residential neighborhoods, protection of these valuable resources is paramount. Accordingly, the governing body finds that the unregulated placement and design of wireless facilities, towers, and antennae results in visual clutter that adversely affects community aesthetics and damages the character of the city. This chapter is intended to provide minimum standards that ensure that the wireless communication needs of residents and businesses are met, while at the same time the general health, safety, and welfare of the community is protected.

(Ord. 2189, Sec. II, 2009; Ord. 2407, Sec. XV, 2019)

19.33.010. - PURPOSE.

Wireless communication facilities, towers, and antenna, including their respective equipment, and including small wireless communication antennae, as set out in section 19.33.055, may be sited, constructed, designed, or maintained provided that it is in conformance with the stated standards, procedures, and other requirements of this chapter. More specifically, these regulations are necessary to:

- (a) Provide for suitable location of wireless facilities, towers, and antennae, so as to mitigate their negative effect on residential neighborhoods and land uses;
- (b) Maintain community aesthetics by minimizing the negative visual effects of wireless facilities, towers, and antennae through specific design and siting criteria;
- (c) Maximize the use of existing towers, wireless support structures, and alternative tower structures so as to minimize the need for new locations.
- (d) Examine collocation among providers of wireless services on existing and newly constructed sites in order to reduce the overall number of towers and wireless support structures needed; and
- (e) Promote the use of innovative stealth, camouflage, and disguise techniques for wireless facilities, towers, and antennae so as to integrate their appearance with the many architectural and natural themes found throughout the city.
- (f) Protect the health, safety, and welfare of the community.

(Ord. 2189, Sec. II, 2009, Ord. 2407, Sec. XV, 2019)

19.33.015. - DEFINITIONS.

For the purposes of this chapter, the following terms shall be defined as:

- (a) *Accessory Equipment*: Any equipment serving or being used in conjunction with a wireless facility or wireless support structure including, but not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment building, equipment compound, cabinets and storage sheds, shelters, or similar structures. Accessory equipment includes, but is not limited to, any electric meter, concealment, telecommunications demarcation box, ground-based enclosures, back-up power systems, grounding equipment, power transfer switch, cut-off switch, and vertical cable runs for the connection of power and other services.
- (b) *Alternative Tower Structure*: This shall mean man-made trees, clock towers, bell steeples, utility poles, light poles, and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- (c) *Antenna*: Any structure or device used to collect or radiate electromagnetic waves or signals for provision of wireless services.
- (d) *Base Station*: A station that includes a structure that currently supports or houses an antenna, transceiver, coaxial cables, power cables, or other accessory equipment at a specific site that enables FCC-licensed or authorized wireless service to mobile stations, generally consisting of radio transceivers, antennas, coaxial cables, power supplies, and other associated electronics. The term does not mean a tower, and it does not include any structure that, at the time the relevant application is filed with the city, does not support or house equipment described in this paragraph or that was not previously approved under the applicable zoning or siting process. A base station may include such things as a building, a steeple, water tower, sign, or other non-tower structure.
- (e) *Collocation*: The act of siting wireless facilities from more than one provider in the same location on the same tower or wireless support structure as other wireless facilities. Collocation also means locating wireless facilities on an existing structure (for example, base stations, buildings, water tanks, towers, utility poles, etc.) without the need to construct a new tower or wireless support structure.
- (f) *Distributed Antenna System (DAS) Facility*: A network that distributes radio frequency signals and consisting of:
 - (1) Remote communications or antenna nodes deployed throughout a desired coverage area, each including at least one antenna for transmission and reception;
 - (2) A high capacity signal transport medium that is connected to a central communications hub site; and
 - (3) Radio transceivers located at the hub's site to process or control the communications signals transmitted and received through the antennas to provide wireless services within a geographic area or structure.
- (g) *Eligible Facilities Request*: Any request for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station, involving:
 - (1) Collocation of new transmission equipment;
 - (2) Removal of transmission equipment; or
 - (3) Replacement of transmission equipment.

- (h) *Eligible Support Structure*: Any tower or base station, provided that it is existing at the time the relevant applicati
- (i) *Equipment Compound*: The area in which a wireless facility, wireless support structure, the equipment and tower may be located which is enclosed with a fence or wall or is within a building or structure.
- (j) *Existing*: A constructed tower, wireless support structure, utility pole, or base station is existing if it has been reviewed and approved under the applicable zoning or siting process, provided that a tower, wireless support structure, utility pole, or base station that has not been reviewed and approved because it was not in a zoned area when it was built, but was lawfully constructed, is existing for purposes of this definition.
- (k) *FCC*: The Federal Communications Commission.
- (l) *Maintenance*: Ensuring that wireless facilities, towers, and wireless support structures are kept in good operating condition. Maintenance includes inspections, testing, and modifications that maintain functional capacity, aesthetic and structural integrity; for example, the strengthening of a wireless support structure's foundation or of the wireless support structure itself or replacing antennas and accessory equipment on a like-for-like basis on an existing wireless facility. Ordinary maintenance also includes maintaining walls, fences, and landscaping, including the replacement of dead or damaged plants as well as picking up trash and debris. Ordinary maintenance does not include modifications.
- (m) *Modifications or Modify*: The addition, removal, or change of any of the physical and noticeably visible components or aspects of a wireless facility, such as antennae, cabling, radios, equipment shelters, landscaping, fencing, utility feeds, changing the color or materials of any noticeably visible components, vehicular access, parking, upgrade, or exchange of equipment for better or more modern equipment (provided that modification shall not include replacement of components in-kind). Modifications also include, but are not limited to, extending the height of any wireless support structure, replacing the wireless support structure, and the expansion of the equipment compound area for additional equipment. A collocation which changes the dimension of an existing wireless facility, utility pole, tower, or wireless support structure shall be considered a modification. The public works director or other designated building official shall determine when changes such as enlarging the ground-mounted equipment area, increasing the screen wall height, or installing additional equipment changes the physical and noticeably visible aspects of a wireless facility.
- (n) *Public Right-of-Way or ROW*: The area on, below, or above streets, alleys, bridges, and parkways in which the city has a dedicated or acquired right-of-way interest in the real property.
- (o) *Public Right-of-Way Ordinance*: Chapter 13, article 5 of the City Code (Use and Occupancy of the Public Right-of-Way), as amended from time to time.
- (p) *Site*: For towers or wireless support structures, other than towers or wireless support structures in the public rights-of-way, the current boundaries of the leased or owned property surrounding the tower and any access or utility easements currently related to the site, and, for other eligible support structures, further restricted to that area in proximity to the structure and to other transmission equipment already deployed on the ground.
- (q) *Small Cell facility*: A wireless Facility that meets all of the following qualifications:
 - (1) Each antenna is located inside an enclosure of no more than six cubic feet in volume, or in the case of an antenna that has exposed elements, the antenna and all of the antenna's exposed elements could fit

within an imaginary enclosure of no more than six cubic feet;

- (2) Primary equipment enclosures that are no larger than 17 cubic feet in volume, or facilities comprised of such higher limits as the FCC has excluded from review pursuant to 54 U.S.C. § 306108. Accessory equipment may be located outside the primary equipment, and if so located, are not to be included in the calculation of equipment volume; and
- (3) The structure on which the antenna facilities are mounted:
 - a. Is 50 feet or less in height; or
 - b. Is no more than ten percent taller than other adjacent structures; or
 - c. Is not extended to a height of more than ten percent above its preexisting height as a result of the collocation of new antenna facilities, whichever is greater.
- (r) *Small Cell Network*: A collection of interrelated small cell facilities designed to deliver wireless services.
- (s) *Stealth or Stealth Technology*: Using the least visually and physically intrusive facility by minimizing adverse aesthetic and visual impacts on the land, property, buildings, and other facilities adjacent to, surrounding, and generally in the same area as the requested location of a wireless facility. Specifically, this means ensuring that all antenna arrays, cables, and other accessory equipment used for providing the wireless service are not obtrusive or noticeably visible from adjacent properties or adjacent public rights-of-way. Any accessory equipment mounted on a tower or wireless support structure shall not project greater than one foot), as measured horizontally, from the surface of the tower or wireless support structure and shall be painted or screened with materials that are a complementary color as the tower or wireless support structure. Cables shall not be allowed to travel along the exterior of a tower or wireless support structure. Understanding that new technologies are anticipated to change the components of wireless facilities, the public works director or other designated building official may determine if a wireless facility or component thereof is designed to be stealth.
- (t) *Substantial Change*: A modification that substantially changes the physical dimensions of an eligible support structure (tower or base station) by any of the following criteria:
 - (1) Height.
 - a. For towers other than towers in the public rights-of-way, an increase in the height of the tower by more than ten percent or by the height of one additional antenna array with separation from the nearest existing antenna not to exceed 20 feet, whichever is greater.
 - b. For other eligible support structures (i.e. towers in the public rights-of-way or base stations), an increase in the height of the structure by more than ten percent or more than ten feet, whichever is greater.

Changes in height are measured from the original support structure in cases where deployments are or will be separated horizontally (such as on buildings' rooftops); in other circumstances, changes in height should be measured from the dimensions of the tower or base station, inclusive of originally approved appurtenances and any previously-approved modifications.
 - (2) Width/Girth.

- a. For towers not in the public rights-of-way, adding an appurtenance to the body of the tower that protrudes from the tower more than 20 feet, or more than the width of the Tower at the level of the appurtenance, with the exception of the tower.
 - b. For other eligible support structures (i.e. towers in the public rights-of-way or base stations), adding an appurtenance to the body of the structure that protrudes from the edge of the structure by more than six feet.
- (3) New Equipment Cabinets.
- a. For any eligible support structure, the installation of more than the standard number of new equipment cabinets for the technology involved, but not to exceed four cabinets.
 - b. For towers in the public rights-of-way and base stations, the installation of any new equipment cabinets on the ground if there are no pre-existing ground cabinets associated with the structure, or else involves installation of ground cabinets that are more than ten percent larger in height or overall volume than any other ground cabinets associated with the structure.
- (4) Any excavation or deployment outside the current site.
- (5) Defeating the stealth technology or concealment elements of the eligible support structure.
- (6) Not complying with conditions associated with the siting approval of the construction or modification of the eligible support structure or base station equipment, provided, however, that this limitation does not apply to any modification that is non-compliant only in a manner that would not exceed the thresholds identified in subsections 1. through 4. above.
- (u) *Tower or Wireless Support Structure*: Any structure built for the sole or primary purpose of supporting any FCC-licensed or authorized antennas and their accessory equipment, including structures that are constructed for wireless services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul, and the associated site. The terms include, but are not limited to, monopoles (a single, freestanding pole-type structure, without guy wires and/or ground anchors) and lattice towers (a tower consisting of a guyed or self-supporting three- or four-sided, open-frame structure) used to support antennas and transmission equipment.
- (v) *Transmission Equipment*: Equipment that facilitates transmission for any FCC-licensed or authorized wireless service, including but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, and regular and backup power supply. The term includes equipment associated with wireless services including, but not limited to, private, broadcast, and public safety services, as well as unlicensed wireless services and fixed wireless services such as microwave backhaul.
- (w) *Utility Pole*: A structure owned or operated by the city, or a public utility as defined in K.S.A. 66-104, and amendments thereto, or an electric cooperative as defined in K.S.A. 17-4652, and amendments thereto, that is designed specifically for and used to carry lines, cables, or wires for telecommunications, cable, electricity, or to provide lighting.
- (x) *Wireless Facility*: A structure, facility, or location designed, or intended to be used as, or used to support, antennae, small-cell facilities, or other transmission equipment used in wireless services. This includes, without limit, towers, wireless support structures, utility poles and base stations or other structures that can or are requested to be used as a support structure for antennae or the functional equivalent of such. It

further includes antennae, small cell facilities, and distributed antenna systems (DAS). It further includes all related accessory equipment associated with the site. It includes any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, wireless services, cellular telephone service, personal communications service (PCS), specialized mobile radio (SMR), commercial satellite services, microwave services, radio and television services, paging service, and any commercial wireless services not licensed by the FCC.

- (y) *Wireless Services*: Means "personal wireless services" and "personal wireless service facilities" as defined in 47 U.S.C. § 332(c)(7)(C), including commercial mobile services as defined in 47 U.S.C. § 332(d), provided to personal mobile communication devices through wireless facilities or any fixed or mobile wireless services provided using wireless facilities.

(Ord. 2189, Sec. II, 2009; Ord. 2047, Sec. XV, 2019)

19.33.020. - APPLICATION AND DECISION TIMEFRAMES; SPECIAL USE PERMIT REQUIREMENTS; ADMINISTRATIVE APPROVALS; CONDITIONAL USE PERMITS.

- (a) *Special Use Permit Required*. Unless otherwise excepted herein, the following shall be allowed only upon approval of a special use permit in accordance with the procedures set out in chapter 19.28, Special Use Permit.
- (1) New Construction - Small Cell Facilities. New wireless facilities, towers, base stations, wireless support structures, utility poles, and/or antennae for small cell facilities, and whether in the public right-of-way or otherwise. A written final decision for such applications shall be issued within 90 days.
 - (2) New Construction - Non-Small Cell Facilities. New wireless facilities, towers, base stations, wireless support structures, utility poles and antennae for non-small cell facilities, and whether in the public right-of-way or otherwise. A written final decision for such applications shall be issued within 150 days.
 - (3) Substantial Changes. A substantial change to an existing tower, base station, wireless support structure, utility pole, or antenna. A written final decision for such applications shall be issued within 90 days.
 - (4) Other. Any other application for placement, installation, or construction of transmission equipment that is not contemplated by subsections 1 through 3 above, does not constitute an eligible facilities request, or which is not eligible for administrative approval as provided in section 19.33.020(b) below. A written final decision for such applications shall be issued within 150 days.

Notwithstanding the foregoing, to the extent any of the foregoing utilize accessory equipment or other facilities or other equipment for which a conditional use permit may be required (such as for larger utility boxes or pedestals), then the city may only approve special use permits subject to the applicant receiving any and all required conditional use permits. A written final decision for such conditional use permit applications shall be issued within the time periods set forth above.

- (b) *Administrative Approvals*. Notwithstanding subsection (a) above, the public works director or other designated building official may approve applications for the following, provided that such applications meet all applicable performance standards, including, but not limited to, the provisions and requirements of the public right-of-way Ordinance:
- (1) Collocation on Existing Wireless Facilities - Small Cell Facilities. New antenna or collocation of small cell

facilities on an existing tower, utility pole, or street light in the public right-of-way, that does not incur a substantial change. This provision is also applicable when the existing tower, utility pole, or street light is replaced by a tower, utility pole, or street light that is not a substantial change from the original. A written final decision for such applications shall be issued within 60 days.

- (2) Collocation on Existing Wireless Facilities - Non-Small Cell Facilities. New antenna or collocation of non-small cell facilities on an existing tower, utility pole, or street light in the public right-of-way, that does not incur a substantial change. This provision is also applicable when the existing tower, utility pole, or street light is replaced by a tower, utility pole, or street light that is not a substantial change from the original. A written final decision for such applications shall be issued within 90 days.
- (3) Other Modifications and Eligible Facilities Requests. The modification of an existing tower, wireless support structure, utility pole, or base station that does not incur a substantial change to the tower, wireless support structure, utility pole, or base station, or that otherwise qualifies as an eligible facilities request. A written final decision for such applications shall be issued within 60 days.

Notwithstanding the foregoing, to the extent any of the foregoing utilize accessory equipment or other facilities or other equipment for which a conditional use permit may be required (such as for larger utility boxes or pedestals), then the public works director or other designated building official may only approve applications subject to the applicant receiving any and all required conditional use permits. A written final decision for such conditional use permit applications shall be issued within the time periods set forth above.

- (C) *Conditional Use Permit Requirement.* A conditional use permit, reviewed and approved in accordance with the procedures set out in chapter 19.30 Conditional Use Permits, is required for applications for wireless facilities to the extent they utilize or are supported by utility boxes or accessory equipment that have a footprint larger than 12 square feet in area, a pad greater than two and one-half (2.5) times the area of the utility box footprint or greater than 32 square feet; or have a height of more than 56 inches, as provided in chapter 19.30.
- (d) *Application and Decision Timeframes.* The timeframes set forth above begin to run when a completed application is filed. The applicable timeframe may be tolled by mutual agreement or in cases where the city determines that the application is incomplete. To toll the timeframe for incompleteness, the city may provide written notice to the applicant within 30 days of receipt of the application, clearly and specifically delineating all missing documents and information. The timeframe begins running again when the applicant makes a supplemental submission responding to the city's notice. The city then has ten days to notify the applicant that the supplemental submission did not provide the information identified in the original notice. The timeframe is tolled in the case of second or subsequent notices pursuant to this subsection. Second or subsequent notices may not specify missing documents or information that were not delineated in the original notice of incompleteness.
- (e) *Deemed Approvals and Appeals.* Within 30 days after the city provides notice of its decision, a party aggrieved by the final action of the city may bring an action for review in any court of competent jurisdiction. If a final decision is not otherwise issued within the timeframes set forth in section 19.33.020(d) above, then an application shall be deemed approved once an applicant has provided notice to the city that such applicable timeframes have lapsed. Provided, that this section shall not apply to any person who is availing themselves of the appeal provisions set

forth in K.S.A. 66-2019(h)(6), as amended, or in Federal Communications Commission (FCC) Declaratory Ruling dated September 27, 2018, in WT Docket Nos. 17-79 and 17-84 (FCC 18-133, 33 FCC Rcd 9088), to the extent such FCC Declaratory Ruling applies and/or is in effect.

(f) *Small Cell and DAS Facilities—Consolidated Application and Exemption.*

- (1) Pursuant to Kansas Statute, an applicant may file one consolidated application for a small cell network up to 25 individual small cell facilities of a substantially similar design. Notwithstanding, the city may require a separate application for any small cell facilities that are not of a substantially similar design.
- (2) Notwithstanding anything in this Code to the contrary, no zoning, special use permit, or siting approval is required for the construction, installation or operation of any small cell or DAS facilities located in an interior structure or upon the site of any campus, stadium or athletic facility; provided, however, this exemption does not exempt any such facility from any applicable building or electrical code provision.

(Ord. 2189, Sec. II, 2009, Ord. 2407, Sec. XV, 2019)

19.33.025. - FACTORS FOR CONSIDERATION WHERE SPECIAL USE PERMIT IS REQUIRED.

Where a special use permit is required, then the following factors shall be considered in approving or disapproving a special use permit for a wireless facility. It is not necessary that a finding of fact be made for each factor described herein. However, there should be a conclusion that the request should be approved or denied based upon consideration of as many factors as are applicable. The following factors are not exclusive.

- (a) The character of the neighborhood.
- (b) The zoning and uses of property nearby.
- (c) The extent that a change will detrimentally affect neighboring property.
- (d) The relative gain to public health, safety, and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners.
- (e) The proposed special use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations, and use limitations.
- (f) The proposed special use at the specified location will not adversely affect the welfare or convenience of the public.
- (g) The location and size of the special use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site or wireless facility with respect to streets giving access to it are such that the special use will not cause substantial injury to the value of the property in the immediate neighborhood so as to hinder development and use of neighboring property in accordance with the applicable zoning district regulations. In determining whether the special use will cause substantial injury to the value of property in the immediate neighborhood, consideration shall be given to:
 - (1) The location, size, nature and height of buildings, structures, walls, and fences on the site; and
 - (2) The nature and extent of landscaping and screening on the site.
- (h) Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations, and such areas will be screened from adjoining residential uses and located so as to protect such

residential uses from any injurious effect.

- (i) Adequate utility, drainage, and other such necessary facilities have been or will be provided.
- (j) Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
- (k) Adjoining properties and the general public shall be adequately protected from any hazardous or toxic materials, hazardous manufacturing processes, obnoxious odors or unnecessarily intrusive noises.
- (l) Architectural design and building materials are compatible with such design and materials used in the neighborhood in which the proposed facility is to be built or located, and the design and aesthetic standards adopted by the city.
- (m) City staff recommendations.

(Ord. 2189, Sec. II, 2009; Ord. 2407, Sec. XV, 2019)

19.33.030. - APPLICATION INFORMATION.

At the time the application for a wireless facility is filed, the applicant shall submit the following information:

- (a) An affidavit that the applicant conducted an analysis of available collocation opportunities on existing wireless facilities, within a search ring as defined by the applicant.
- (b) Multiple photo simulations of the proposed wireless facility as viewed from the adjacent residential properties and public rights of way as directed by city staff.
- (c) When possible, all wireless facilities should be designed to accommodate multiple providers (collocation).
- (d) Any application for construction of a new wireless facility must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours) that portrays the layout of the site or public right-of-way, including the proposed wireless facility, and the identification of the specific trees, structures, improvements, facilities and obstructions, if any, that the applicant proposes to temporarily or permanently remove or relocate. Access to and from the site or wireless facility, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the wireless facility, screening walls, and all proposed buildings must also be submitted. Finally, a landscape plan detailing location, size, number, and species of plant materials must be included for review and approval by the applicable reviewing authority.
- (e) Description of the transmission medium that will be used by the applicant to offer or to provide services and a statement that applicant will meet all federal, state, and city regulations and law, including but not limited to FCC regulations. The applicant shall provide an engineer's statement that anticipated levels of electromagnetic radiation to be generated by facilities on the site, including the effective radiated power (ERP) of the antenna, shall be within the guidelines established by the FCC. The cumulative effect of all antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC. An antenna radiation pattern shall be included for each antenna.
- (f) Preliminary construction schedule including completion dates; provided, that construction of the approved wireless facilities shall commence within one year after final approval and shall be diligently pursued to

completion.

- (g) The applicant shall provide a copy of its FCC license.
- (h) All applications necessary for the consideration and issuance of a right-of-way permit under the public right-of-way Ordinance, if applicable.
- (i) Any other relevant information requested by city staff.
- (j) The applicant shall submit a completed application form with all required attachments and must agree to and reimburse the city for all costs related to the application. The city may collect a non-refundable application fee, subject to any statutory maximum. An application shall not be deemed submitted until the applicable fee is paid.
- (k) Notwithstanding the foregoing, as provided in 47 C.F.R. § 1.40001(c), when an applicant asserts in writing that a request for a modification qualifies as an eligible facilities request, the city may require the applicant to provide documentation or information only to the extent reasonably related to determining whether the request meets the requirements of 47 C.F.R. § 1.40001.

(Ord. 2189, Sec. II, 2009, Ord. 2407, Sec. XV, 2019)

19.33.035. - DESIGN AND AESTHETIC REQUIREMENTS - SMALL CELL FACILITIES AND NON-SMALL CELL FACILITIES.

(a) *Setbacks.*

- (1) The equipment compound for wireless facilities and accessory equipment shall meet the minimum required setbacks for a principal use in the district in which it is located.
- (2) Stealth towers and alternative tower structures that are truly architecturally integrated into the building or base station shall maintain the same setbacks that are required for a principal building or base station.
- (3) Non-stealth monopoles, wireless support structures, or towers shall setback a minimum distance from all property lines equal to the height of the monopole or tower unless a reduction or waiver is granted by the governing body.
- (4) The applicant may request a reduction or waiver of the setback requirement. The planning commission shall consider the request and make a recommendation to the governing body who will make the final determination. In approving a setback reduction or waiver, the planning commission and governing body shall consider the following:
 - a. That there are special circumstances or conditions affecting the proposed installation;
 - b. That the setback waiver is necessary for reasonable development of the installation or the landowner's property;
 - c. That the granting of the setback waiver will not be detrimental to the public health, safety, and welfare or cause substantial injury to the value of the adjacent property or other property in the vicinity in which the particular property is situated.

(b) *Screening and Landscape Buffer.*

- (1) Adequate screening of the equipment cabinets for wireless facilities and accessory equipment shall be provided by a solid or semi-solid wall or fence or a permanent building enclosure using materials similar to

adjacent structures on the property. All equipment cabinets shall be adequately secured to prevent access other than by authorized personnel.

- (2) Landscaping shall be required around the base or perimeter of the screening wall or fence. A combination of coniferous and deciduous trees and shrubs is required and drought tolerant plant materials are encouraged. When the visual impact of the equipment compound would be minimal, the landscaping requirement may be reduced or waived by the planning commission or governing body.

(c) *Tower/Antennae Design.*

- (1) All non-stealth towers and wireless support structures shall maintain a hot dipped galvanized finish, and shall be a monopole design unless otherwise approved by the planning commission or governing body. The city public works director or other designated building official may require that providers of wireless services design their poles utilizing pole designs pre-approved by the city.
- (2) All antennae installed on towers and wireless support structures shall be internal. Antenna bridges and platforms are not allowed. Public service omni-directional antennae operated by the City of Prairie Village and other governmental agencies are exempt from this requirement.
- (3) All antennae and related facilities installed on an alternative tower structure shall be of materials that are consistent with the surrounding elements so as to blend architecturally with said structure and to camouflage their appearance. Antennae on the rooftop or above a structure shall be screened, constructed and/or colored to match the structure to which they are attached.
- (4) Antennae and related facilities shall be of materials and color that are consistent with the tower or alternative tower structure and surrounding elements so as to blend architecturally with said tower or alternative tower structure. The antennae and related facilities shall be a neutral color that is identical to, or closely compatible with, the color of the tower or alternative tower structure so as to make the antennae and related facilities as visually unobtrusive as possible. Antennae mounted on the side of a building, structure, or base station shall be painted to match the color of the building, structure, or base station or the background against which they are most commonly seen.
- (5) All electrical cables shall be installed within the wireless support structure. For installations on buildings, water towers, base stations, and other structures, cables shall be enclosed with a shield that is painted the same color as the building, water tower, base station, or structure. Underground cables that are a part of the installation shall be required to be located at a safe depth underground.

- (d) *Illumination.* Wireless facilities and towers may be only illuminated if required by the FCC and/or the FAA. Security lighting around the base of the tower may be installed, provided that no light is directed toward an adjacent residential property or public street.

- (e) *Height.* The maximum height for a wireless facility, tower, wireless support structure, or utility pole shall be 150 feet plus a lightning rod not exceeding ten feet. Provided, that as to wireless facilities to be located in the public right-of-way, the height of a wireless facility will not exceed, or cause any existing wireless facility to exceed, the lesser of:

- (1) Thirty-five feet for residential or collector streets or 45 feet for arterial streets; and
- (2) Sixty-six inches above the height of existing street light poles along the right-of-way surrounding the wireless

facility.

- (f) *Sealed Drawings*. The construction plans for the tower shall be prepared and sealed by a structural engineer licensed in the State of Kansas. Construction observation shall be provided by the design engineer provided that said engineer is not an employee of the tower's owner. If the design engineer is an employee of the owner, an independent engineer will be required to perform construction observation.
- (g) *Anti-Perch Devices*. Anti-perch devices that prevent birds from perching or roosting on the installation shall be installed when appropriate.
- (h) *Additional Small Cell Facility Requirements*. See section 19.33.060 below.
- (i) *Wireless Facilities in the Public Right-of-Way*. In addition to the foregoing, wireless facilities located or to be located within the public right-of-way shall also be subject to the provisions and requirements of the public right-of-way Ordinance, including but not limited to, the following, which provisions and requirements are applicable to all users of the public right-of-way:
 - (1) All newly-constructed accessory equipment shall be located underground. The ROW-user shall comply with all requirements of the city relating to underground facilities. This requirement may be waived by the public works director or other designated building official at his or her discretion for safety concerns, if approval is required or permitted under other applicable law or ordinance (including but not limited to this chapter 19.33), or some other good cause under the condition that does not cause discrimination among providers.
 - (2) If the requirement for below-ground facilities is waived, the facilities shall be located as directed by the public works director or other designated building official, including, but not limited to, requirements regarding location, height, breakaway design, and clear zones, and in conformity with those design requirements set forth in the public right-of-way Ordinance. Permitted above-ground facilities shall also comply with the Manual of Infrastructure Standards and all applicable zoning regulations, including but not limited to design, size, height, setbacks, screening and landscaping, and illumination, and be located in a manner that does not compromise the public health, safety, or welfare.
 - (3) No newly-constructed above-ground facilities shall be located directly in front of any single-family home (or in front of where a single-family home could be constructed, in the case of a vacant lot), provided that if the public works director or other designated building official deems it necessary or appropriate, such facilities may be located in the front yard, at or along the property line between two adjacent properties.
 - (4) The electrical meter and any other necessary meter or other accessory cabinet shall not be installed on the tower, wireless support structure, or utility pole.

In the event of duplications or conflicts between the provisions of such public right-of-way Ordinance, and this chapter 19.33 as to any wireless facilities, the city shall have the right to impose and enforce among the various duplications or conflicts such requirements and standards as will best protect the public health, safety, and welfare, provided that the city enforce such requirements in a competitively neutral manner.

(Ord. 2189, Sec. II, 2009; Ord. 2407, Sec. XV, 2019)

19.33.040. - CONDITIONS OF APPROVAL.

The applicable approving authority for the city may require any or all of the following conditions and may add additional conditions if deemed necessary for a specific location to protect the public health, safety, or welfare, subject to applicable federal and state law:

- (a) The initial approval of a wireless facility (whether administratively or pursuant to a special use permit or conditional use permit) shall be for a maximum of ten years. At the end of the ten year period, the permittee shall resubmit the application and shall demonstrate to the satisfaction of the authorized approving authorities that all the conditions of approval have been met. The approval may then be extended for an additional ten years by the public works director, other designated building official, or the governing body, as required under this Code, and the permittee shall resubmit after each ten year reapproval. The process for considering a resubmittal shall be the same as for the initial application.
- (b) Any wireless facility that is not operated for a continuous period of twelve months shall be considered abandoned and the owner of such wireless facility shall remove the wireless facility and all accessory equipment within 90 days after receiving notice from the city. If such wireless facility and accessory equipment is not removed within that 90 day period, the city may order the wireless facility and accessory equipment removed and may authorize the removal of the same at the permittee's expense. Prior to the issuance of a permit for a wireless facility, the applicant shall submit a bond to the city in an amount adequate to cover the cost of wireless facility and accessory equipment removal and the restoration of the site. This bond will be secured for the term of the permit plus one additional year. In the event the bond is insufficient and the permittee otherwise fails to cover the expenses of any such removal, the site owner shall be responsible for such expense.
- (c) The applicant shall have a structural inspection of the applicable tower, wireless support structure, alternative support structure, or utility pole performed by a licensed professional engineer licensed in the State of Kansas prior to every ten year renewal and submit it as a part of the renewal application.
- (d) Any wireless facility, tower, wireless support structure, utility pole, or antenna which is not structurally maintained to a suitable degree of safety and appearance (as determined by the city and any applicable law, statute, ordinance, regulation or standard) and which is found not to be in compliance with the terms of the permit(s) will become null and void within 90 days of notification of noncompliance unless the noncompliance is corrected. If the permit becomes null and void, the applicant will remove the wireless facility and all appurtenances and accessory equipment and restore the site to its original condition.
- (e) The permittee shall keep the site well-maintained including maintenance and replacement of landscape materials; free of leaves, trash and other debris; and either regularly cleaning up bird droppings or installing anti-perch devices that prevent birds from perching on the installation.
- (f) In the future, should the levels of radio frequency radiation emitted be determined to be a threat to human health or safety, the wireless facility, tower, wireless support structure, utility pole, or antenna shall be rectified or removed as provided for herein. This finding must be either mandated by any applicable law, by federal legislative action, or based upon regulatory guidelines established by the FCC.
- (g) In order to ensure structural integrity, all wireless facilities, towers, wireless support structures, utility poles, and antennae shall be constructed and maintained in compliance with all applicable local building codes and

the applicable standards for such wireless facilities, towers, wireless support structures, utility poles, and antennae that are published by the Electronic Industries Alliance.

- (h) All wireless facilities, towers, wireless support structures, utility poles, and antennae shall meet or exceed all minimum structural and operational standards and regulations as established by the FCC, FAA, EPA and other applicable federal regulatory agencies. If such standards and regulations are changed, then all facilities, towers, and antennae shall be brought into compliance within six months of the effective date of the new standards and regulations, unless a more stringent compliance schedule is mandated by the controlling federal agency.
- (i) It shall be the responsibility of any permit holder to promptly resolve any electromagnetic interference problems in accordance with any applicable law or FCC regulation.
- (j) The applicant shall provide a copy of the lease or license between the applicant and the landowner, which lease or license must contain a provision whereby the landowner shall be responsible for the removal of the wireless facility in the event that the leaseholder or licensee fails to remove it upon abandonment.
- (k) Information to establish the applicant has obtained all other government approvals and permits to construct and operate communications facilities, including but not limited to, approvals by the FCC and the Kansas Corporation Commission.
- (l) If any wireless facilities or accessory equipment are to be located within, upon, or over the public right-of-way, then prior to the approval of a permit, the applicant shall enter into an agreement (including in the form of a small cell facility deployment agreement, if required by the city) whereby it agrees to abide by the requirements of the city's public right-of-way Ordinance and to protect the city from any liability associated with the proposed installation. Such protection shall include requirements regarding bond, insurance, and indemnification. The agreement shall be in a form approved by the city's legal counsel, and the permittee shall pay such fees as may be set forth in the agreement.
- (m) If any wireless facilities or accessory equipment are to be located upon or connected to any city-owned utility poles or other facilities, then prior to the approval of a permit the applicant shall enter into a license or pole attachment agreement with the city. The agreement shall be in a form approved by the city's legal counsel, and the permittee shall pay such license, attachment, and connection fees as may be set forth in the agreement.

(Ord. 2189, Sec. II, 2009; Ord. 2407, Sec. XV, 2019)

19.33.045. - SITE PLAN APPROVAL.

All installations for which a special use permit or conditional use permit is required shall have a site plan approval in accordance with chapter 19.32, Site Plan Approval.

(Ord. 2189, Sec. II, 2009 ; Ord. 2407, Sec. XV, 2019)

19.33.050. - EXCEPTIONS.

The initial approval of the site plan (whether administratively or pursuant to a special use permit or conditional use permit) shall be for a maximum of ten years. At the end of the ten year period, the applicant shall resubmit the application and shall demonstrate to the satisfaction of the authorized approving authorities that all the conditions of approval have been met. The application may then be extended for an additional ten years. The approval may then be extended for an additional ten years by the public works director, other designated building official, or the governing body, as required under this Code, and the permittee shall resubmit after each ten year reapproval. The process for considering a resubmittal shall be the same as for the initial application.

(Ord. 2189, Sec. II, 2009 ; Ord. 2407, Sec. XV, 2019)

19.33.055. - EXISTING SITE IMPROVEMENTS.

In addition to any eligible facilities request, modifications to existing wireless facilities shall be allowed when these alterations or improvements are implemented to:

- (a) Accommodate additional wireless services providers, provided that the modifications meet all applicable requirements of this chapter. If the modification is to a wireless facility or site for which a special use permit was approved, then unless otherwise provided for by the current special use permit, application for such modifications will require approval through an amended special use permit. However, if provided by the current special use permit, such application shall be considered a revised final site plan and will only require submission to and approval of the planning commission.
- (b) Any such modification shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.
- (c) Additional Antennae. When provided for in the approved capacity limit of a multi-user tower's current special use permit, additional antennae or replacement of current antennae may be added through an application for a revised site plan and will only require submission to and approval by the planning commission. Any additional antennae that exceed the originally approved capacity limit shall be considered a revised application, and shall require an amended special use permit to locate. Any additional antennae or replacement of current antennae shall meet any and all current applicable design and technical standards and requirements. The cumulative effect of any additional antennae and related facilities must comply with the radio frequency radiation emission guidelines established by the FCC.
- (d) In the event that new technology provides a better alternative to the design requirements herein, the planning commission may reasonably approve or require design modification of a wireless facility, tower or antenna when the appearance of the same is deemed to be less obtrusive than the requirements permitted herein.
- (e) Any proposal by a permit holder to replace a current antenna or to alter and improve an existing wireless facility, tower, wireless support structure, or antenna in a manner to make the same less obtrusive such as lessening the tower height, converting the structure to an alternative tower structure, or modifying the

antenna to a "slim line" or internal design shall be considered as an amended site plan and will only require submission to and approval by the planning commission.

- (f) Any such modification shall meet any and all current applicable design and technical standards and requirements, and the cumulative effect of any additional Antennae and related facilities must comply with the radio frequency emission guidelines established by the FCC.

(Ord. 2189, Sec. II, 2009 ; Ord. 2407, Sec. XV, 2019)

19.33.060. - SMALL CELL FACILITIES.

The location, design and appearance of small cell facility installations shall further be subject to the following:

- (a) *City Permit.* Prior to installation, the provider shall obtain a permit from the city. If the proposed installation is located in the public right-of-way, the permit shall be issued in accordance with the city's requirements for a right-of-way permit, as set forth in the public right-of-way Ordinance. Otherwise it shall be issued by the building official.
- (b) *Staff Review.* The size, location, and appearance of the small cell facilities will be subject to staff review and approval, and subject to any special use permit or conditional use permit requirements as set forth in this chapter. In its discretion, if staff does not feel the proposed installation meets the intent of this regulation, this chapter 19.33, or the public right-of-way Ordinance, it may refer approval of the permit to the planning commission.
- (c) *Traffic and Decorative Poles.* Small cell facilities shall not be permitted on existing or proposed traffic signal poles or existing or proposed streetlight poles that have existing or proposed traffic signal equipment mounted to them. Small cell facilities shall not be allowed to collocate on decorative streetlight poles or poles that have decorative luminaries.
- (d) *Aesthetic Standards.* In addition to those requirements set forth in section 19.33.035 above, the following provisions apply:
 - (1) Antennae for small cell facilities shall either be mounted internal to the wireless support structure or utility pole, or top-mounted and concealed within a radome that also conceals the cable connections, antenna mount, and other hardware. The cables or wires other connecting the antennae to the equipment box shall be contained inside the utility pole or wireless support structure or shall be flush mounted to the same and covered with a metal, plastic, or similar material cap that matches the color of the utility pole or wireless support structure and is properly secured and maintained by the provider.
 - (2) Antennae and related facilities (including any radome) shall be of materials and color that are consistent with the tower, alternative tower structure, wireless support structure, utility pole, and surrounding elements so as to blend architecturally with said tower, alternative tower structure, wireless support structure, or utility pole. The antennae and related facilities shall be a neutral color that is identical to, or closely compatible with, the color of the tower, alternative tower structure, wireless support structure, utility pole so as to make the antennae and related faculties as visually unobtrusive as possible. Antennae mounted on the side of a building, structure, or base station shall be painted to match the color of the building, structure, or base station of the background against which they are most commonly seen.

- (3) Small cell facilities will be allowed to be mounted on existing utility poles but the installation of taller utility poles and overhead wiring to accommodate the small wireless communications antennae and small cell facilities will not be allowed unless approved as a special use permit, as provided in section 19.33.020 above.
- (e) *Collocation*. Not more than three antennae panels and one provider may be located on a utility pole or monopole.
- (f) *Strand-Mounted Installations*. Aerial fiber and power strand installations are allowed. However, coiling of excess fiber or other cables is not allowed. All lines shall be neatly trained and secured.
- (1) Any strand-mounted facility shall not be larger in dimension than 24 inches in length, 15 inches in width, and 12 inches in height, and any exterior antenna shall be no longer than 11 inches, that are strung on cables between existing utility poles, in compliance with the National Electrical Safety Code, and shall be subject to the structural limitations of the city or utility company, as applicable.
- (2) The equipment shroud must be non-reflective and painted or color-impregnated to match the color of the existing pole, or surrounding infrastructure, as close as possible.
- (g) *Utility Racks*. Utility racks will not be permitted and all accessory equipment will be contained within an enclosed utility box. Utility boxes shall be located and installed in accordance with the requirements of chapter 19.30 and chapter 19.34 of the zoning regulations, and in accordance with the requirements of the public right-of-way Ordinance (if applicable). The electrical meter and any other necessary meter or other accessory cabinet shall not be installed on the tower, wireless support structure, or utility pole.
- (h) *Other Information*. The applicant shall provide proof that it is a licensed provider and will comply with all federal, state and city regulations and laws relative to wireless services. The applicant shall provide any relevant information requested by city staff, to the extent permitted of the city by applicable law.

(Ord. 2189, Sec. II, 2009; Ord. 2407, Sec. XV, 2019)

Chapter 19.34 - ACCESSORY USES

19.34.005. - ACCESSORY USES—GENERAL.

- (a) Buildings and structures may be erected and land may be used for purposes which are clearly incidental to, and customarily and commonly associated with the main permitted use of the premises. Such accessory buildings and uses shall be so constructed, maintained and conducted as to not produce noise, vibration, concussion, dust, dirt, fly ash, odor, noxious gases, heat or glare which is injurious, damaging, unhealthful or disturbing to adjacent property or the users thereof or generate vehicular traffic which exceeds the normal traffic in the neighborhood and shall be on the premises of the principal building or use.
- (b) The following uses set forth in sections 19.34.020—19.34.060 shall be permitted as accessory to main uses permitted in this title.

19.34.010. - HOME OCCUPATIONS AS ACCESSORY USES; WHEN PERMITTED IN DISTRICTS R-1a, R-1b, R-2, R-3, RP-1, & RP-2, RP-3 and RP-4.

- (a) *Purpose and Intent.* It is the purpose and intent of this section to:
- (1) Maintain neighborhood integrity and preserve the residential character of neighborhoods by encouraging compatible land uses;
 - (2) Provide residents of the city with an option to utilize their residences as places to enhance or fulfill personal economic goals as long as the choice of home occupations does not infringe on the residential rights of neighbors;
 - (3) Establish criteria for establishing home occupations in dwelling units within residential districts;
 - (4) Assure that public and private services such as street, sewer, water or electrical systems are not burdened by home occupations to the extent that usage exceeds that which is normally associated with the residence;
- (b) *Standards for determining whether a home occupation will be permitted.* Home occupations are permitted as an accessory use to a residence only when all of the following performance standards are met:
- (1) **Area of Use.** Home occupations shall be entirely contained within the interior of a residence and shall not be located in garages or accessory structures on the site. No visible evidence of the home occupation shall be apparent from the street or surrounding area. A home occupation shall use no more than 20 percent of the total dwelling unit floor area, which does not include the floor area of the garage. Those home occupations which require occasional meetings using more than 20 percent of the floor space may be permitted, providing such meetings do not occur more frequently than once per month;
 - (2) **Authorized Participants in the Home Occupation.** The home occupation shall be conducted by family members residing on the premises with no assistance from other individuals or groups. The home occupation shall have no other employees, independent contractors, or any other entity working on or dispatched from the premises;
 - (3) **Exterior Alterations of Residence; Storage of Equipment; Vehicles Used in Business:**
 - a. No home occupation shall require external alterations of the residence and its surrounding property or other visible evidence of the conduct of such home occupation, except for visitations, which are in compliance with the terms of section 19.34.10(b)(8) and other provisions of the P.V. Municipal Code.
 - b. No storage or display of materials, goods, supplies, or equipment related to the operation of the home occupation shall be visible from the outside of the residence in which the home occupation is conducted.
 - (4) **Advertising.** The home occupation shall not involve the use of advertising signs on the premises which call attention to the fact that the home is being used for business purposes;
 - (5) **Sales, Repairs, Leasing:**
 - a. The commercial exchange of tangible goods or other items constituting a sale between the proprietor of a home occupation and a member of the general public shall not be permitted on the premises of a home occupation. Members of the general public shall not include persons in the home by prior individualized invitation. Visitations by such person must be in accordance with the limitations set out in section 19.34.010(b)(8).
 - b. Visitations generated to or from a home occupation by customers with items to be, or which have been repaired, must be in accordance with the limitations set out in section 19.34.010(b)(8).

- c. Exchange of items in a lease agreement between the proprietor of a home occupation or an authorized party occur on the premises of a home occupation.
- (6) Traffic and Parking. If parking, deliveries or visitations for a home occupation occur in a manner or frequency causing disturbance to the normal traffic flow for the neighborhood the occupation shall be discontinued at that location;
- (7) Regulation of Nuisances. A home occupation shall not create excessive noise, dust or dirt, heat, smoke, odors, vibration and glare or bright lighting, which would be over and above that created by a single family residential dwelling. The production, dumping or storage of combustible or toxic substances shall not be permitted on the premises of the home occupation, except for the incidental storage of items such as paint, paper, and other household goods, which might, under certain circumstances, be toxic or combustible. Additionally, a home occupation shall not create interference or fluctuations of radio or television transmission;
- (8) Visitations. A home occupation may attract patrons, students or any business-related individuals only between the hours of 7:00 a.m. and 9:00 p.m., weekdays. The home occupation shall generate no more than one visitation at any given time, except in those instances where a home occupation consists of teaching, instructing or tutoring, in which event, no more than three students shall be taught at one time and there will be no more than ten visitations (ten arrivals and ten departures) per day. All other home occupations shall also not generate more than ten business-related visitations per day, which shall constitute ten arrivals and ten departures. These standards shall not be construed so as to prohibit occasional group gatherings, recitals, or demonstrations. However, such gathering shall not occur more frequently than once per month and must be held within the visitation hours specified in this chapter;
- (9) Compliance with Federal, State and Local Laws. Home occupations shall comply with all other local, state, and federal laws and regulations. The requirements for, and licensing of a home occupation under this section shall not be construed as an exemption from such regulations.
- (c) *Home Occupations As Accessory Uses.* All home occupations shall be licensed by the City of Prairie Village. Procedures for granting and suspension of licenses shall be governed by the administrative regulations of the city. Licensing applications may be obtained from the city clerk. Appeals from denials or suspensions of licenses for home occupations shall be governed by section 19.54.025 of the Zoning Ordinance.

(Ord. 2208, Sec. III, 2009)

19.34.015. - FAMILY DAY CARE HOME AS ACCESSORY USE; WHEN PERMITTED IN DISTRICTS R-1, R-2, RP-1 AND RP-2.

(a) *Family Day Care Home Requirements.*

- (1) A "Family Day Care Home" is an acceptable accessory use only if such day care home complies with the State of Kansas requirements for family day care homes (K.S.A. 65-517 and 39-1501), and the following:
 - a. Not more than six children less than 16 years of age may be cared for in a registered family day care home. In no event, shall these limits be construed as allowing more children to be cared for in a family day care home than state laws allow;
 - b. Not more than three of the children cared for in a family day care home shall be less than 18 months of

age;

- c. Any children of a person providing care in a family day care home count toward the limitations of subsection (a) and (b) if such children are cared for in the family day care home;
 - d. Not more than two adults;
 - e. A person shall not be considered to be maintaining a family day care home if only children who are related by blood, marriage, or legal adoption to such person are cared for.
- (b) *Area of Use.* Family day care homes must be confined to the interior of the home and to the side setback and rear yards of such homes. Homes located on corner lots shall restrict the exterior area to the rear yard and the side setback opposite the corner side of the home.
- (c) *Authorized Participants in Family Day Care Homes.* This occupation shall be conducted by family members residing on the premises with no assistance from other individuals or groups. No employees or other type assistance will be allowed in the conduct of its business, except a non-family member may serve as the substitute care provider solely for the purpose of providing a backup in the event of temporary and/or emergency absence of the child care provider in compliance with state regulations that require a substitute care provider.
- (d) *Exterior Alterations of Residence.* No exterior alterations of the residence or other visible evidence of the conduct of such occupation is allowed.
- (e) *Advertising.* No use of advertising on the premises which calls attention to the fact that the home is being used for business purposes shall be permitted.
- (f) *Traffic and Parking.* If parking, deliveries or visitations for family day care homes occur in a manner of frequency causing disturbance to the normal traffic flow for the neighborhood, the use shall be discontinued at that location.
- (g) *Compliance with Federal, State and Local Laws.* Family day care homes shall be registered or licensed by the state and shall comply with all local, state and federal laws and regulations. The requirements for, registering and/or licensing of, family day care homes under this section shall not be construed as an exemption from such regulations. Licensing or registering by a state or federal agency of a family day care home likewise shall not cause said provider to be exempted from the restrictions of this section.
- (h) *All family day care homes shall be licensed by the City of Prairie Village.* Procedures for granting and suspension of licenses shall be governed by the administrative regulations of the city. Licensing applications may be obtained from the city clerk. Appeals for denials or suspensions of licenses for family day care homes shall be governed by section 19.54.025 of the Zoning Ordinance.

(Ord. 2208, Sec IV, 2009)

19.34.020. - OTHER ACCESSORY USES.

- (a) [Reserved.]
- (b) A temporary real estate sales office may be located on property being sold, and limited to period of sale, but not exceeding one year unless granted a conditional use permit;
- (c) A hobby activity may be operated as an accessory use by the occupant of the premises purely for personal

enjoyment, amusement, or recreation; provided, that the articles produced or constructed are not sold either on or off the premises and that the activity complies with standards established for home occupations in section 19.34.010 Paragraph (b)(7). Without limiting the foregoing, hobby activity shall not include the repair of cars or other vehicles, which are not owned by the owner/occupant of the home where the repairs are made. However, nothing contained in this subsection shall be construed or interpreted to permit any use or activity, which is prohibited by chapter 19.36, Restricted Uses.

- (d) Such additional uses as gardens, customary pets, signs as permitted by ordinance, parking areas, play equipment and other similar uses are also accessory uses.
- (e) [Reserved.]
- (f) No equipment, (material or vehicle, other than operating motor passenger cars, shall be stored for more than 24 hours in a 30-day period in a residential district, other than as specifically allowed pursuant to chapter 19.38. Except that senior housing projects, assisted living projects, schools, religious institutions and other similar uses may make application to park a bus or buses on their property subject to review and approval of the number, size and location of the buses by the building official. The buses shall not be parked within the front yard setback but shall be parked in a location that is most appropriate and compatible with adjacent uses. The building official may approve, approve with conditions or deny the application. If an applicant is not satisfied with the decision of the building official, he may appeal said decision to the planning commission and the planning commission shall make the final decision.
- (g) Tennis courts are permitted as an accessory use, provided the following procedures and standards are met:
 - (1) All tennis courts shall require a building permit.
 - (2) Plans for tennis courts shall be submitted to the building official or his/her designated agent for review and approval prior to issuance of permits. Said review shall be based upon compliance with the following standards: the need for screening to protect the privacy of neighboring property; compatibility of any lighting; safety and prevention of damage to adjacent property by surface water runoff. The preceding standards shall be the minimum requirement, and the building official may deny a building permit and refer an applicant to the planning commission where the planning commission may require additional screening or other measures deemed necessary to preserve property values and personal safety.
 - (3) Tennis courts shall not be built in front of front building lines.
 - (4) Tennis courts shall be so located that the fence surrounding the courts shall be not less than 30 feet from the front lot line, and not less than ten feet from a rear lot line or interior side lot line. In the case of corner lots, the fence shall not be closer than the front setback line of any building on an adjacent lot or 15 feet, whichever is greater. Said fence shall be chain-link fabric, and shall not exceed ten feet in height. The lighting level of any tennis court lighting measured at the property line shall not exceed five foot candles, and all luminaries shall be provided with shields to control light spillage and glare.
 - (5) Tennis courts shall be so designed that the surface water will be carried to the public street or storm drainage system on the owner's property, or by underground pipe to the public street or storm drainage system, or if across other ownerships, copies of written consent must be provided to the director of public works.
- (h) Garage sales are permitted in District R-1a, R-1b, R-2, R-3, and R-4. A household may conduct a sale of goods,

furnishings, personal effects and clothing, from the resident's garage or property, by a sale not to exceed three consecutive days; and provided further, that not more than two such sales shall be allowed each calendar year per household.

- (i) Dumpsters and trash bins shall be located so that they are not visible from adjacent streets and properties and they shall be adequately screened from view by wall or fence enclosures that are of a building material that is complimentary to the principal building on the site.
- (j) Outdoor swimming pools, spas and hot tubs are permitted as accessory uses, provided the following procedures and standards are met:
 - (1) All outdoor swimming pools, spas and hot tubs shall require a building permit.
 - (2) Swimming pool is any structure intended for swimming or recreational bathing that contains water over 24 inches deep. This includes in-ground, aboveground and on-ground swimming pools, hot tubs, portable and non-portable spas, and fixed-in-place wading pools.
 - (3) Plans for outdoor swimming pools shall be submitted to the building official or his/her designated agent for review and approval prior to issuance of permits. Said review shall be based upon compliance with the following standards: the need for screening to protect the privacy of neighboring property; compatibility of any lighting; safety and prevention of damage to adjacent property by surface water runoff. The preceding standards shall be the minimum requirement, and the building official may deny a building permit and refer an applicant to the planning commission where the planning commission may require additional screening or other measures deemed necessary to preserve property values and personal safety.
 - (4) Each swimming pool shall be completely enclosed by a fence or other permanent enclosure not less than four nor more than six feet in height. This enclosure shall be provided with self-closing gates equipped with a self-latching device. Such enclosures shall be not less than 30 feet from the front lot line, and not less than 15 feet from the side street line in the case of a corner lot, except on reverse corner lots whereupon side setbacks should be based upon the adjoining front yard setback. The enclosure may be located on the interior side lot line and the rear lot line, subject to any easements, but the edge of the swimming pool shall be not less than ten feet from any such interior side or rear lot line and not less than 20 feet from a residence on an adjoining lot.
 - (5) In lieu of the fence or permanent enclosure, spas and hot tubs may be equipped with a safety cover. Said safety cover shall be classified under WBAH and have been evaluated to the American Society for Testing and Materials (ASTM) Standard F1346, Standard Performance Specifications of Safety Covers or equivalent. Each safety cover shall bear the classification marking "UL," the word "Classified," a control number, and the product name or equivalent.
 - (6) Swimming pools may not be built in front of front building lines.
 - (7) Swimming pools shall be so designed that the surface water will be carried to the public street or storm drainage system on the owner's property, or by underground pipe to the public street or storm drainage system, or if across other ownerships, copies of written consent must be provided to the director of public works. Swimming pools shall not be drained at any time which may cause icing or other hazardous street conditions.

(k) Utility boxes that have a footprint of 12 square feet or less in area; a pad of not more than 2.5 times the area of the box footprint, but not larger than 32 square feet; and a height of not more than 56 inches, will be considered as an accessory to a utility line and the location, design and landscaping or screening shall be subject to staff review and a permit as follows:

- (1) Landscaping and Screening: If landscaping or screening is required, a plan shall be submitted identifying the plant sizes and varieties.
- (2) Noise: The utility box shall not emit any unnecessary intrusive noise.
- (3) Abandonment: Any utility box not operated for a period of six months shall be considered abandoned and the box and pad shall be removed by the owners and the site returned to its original condition.
- (4) Location: The utility will work with the city staff to determine a pad size and a location that is most appropriate and compatible with adjacent uses, including adjacent property owners' uses.
- (5) Wireless Facilities: Utility boxes related to wireless facilities (as defined in chapter 19.33) shall be as permitted, and with such conditions, as set forth in chapter 19.33.
- (6) Appeal: Any applicant that is not satisfied with the staff approval may appeal the staff decision to the planning commission; provided, this section shall not apply to any person who is availing themselves of the appeal provisions set forth in K.S.A. 66-2019(h)(6), as amended, as codified in section 19.33.020(e) of the city zoning regulations, or in Federal Communications Commission (FCC) Declaratory Ruling dated September 27, 2018, in WT Docket Nos. 17-79 and 17-84 (FCC 18-133, 33 FCC Rcd 9088), to the extent such FCC Declaratory Ruling applies and/or is in effect.

(Ord. 2029, Sec. III, 2002; Ord. 2225, Sec. II, 2010; Ord. 2392, Sec. 4, 2018; Ord. 2407, Sec. XVI, 2019)

19.34.025. - ACCESSORY USES-DISTRICTS R-3 AND R-4.

Accessory uses permitted in Districts R-3 and R-4 in addition to uses permitted in all residential districts shall be as follows: Parking areas; signs as permitted by ordinance; recreation areas including tenant used swimming pools and minor recreation buildings; trash collection centers; power generators; vending machines for tenant use; other similar uses.

(Ord. 2049, Sec. II, 2003)

19.34.030. - ACCESSORY USES-DISTRICTS C-O, C-1 AND C-3.

Accessory uses permitted in Districts C-O and C-1 shall be as follows: Parking areas; signs as permitted by ordinance; food service and vending machines (for tenants only in District C-O); private garages for motor vehicles, apartment for maintenance personnel; barbershops; low-level exterior lighting; radio; television or microwave antennae not exceeding 60 feet in height; flagpoles; cooling towers; other similar uses.

19.34.035. - ACCESSORY USES-DISTRICTS C-2 AND C-3.

Accessory uses permitted in Districts C-2 and C-3 shall be as follows: Parking areas; signs as permitted by ordinance; flood lighting; other similar uses. Service stations may have the following additional accessory uses:

- (a) Washing and other cleaning of passenger cars shall be permitted as an accessory use provided such washing and operations shall not utilize more than two stationery bays in any one station, shall be a part of the main building not be open for use during hours when the service station is closed. Conveyor or other continuous line washing is permitted except by special use permit. Such washing and cleaning operations shall use the same entrance drive service station and may utilize coin-operated or attendant operated equipment;
- (b) Retail sale of automotive supplies that are customarily available at service stations and which do not require engine or transmission repair, body work or installation of audio equipment, but which include such items as batteries, motor oil, additives, antifreeze, light bulbs, belts, and transmission fluids;
- (c) Retail sale of non-automotive items of an incidental and convenience nature, limited to food and non-alcoholic beverages for human consumption (except cereal malt beverages), film, tobacco products, cosmetics, everyday over-the-counter pharmaceuticals, ice, detergents, novelties and gifts, toys, lottery tickets, paper products, light bulbs and minor clothing items such as caps and "T" shirts;
- (d) The following development and performance standards shall apply to any establishment where both gasoline and non-automotive products are sold to the public:
 - (1) The total floor area devoted to display and sale of products, including cashier space, but excluding storage rooms, restrooms, auto service and wash bays, shall not exceed 800 square feet, provided further that an enclosed building existing and being utilized as a gasoline service station at the time of passage of this amendment, may utilize the entire existing floor area for retail sale of products herein permitted.
 - (2) Booths or other customer seating accommodating are not permitted.
 - (3) All merchandise and vending machines shall be kept inside the building.
 - (4) Food preparation is not allowed except that microwave oven may be provided for customer use.
 - (5) All such establishments shall provide not less than two parking spaces on the premises and establishments where the retail floor area exceeds 200 square feet, shall provide additional off-street parking on the premises at the ration of one space for each 200 sq. ft. of said additional floor area used for retail sales and display, such parking to be in addition to the space utilized by the vehicle receiving gasoline at a pump.
 - (6) Floor area shall be computed from the outside surface of exterior walls and, for purposes of parking calculation, shall exclude restrooms or storage areas not accessible to the public, auto service or washbays.

19.34.040. - ACCESSORY USES-MISCELLANEOUS PROVISIONS.

- (a) Any accessory use which exceeds ten feet in height shall be located a distance inside the property line at least equal to one-third its height.
- (b) No private walk or drive serving a District C-1 to C-3 inclusive shall pass through or be located in a District R-1 to R-4 inclusive.
- (c) The city council may, upon application by the proponent, issue a short-term permit for the use of a specified parcel of land for such temporary short-term uses as charitable, civic or religious sales and activities, trade shows, street fairs, expositions, promotional ventures and entertainment, without publication or posted notice and

without referral to the planning commission, provided the following conditions are met:

- (1) The applicant shall submit in written form a complete description of the proposed use, including estimated accumulation of automobiles and persons, hours of operation, and other characteristics and effects on the neighborhood;
 - (2) The short-term permit shall not be operated longer than the period stipulated in the permit, and in any case no longer than 30 consecutive days;
 - (3) Upon the cessation of the short-term permit, all materials and equipment shall be promptly removed and the property restored to its normal condition. If, after giving full consideration to the effect of the requested short term permit on the neighborhood and the community, the mayor or his/her designee deems the request is reasonable, the permit for the short-term use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the permit. Such permit may be approved in any zoning district;
 - (4) A fee as established in section 16-403 shall be charged the applicant for each such short-term permit.
- (d) Satellite dish antennas less than one meter in diameter shall be subject to the following conditions:
- (1) That every effort shall be made to locate the satellite dish antenna in accordance with the conditions set out in this section; however, if the application of the conditions precludes a subscriber from receiving an acceptable quality signal, the building official shall assist the subscriber to find a location on the property where an acceptable quality signal can be received. The building official will be responsible for approving all locations that do not conform to the conditions of this section.
 - (2) That the applicant must have a direct or indirect ownership interest in the property.
 - (3) That in the case of multiple dwelling units, there shall be no more than three antennas per structure and for other uses no more than one antenna per structure.
 - (4) That the structural and electrical design must conform to FCC regulations and the antenna must meet all code requirements.
 - (5) That the applicant shall prepare and submit a plan to the building official who will work with the applicant to find the least obtrusive location on the property.
 - (6) For structure-mounted units:
 - a. The dish antenna shall be mounted on the main building of the lot and, to the extent technically feasible, on the rear side of the building. To the extent that an antenna mounted on the rear side of a building does not provide clear transmission, the antenna may be located on the front or side of the building provided that it is designed in such a manner that it cannot be identified as a dish antenna. The applicant may be required to provide appropriate screening.
 - b. The dish antenna shall not exceed the height of the ridge line of the structure and shall not be visible from an adjacent street. This may require that the applicant provide appropriate screening.
 - c. The maximum dish diameter shall be less than one meter and that larger diameter dishes shall require a conditional use permit.
 - d. The mounting frame and all antennas to be painted the same color and that color shall blend with the roof

or building.

- (7) For ground-mounted units:
 - a. That the dish antenna shall be located in the rear yard of the lot to the extent technically feasible. To the extent that an antenna in the rear yard does not provide clear transmission, the antenna may be located in the front or side yard of the lot provided that it is designed in such a manner that it cannot be identified as a dish antenna. This may require that the applicant provide appropriate screening.
- (8) That in order to assure compliance with all municipal building and safety codes and the requirements of this chapter, a permit must be obtained from the building official prior to the installation of the satellite dish antenna.
- (e) The planning commission may, upon application by the proponent, issue a short-term use permit for a period longer than 30 days for the use of a specified parcel of land for such temporary short-term uses as a special event such as a trade show, street fair, exposition, promotional venture and entertainment, without publication or posted notice, provided the following conditions are met:
 - (1) The applicant shall submit in written form a complete description of the proposed use, including drawings of proposed physical improvements, estimated accumulation of automobiles and persons, hours of operation, length of time requested, and other characteristics and effects on the neighborhood;
 - (2) If approved, a specific time period shall be determined and the short-term permit shall not be operated longer than the period stipulated in the permit;
 - (3) Upon the cessation of the short-term permit, all materials and equipment shall be promptly removed and the property restored to its normal condition. If, after giving full consideration to the effect of the requested short-term permit on the neighborhood and the community, the planning commission deems the request is reasonable, the permit for the short-term use may be approved. Conditions of operation, provision for surety bond, and other reasonable safeguards may be written into the permit. Such permit may be approved in any zoning district.
 - (4) A fee as established in section 16-403 shall be charged the applicant for each such short-term permit.
- (f) Permanent standby emergency generators shall be permitted as an accessory use for single-family and two-family dwellings subject to the following conditions:
 - a. Said generators shall be used during emergency situations only which result in power failures; and
 - b. Said generators shall be installed in accordance with NFPA 37 Standards for the Installation and Use of Stationary Combustion Engines and Gas Turbines; and
 - c. Said generators shall be connected to a natural gas line; and
 - d. Said generators shall be located within the building envelope but no further than five feet from a wall of the principal structure and not in a front or side yard; and
 - e. Said generators shall only be tested during daylight hours; and
 - f. Said generators shall be contained in an enclosed cabinet or housing that provides sound attenuation; and
 - g. The footprint of the cabinet shall not exceed 12 square feet; the pad shall not exceed 16 square feet 48 inches and the height shall not exceed 48 inches; and

- h. The applicant shall obtain a permit from the city prior to installation.
- i. Proposed locations of permanent standby emergency generators that do not meet subsection d. above, but are not located in a front yard may be submitted to the building official or his/her designee for review and approval.

The building official or his/her designee shall give consideration to the following criteria in approving or disapproving a location:

- (1) That there are special circumstances or conditions affecting the property.
- (2) That adequate distance exists between the location and adjacent property.
- (3) That the proposed location will be adequately screened from the street.
- (4) That the location will not cause significant adverse impact on adjacent properties.
- (5) That the building official or his/her designee may impose any conditions it deems necessary to mitigate any negative impacts of the proposed location.
- (6) If in the opinion of the building official or his/her designee, the proposed generator does not meet the criteria stated above, an application may be made to the planning commission for site plan approval.

Permanent standby emergency generators shall be permitted as an accessory use for multi-family and nonresidential uses subject to the following conditions:

- a. Said generators shall be used during emergency situations only which result in power failures; and
- b. Said generators shall be installed in accordance with NFPA 37 Standards for the Installation and Use of Stationary Combustion Engines and Gas Turbines; and
- c. Said generators shall only be tested during daylight hours; and
- d. Said generators shall be screened by plant materials, walls, fences and earth berms or any combination thereof and said screening shall be shown on the site plan; and
- e. The applicant shall obtain site plan approval from the planning commission prior to obtaining a permit and installing the generators

(Ord. 1951, Sec. I, 1998; Ord. 2049, Sec. IIII, 2003; Ord. 2188, Sec. II, 2009; Ord. 2214, Sec. II, 2009)

19.34.045. - ONE ACCESSORY LIVING QUARTER.

One accessory living quarter (ALQ) may be permitted in a residence subject to staff review and subject to the following conditions:

- (a) The homeowner must occupy either the principle dwelling unit or the accessory living quarters.
- (b) The occupants of both the principal dwelling unit and the ALQs must be related by blood, marriage or adoption but may also include usual domestic servants and caregivers.
- (c) ALQ's must be attached to or included within the single-family dwelling so that there is no impression of two distinct dwelling units.
- (d) The principal dwelling unit and the ALQ shall have one address and mailbox.

- (e) The principal dwelling unit and the ALQ shall not have separate utility metering.
- (f) The maximum size of the ALQ shall be 30 percent of the area of the principal dwelling, but shall not exceed 800 square feet in area.
- (g) The design and appearance of the ALQ shall preserve the single-family character of the neighborhood. Private exterior entrances to the ALQ shall be on the sides or rear of the property. Only common entrances to the dwelling shall be permitted on the front.
- (h) The homeowner shall file a document in the office of the register of deeds that states that the ALQ is to be used only by members of the family and shall not be used as a rental unit.
- (i) The homeowner shall obtain an occupancy permit from the city every three years so that the ALQ can be reviewed for compliance.

(Ord. 2027, Sec. IV, 2002)

19.34.050. - OUTDOOR LIGHTING.

- (a) *Purpose and Intent.* It is the intent of this section to define practical and effective measures to preserve safety, security and the nighttime use and enjoyment of property while minimizing the obtrusive aspects of excessive and/or careless outdoor light usage. These measures will curtail the degradation of the nighttime visual environment by encouraging lighting practices that direct appropriate amounts of light where and when it is needed, increasing the use of energy-efficient sources, and decreasing the wastage of light and glare resulting from over lighting and poorly shielded or inappropriately directed lighting fixtures.

All business, residential, public, institutional, and semi-public use lighting should be installed in an effort to minimize spillover onto adjacent properties and streets.

- (b) *Definitions.* For the purposes of this chapter, terms used shall be defined as follows:
 - (1) *Direct light:* Light emitted directly from the lamp, off of the reflector or reflector diffuser, or through the refractor or diffuser lens of a luminaire.
 - (2) *Floodlight or Spotlight:* Any luminaire or lamp that incorporates a reflector or a refractor to concentrate the light output into a directed beam in a particular direction.
 - (3) *Footcandle (FC):* A quantitative unit measuring the amount of light cast onto a given point, measured as one lumen per square foot.
 - (4) *Full cutoff luminaire:* An outdoor fixture shielded or constructed in such a manner that it emits no light above the horizontal plane at the bottom of the fixture.
 - (5) *Glare:* Light emitting from a luminaire with an intensity great enough to reduce a viewer's ability to see and in extreme cases to cause momentary blindness.
 - (6) *Height of Luminaire:* The height of a luminaire shall be the vertical distance from the ground directly below the center line of the luminaire to the lowest direct light emitting part of the luminaire.
 - (7) *Indirect light:* Direct light that has been reflected or has scattered off of other surfaces.
 - (8) *Lamp:* The component of a luminaire that produces the actual light.

- (9) *Light Trespass*: The shining of light produced by a luminaire beyond the boundaries of the property on which it is.
- (10) *Lumen*: A unit of luminous flux. The lumen output values shall be the initial lumen output ratings of a lamp or light bulb as provided by the manufacturer.
- (11) *Luminaire*: The complete lighting assembly (including the lamp, ballast, housing, reflectors, lenses and shields), less the support assembly (pole or mounting bracket); a light fixture.
- (12) *Outdoor lighting*: The illumination of an outside area or object by any manmade device located outdoors that produces light by any means.
- (13) *Security lighting*: Outdoor lighting used to illuminate walkways, roadways, and building entrances where general illumination for safety is the primary concern.
- (14) *String of Lights*: A series of lights attached to a wire, race, or inserted in transparent tubing in such a way that it can be moved about or hung in various ways, and whose bulbs are not light fixtures permanently attached to a building or other structure.
- (15) *Temporary outdoor lighting*: The specific illumination of an outside area or object by any manmade device located outdoors that produces light by any means for a period of not more than 90 days.

(c) *Applicability*.

- (1) *New Uses, Buildings and Additions*: All proposed new land uses, developments, buildings, structures, or building additions of 25 percent or more in terms of additional dwelling units, gross floor area, seating capacity, parking spaces or other units of measurement specified herein, either with a single addition or cumulative additions subsequent to the effective date of this provision, except for single-family and two-family dwellings shall meet the requirements of this provision for the entire property. This includes additions which increase the total number of required parking spaces by 25 percent or more. For all building additions of less than 25 percent cumulative, the applicant shall meet the requirements of this provision for any new outdoor lighting provided.
 - (2) *Installation of New Lighting for Existing Development*: Any new outdoor lighting installed for existing uses except for single-family and two-family residential shall meet the requirements of these regulations.
 - (3) *Street Lighting*: These regulations shall not apply to public lighting that is located in street right-of-way.
- (d) *Design Standards*. All outdoor lighting shall be installed and maintained to meet the requirements of this section:
- (1) *Maximum Light Levels at Property Line*: The maximum light level at any point on a property line shall not exceed 0.0 footcandles when adjacent to a residential zone or 0.2 footcandles when adjacent to non-residential zones, measured five feet above grade.
 - (2) *Architectural Lighting of Building Facades*: The lighting of a building facade for security, architectural, aesthetic, or decorative purposes is permitted subject to the following restrictions:
 - a. All building facade lighting shall be fully shielded, fully confined from projecting into the sky by eaves, roofs or overhangs, and mounted as flush to a wall as possible.
 - b. Building facade lighting shall be fully contained within the vertical surface of the wall being illuminated and shall not spill out beyond the edge of the wall.
 - (3) *Canopy Lighting*: Lighting fixtures mounted under canopies used for vehicular shelter shall be aimed

downward and installed such that the bottom of the light fixture or its lens, whichever is lower, is recessed or mounted flush with the bottom surface of the canopy. A full cut off light fixture may project below the underside of a canopy. All light emitted by an under-canopy fixture shall be substantially confined to the ground surface directly beneath the perimeter of the canopy. No lighting, except that permitted by the sign ordinance, shall be permitted on the top or sides of a canopy.

- (4) *Flag Poles:* A flagpole may be illuminated by one upward aimed fully shielded spotlight luminaire which shall not exceed 3,500 lumens. The luminaries shall be placed within five feet of the base of the flagpole.
- (5) *Strings of Lights:*
- a. No person shall use a string of lights on property with non-residential uses except as follows:
 - (i) Strings of lights may only be used if they are approved by the planning commission as part of an outdoor lighting plan or landscape plan. The plan must comply with all of the standards of this subsection. The purpose of such lighting is intended to create pleasing pedestrian spaces; such as an outdoor dining or patio area, utilizing low lighting levels.
 - (ii) Strings of lights permitted under this subsection shall be displayed in compliance with the following standards:
 - The string of light contains only low wattage bulbs that are not greater than 50 lumens per bulb (equivalent to a seven watt C7 incandescent bulb);
 - The string of lights may be located within a pedestrian way, plaza, patio, outdoor dining area, or the primary entry into a building;
 - The string of lights may be displayed on buildings, facades, walls, fences, trees, and shrubs; and
 - The string of lights shall not suspend horizontally between any buildings, walls, fences, trees or shrubs (for the purpose of this paragraph, "horizontally" means any portion of the suspended string which dips less than forty-five degrees below the horizontal).
 - b. Temporary lighting displays for both residential and non-residential uses: strings of lights may be located on trees, shrubs or structures located in street, rights-of-way and may cross street rights-of-way upon issuance of a right-of-way permit from the department of public works.
- (6) *Control of Glare-Luminaire Design Factors.*
- a. Luminaire Height: The mounting height for luminaries shall not exceed 25 feet as measured to the bottom of the luminaire from grade.
 - b. Luminaire: All luminaries shall be non-adjustable and shall have a full cutoff.
 - c. Average Maintained Footcandles: The maximum average maintained footcandles for all parking lighting shall be three footcandles. For the purpose of this chapter the average maintained footcandles shall be calculated at 0.8 of initial footcandles.
- (7) *Exceptions*
- a. All temporary emergency lighting needed by the police, the fire and public works departments or other emergency services, as well as all vehicular luminaries, shall be exempted from the requirements of this

article.

- b. All hazard warning luminaries required by Federal regulatory agencies are exempt from the requirements of this article, except that all luminaries used must be shown to be as close as possible to the federally required minimum lumen output requirements for the specific task.

(8) *Temporary Outdoor Lighting*

- a. Any temporary outdoor lighting that conforms to the requirements of this chapter shall be allowed. Nonconforming temporary outdoor lighting may be permitted by the planning commission after considering: 1) the public and/or private benefits that will result from the temporary lighting; (2) any annoyance or safety problems that may result from the use of the temporary lighting; and 3) the duration of the temporary nonconforming lighting. The applicant shall submit a detailed description of the proposed temporary nonconforming lighting to the planning commission, who shall consider the request in the same manner as a site plan approval.

(9) *Outdoor Sports Facilities and Park Area Lighting except for single-family and two-family residences:* The proposed lighting for outdoor sports facilities and park areas shall be reviewed and approved by the planning commission under the site plan regulations. The proposed lighting will be independently evaluated based on the use being lighted and is not required to meet the requirements of the outdoor lighting regulations.

- (e) *Sign Lighting.* Lighting fixtures illuminating signs shall be aimed and shielded so that direct illumination is focused exclusively on the sign and the fixture shall be flush mounted in the ground or screened from view.

- (f) *Lighting Plans Required.* A lighting plan shall be submitted to the planning commission for review and approval for all conditions as setout in Subsection C1 and C2 Applicability, in which outdoor lighting is proposed or required. The lighting plan shall be prepared by an architect, engineer, electrical contractor or lighting consultant and shall include:

- (1) A site plan showing the location of all building and building heights, parking, and pedestrian areas on the lot or parcel;
- (2) The location and description including mature height of existing and proposed trees and the location of light fixtures on adjacent properties or the street right-of-way within ten feet of the subject property;
- (3) The location and height above grade of all proposed and existing light fixtures on the subject property;
- (4) The type, initial lumen rating, color rendering index, and wattage of each lamp source;
- (5) The general style of the light fixture such as cut-off, lantern, coach light, globe, and a copy of the manufacturers catalog information sheet and IESNA photometric distribution type, including any shielding information such as house side shields, internal, and/or external shields;
- (6) Control description including type of controls (timer, motion sensor, time clock, etc.), the light fixtures to be controlled by each type, and control schedule when required;
- (7) Aiming angles and diagrams for sports lighting fixtures; and
- (8) A light calculation which shows the maximum light levels on a grid not to exceed ten feet by ten feet across the entire site and a minimum of ten feet beyond the lot or parcel property line. The grid shall also indicate maximum to minimum uniformities for each specific use area such as parking and circulation areas, pedestrian areas, and other common public area.

- (g) *Final Inspection and Certification.* Prior to a final inspection or the issuance of a certificate of occupancy, the applicant shall provide certification that the outdoor lighting as installed complies with the approved illumination plan and the requirements of this section. The certification shall be submitted in a format prescribed by the city. The certification shall be completed by the architect, electrical engineer, contractor, or lighting consultant responsible for the plans or the final installation.

(Ordinance 2103, Section II, 2005)

Chapter 19.36 - RESTRICTED USES

19.36.005. - RESTRICTED USES.

- (a) No temporary or uncompleted building, garage, or appurtenances incident to a family dwelling shall be erected, maintained or used for residence purposes. However, it is provided that when the exterior and more than 50 percent of the interior of a permanent residence has been completed at the time of adoption of this title, this regulation shall not apply.
- (b) No temporary or outwardly incomplete building or structure, no open excavation for a basement or foundation, and no building or structure so damaged as to become unfit for use or habitation shall be permitted, maintained or remain in such condition for more than six months.
- (c) No building material, construction equipment, machinery or refuse shall be stored, maintained or kept in the open upon any lot, tract or parcel other than in such districts as permitted in this title, except during actual construction operations upon said premises or related premises; provided that the Board may waive said requirement in unusual cases for a limited time.
- (d) No building, structure or premises shall be used for, or occupied by any of the following uses:
 - (1) Junkyard, junk storage, salvage yard, auto wrecking;
 - (2) Auto courts, row houses, trailer camp, tourist cabins, mobile homes;
 - (3) Slaughterhouse, commercial poultry dressing or processing establishment where such use is primary and not incidental to a permitted use;
 - (4) Refuse dumps, dumps;
 - (5) Boardinghouse or lodging houses, exclusive of group homes.
- (e) The raising, storage, or handling of farm crops, the raising, feeding or keeping of farm animals, livestock or poultry, other than customary household pets or chickens as provided in chapter II, article I of the City Code, and the keeping or display of farm or other heavy equipment or machinery is prohibited in all districts.

(Ord. No. 2424, § 1, 8-17-2020)

Chapter 19.40 - NONCONFORMITIES

19.40.005. - GENERAL.

Nonconformities are of three types: nonconforming lots of record, nonconforming structures, and nonconforming uses. A definition of each type is as follows:

- (a) *Nonconforming Lot of Record.* A lot which is part of a recorded subdivision or a parcel of land, the deed to which was recorded prior to the original adoption of zoning and/or subdivision regulations in the city and said lot does not comply with the lot width or area requirements in the district in which it is located;
- (b) *Nonconforming Structure.* An existing structure which does not comply with the lot coverage, height, area or yard requirements which are applicable to new structures in the zoning district in which it is located;
- (c) *Nonconforming Use.* An existing use of a structure or of land which does not comply with the use regulations applicable to new uses in the zoning district in which it is located.

19.40.010. - NONCONFORMING LOTS OF RECORD.

A building permit may be issued for any nonconforming lot of record provided that:

- (a) Said lot is shown by a recorded plat or deed to have been owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by any zoning regulations; and
- (b) Said lot has remained in separate and individual ownership from adjoining tracts of land continuously during the entire time that the creation of such lot has been prohibited by any zoning regulations; and
- (c) Said lot can meet all yard regulations for the district in which it is located.

19.40.015. - NONCONFORMING STRUCTURES.

- (a) *Authority to Continue.* Any nonconforming structure which does not comply with the applicable intensity of use regulations and/or the applicable yard area, and height regulations, may be continued, so long as it remains otherwise lawful.
- (b) *Enlargement, Repair and Maintenance.* Any nonconforming structure may be enlarged, maintained, repaired or remodeled; provided, however, that no such enlargement, maintenance, repair or remodeling shall either create any additional nonconformity or increase the degree of existing nonconformity of all or any part of such structure.
- (c) *Damage, Destruction or Demolition.* In the event that any nonconforming structure is damaged, destroyed or demolished, by any means, to the extent of more than 50 percent of its fair market value, such structure shall not be restored unless it shall thereafter conform to the regulations for the zoning district in which it is located. When a structure is damaged to the extent of 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained within six months, and restoration is actually begun one year after the date of such partial destruction and is diligently pursued to completion.
- (d) *Moving.* No nonconforming structure shall be moved in whole or in part for any distance whatever, to any other location on the same or any other lot unless the entire structure shall thereafter conform to the regulations of the zoning district in which it is located after being moved.

19.40.020. - NONCONFORMING USES.

- (a) *Authority to Continue.* Any lawfully existing nonconforming use of part or all of a structure or any lawfully existing nonconforming use of land, not involving a structure or only involving a structure which is accessory to such use or land, may be continued, so long as otherwise lawful and so long as it is not specified to be terminated by these regulations.
- (b) *Ordinary Repair and Maintenance.*
 - (1) Normal maintenance and incidental repair, or replacement, installation or relocation of nonbearing walls, nonbearing partitions, fixtures, wiring or plumbing, may be performed on any structure that is devoted in whole or in part to a nonconforming use.
 - (2) Nothing in these regulations shall be deemed to prevent the strengthening or restoring to a safe condition of a structure in accordance with an order of a public official who is charged with protecting the public safety and who declares such a structure to be unsafe and orders its restoration to a safe condition.
- (c) *Extension.* A nonconforming use shall not be extended, expanded, enlarged, or increased.
- (d) *Enlargement.* No structure that is devoted in whole or in part to a nonconforming use shall be enlarged or added to in any manner unless such structure and the use thereof shall thereafter conform to the regulations of the district in which it is located.
- (e) *Damage or Destruction.* In the event that any structure that is devoted in whole or in part to a nonconforming use is damaged, destroyed and demolished, by any means, to the extent of more than 50 percent of fair market value, such structure shall not be restored unless such structure and the use thereof shall thereafter conform to all regulations of the zoning district in which it is located. When such damage or destruction is 50 percent or less, no repairs or restoration shall be made unless a building permit is obtained, and restoration is actually begun within one year after the date of such partial destruction and is diligently pursued to completion.
- (f) *Moving.* No structure that is devoted in whole or in part to a nonconforming use and no nonconforming use of land shall be moved in whole or in part for any distance whatever, to any location on the same or any other lot, unless the entire structure and the use thereof or the use of land shall thereafter conform to all regulations of the zoning district in which it is located after being so moved.
- (g) *Change in Use.* If no external structural alterations are made which will expand the area or change the dimensions of the existing structure, any nonconforming use of a structure, or structure and premises, may be changed to another nonconforming use by approval of a special use permit application, provided that the planning commission and city council shall find that the proposed use is as appropriate or more appropriate to the district than the existing nonconforming use. In permitting such change, the planning commission, may require conditions and safeguards to protect surrounding areas and properties. Once such use has changed, it may no longer be returned to the original use or any other less appropriate use.
- (h) *Abandonment or Discontinuance.* When a nonconforming use is discontinued or abandoned, for a period of six months, such use shall not thereafter be re-established or resumed, and any subsequent use or occupancy of such land or buildings shall comply with the regulations of the zoning district in which such land or buildings are located.
- (i) *Nonconforming Accessory Uses.* No use which is accessory to a principal nonconforming use shall continue after such principal use shall cease or terminate.

19.40.025. - STATUS OF SPECIAL USE OR CONDITIONAL USE PERMITS.

- (a) *Status of Existing Uses.* Where a use exists at the effective date of these regulations and is permitted by these regulations only as a special use or conditional use permit in the zoning district in which it is located, such use shall be deemed to be a nonconforming use. Such use shall not be enlarged or expanded unless an application for a special use or conditional use permit whichever is appropriate set out in chapter 19.28 and 19.30 of these regulations.
- (b) *Status of Approved Special Use and Conditional Use Permits.* Any use for which a special use or conditional use permit has been issued, as provided in these regulations, shall not be deemed to be a nonconforming use, but shall, without further action, be deemed a lawful conforming use.

Chapter 19.44 - HEIGHT AND AREA EXCEPTIONS

19.44.005. - HEIGHT AND AREA EXCEPTIONS GENERALLY.

The regulations and requirements as to height of buildings and area of lots which may be occupied by buildings, front yards, side yards, and rear yards, and other regulations and requirements as set out in the foregoing sections of this title shall be subject to the following exceptions and additional regulations contained in sections 19.44.010 through 19.44.025.

19.44.010. - LOT WIDTH, DEPTH AND AREA EXCEPTIONS.

The requirements established in these regulations as to width, depth and area of lots and as to required front, side and rear yards shall not apply to lots having lesser widths, depths, areas or yards in plats of land in the city which have been recorded prior to the adoption of this title or to lots having lesser widths, depths, areas of yards in plats in the city which are recorded after the adoption of this title, if such exceptions are approved by the city planning commission and the governing body.

19.44.015. - HEIGHT.

- (a) Subject to approval of a special use permit, public or semipublic buildings, such as hospitals, hotels, churches, sanitariums or schools, either public or private, where permitted, may be erected to a height not exceeding 75 feet; provided that such buildings shall have yards which shall be increased one foot on all sides for each additional foot that such buildings exceed the specified height limit as established by the regulations of the district in which such buildings are situated.
- (b) Parapet wall and false mansards shall not exceed more than six feet above the height limit. Flagpoles, chimneys, cooling towers, elevator bulkheads, penthouses, finials, radio towers, ornamental towers, monuments, cupolas, domes, spires, and necessary mechanical appurtenances shall not exceed a height of 75 feet or the maximum height allowed by a special use or conditional use permit.

(Ord. 2350, Sec. IV, 2016)

19.44.020. - YARD EXCEPTIONS.

- (a) In districts R-1a through R-4 inclusive, where at least five lots or lots comprising 40 percent or more of the frontage, whichever is greater, on the same side of a street between two intersecting streets (excluding reverse corner lots), are developed with buildings having front yards with a variation of not more than ten feet in depth, the average of such front yards shall establish the minimum front yard depth for the entire frontage; except that where a recorded plat has been filed showing a setback line which otherwise complies with the requirements of this title, yet is less than the established setback for the block as provided above, such setback line shall apply.
- (b) Where an official line has been established for future widening or opening of a street upon which a lot abuts, then the depth or width of a yard shall be measured from such official line to the nearest wall of the building.
- (c) In all use districts, portions of buildings may project into required yards as follows:
 - (1) Chimneys, bay, bow, oriel, dormer or other projecting windows and stairway landings other than full two or more story windows and landings may project into required yards not to exceed three feet, provided they are limited to no more than 20 percent of the total building elevation;
 - (2) Miscellaneous architectural features, including balconies, eaves, cornices, sills, belt courses, spoutings, brackets, pilasters, grill work, trellises and similar projections for purely ornamental purposes may project into required yards not to exceed four feet;
 - (3) Window wells may project into required yards up to four feet;
 - (4) Structures associated with the front entrance to the principal building or outside spaces, such as porches, stoops, canopies or porticos, may encroach up to 12 feet into the front or rear setback, and up to ten feet into any street side setback, provided:
 - a. Any roof structure shall be single story, establishing an eave line between seven feet and nine feet above the top of foundation, and no gable or other part of the structure shall exceed 14 feet.
 - b. The structure shall remain unenclosed on all sides encroaching into the setback, except for railings or walls up to three feet above the structures surface.
 - c. The structure shall be integrated with the design of the principal structure including materials, roof form and pitch, and architectural style and details.
 - (5) All projections permitted by this sub-section shall not project into required side yards a distance greater than one-half the required minimum width of side yard;
- (d) Open and uncovered porches, decks or patios less than 30 inches high may encroach into the required side or rear yards up to three feet from the property line, but are subject to the impervious surface coverage limits. If these structures are 30 inches high or more they shall meet all setback, building coverage, and lot impervious coverage requirements.
- (e) In R-1a and R-1b, when applying the development and design standards, the building official may determine corner lots be oriented as follows, based on any prevailing patterns of the adjacent lots and blocks:
 - (1) Standard corner. The building orients to the same front as all other buildings along the same street and the front setback and design standards apply to this street. The expanded street side setback applies to the other street, the side and rear setbacks apply to the remaining sides.
 - (2) Reverse corner. The building orients to the short side of the block, different from other lots on the interior of

the block, and the front setback and design standards apply to this street. The expanded side setback applies to the other street and the side and rear setbacks apply to the remaining sides.

(3) Intersection orientation. The building orients to both streets and the front setback and design standards apply to each street. The interior side setbacks apply to both abutting lot sides, and no rear yard setback applies.

(f) A through lot having one end abutting a limited access highway with no access permitted to that lot from said highway, shall be deemed to front upon the street which gives access to that lot.

(g) Accessibility to the rear portion of all lots in a district C-O to C-2 inclusive, for four-wheeled vehicles from and to a public street, alley or way shall be provided unless waived by the planning commission.

(Ord. 2392, Sec. 5, 2018; Ord. 2407, Sec XVII, 2019)

19.44.025. - FENCES AND WALLS.

(a) *Purpose and Intent.*

- (1) To buffer or screen uses that may have negative impact on adjacent uses.
- (2) To provide privacy in outdoor spaces.
- (3) To provide safety from hazards such as swimming pools, hot tubs, spas and other similar facilities.
- (4) To enhance the quality of appearance of developed land use.

(b) *Design.*

- (1) Appearance - Those fences which have surface material, whether it be wood, chain link, metal bars or other permitted material, attached on one side of posts and/or rails, thus producing a finished side and an unfinished side, shall be installed with the finished sides exposed toward the street and adjacent properties. When doubt exists as to which way the surface of the proposed fence shall face, the Building Official shall make the final determination.
- (2) Prohibited Fences - The installation of farm type fences such as barbed wire, high tensile wire, wire mesh, welded wire, woven wire, pipe and cable, electric and razor ribbon fences or any similar type fence shall be prohibited.
- (3) Height - No fence shall exceed six feet in height except tennis court enclosures which may not exceed 12 feet in height and except fences which are located within the building envelope of a lot shall not exceed eight feet in height. The height of the fence shall be deemed to be the average distance from the finished grade to the highest point on the fence panel, excluding posts which may project above the fence panel not more than eight inches. Where the terrain is not level, the average dimension may, at the discretion of the Building Official, be applied to each eight foot section of the fence. Fences built in combination with retaining walls and/or berms shall be measured from the finished grade on the high side of the wall. In addition, fences and walls built on slopes shall comply with the required height measurement along the line of the fence location.
- (4) Decorative Fences - Decorative fences shall be designed so that they are at least 50 percent open and do not exceed two and a half (2 ½) feet in height. Split rail and wrought iron fences are examples of this type of fence.

(c) *Location.*

- (1) Decorative fences may be located in the front yard but shall be located no closer than ten feet from a street

right-of-way line.

- (2) Fences, other than decorative fences, shall not be located in the front yard and may be attached to or extended from the front corner of the dwelling.
- (3) Fences located on the side street of a corner lot shall not be less than five feet from the right-of-way line except that if an adjacent lot faces the side street, the fence shall be setback from the right-of-way line a distance of 15 feet or not less than one-half the depth of the front yard of an adjacent building, whichever is the greater setback.
- (4) If the rear of a through lot is fenced, a gate shall be installed to provide access to the right-of-way.
- (5) Diagrams depicting the location of fences on various types of lots are attached.

(d) *Retaining Walls.*

- (1) Retaining walls shall be designed and constructed to support lateral loads. Applications for retaining walls exceeding four feet in height, whether terraced or not, shall be accompanied by design calculations and plans sealed by a professional engineer licensed in the State of Kansas. Said plans shall be reviewed prior to the issuance of a building permit. Retaining walls shall setback a minimum of two feet from side and rear property lines, and retaining walls exceeding six feet in height shall be required to be setback from side and rear property lines an additional one foot for each two feet, or part thereof, in excess of six feet in height, e.g. a ten foot high retaining wall would be required to set back a minimum of four feet from the property line. Allowances will be made for tie backs to existing grade. Diagrams depicting the location of retaining walls on various types of situations are attached. Any exceptions or deviations from this formula shall require site plan approval by the planning commission.

(e) *Drainage and Utility Easements.*

- (1) Fences and walls shall not restrict natural surface drainage nor be constructed to divert or channel water flow with increased velocity. Fences shall not be constructed in drainage easements if they affect the flow of stormwater.
- (2) Fences installed in a utility easement may need to be removed in order to access the utilities. Fences constructed in easements are at the risk of the owner and shall not be the responsibility of the utility or city to replace them.

(f) *Permits Required.*

- (1) All fences, and retaining walls as defined herein, unless otherwise excepted, shall require a building permit. No fence may be erected, constructed or replaced until said permit has been procured from the building official. The building official may allow minor deviations and adjustments relative to the dimensions set out in this section where topographic or other natural features, utility locations, meters, trees or other conditions so warrant and where the spirit and intent of this section will be preserved.
- (2) Enclosures erected around compost piles in compliance with the conditions set forth in chapter 15, article 3 of the City Code are excluded from these regulations and shall not require a permit.

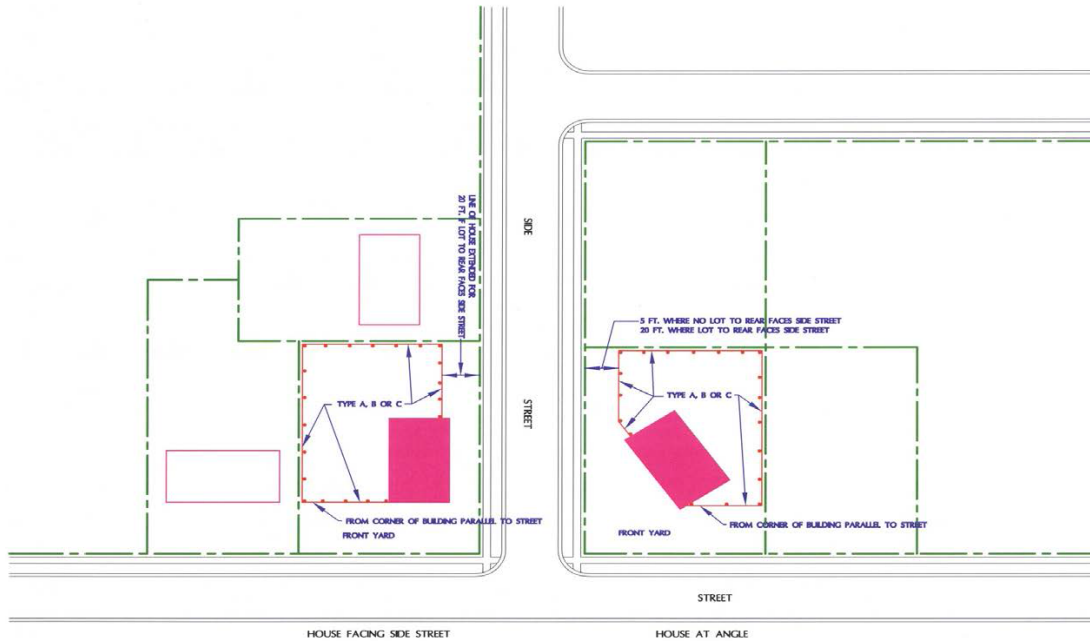
(g) *Site Plan Approval.*

- (1) As a part of the site plan approval process as set out in section 19.32 Site Plan Approval, the planning commission may approve solid walls or make adjustments to the height and location of fences, solid walls and

retaining walls provided that it results in a project that is more compatible, provides better screening, provides better storm drainage management, or provides a more appropriate utilization of the site.

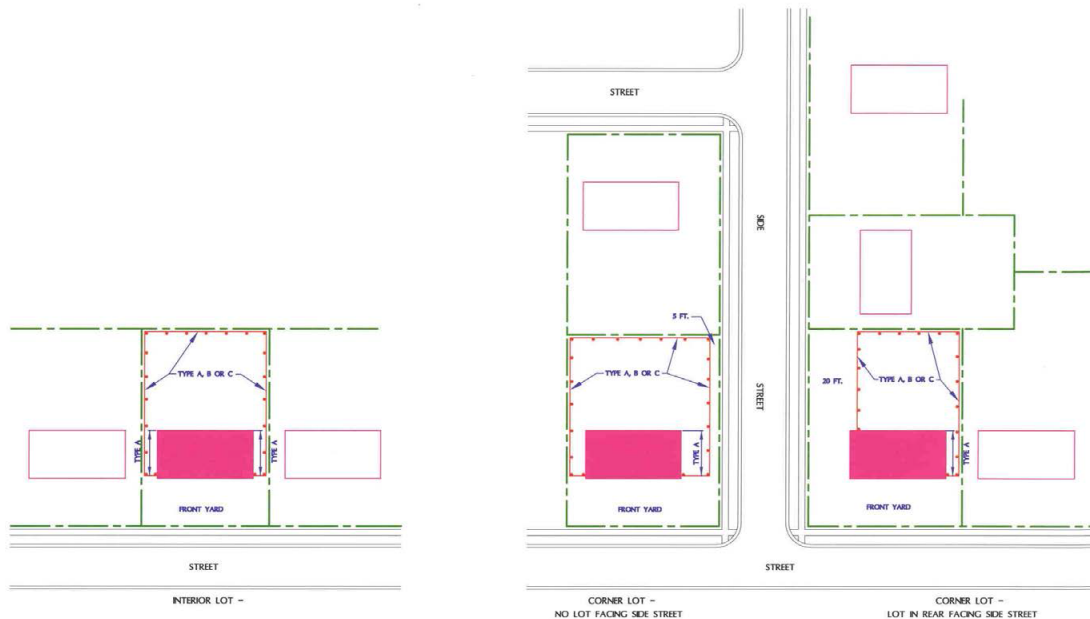
- (2) An application may be made to the planning commission for site plan approval of a solid wall, retaining wall or a fence that is unique and does not have the locational or design characteristics set out in these regulations.

Figure 19.44 - 1: Prairie Village Fence Regulations

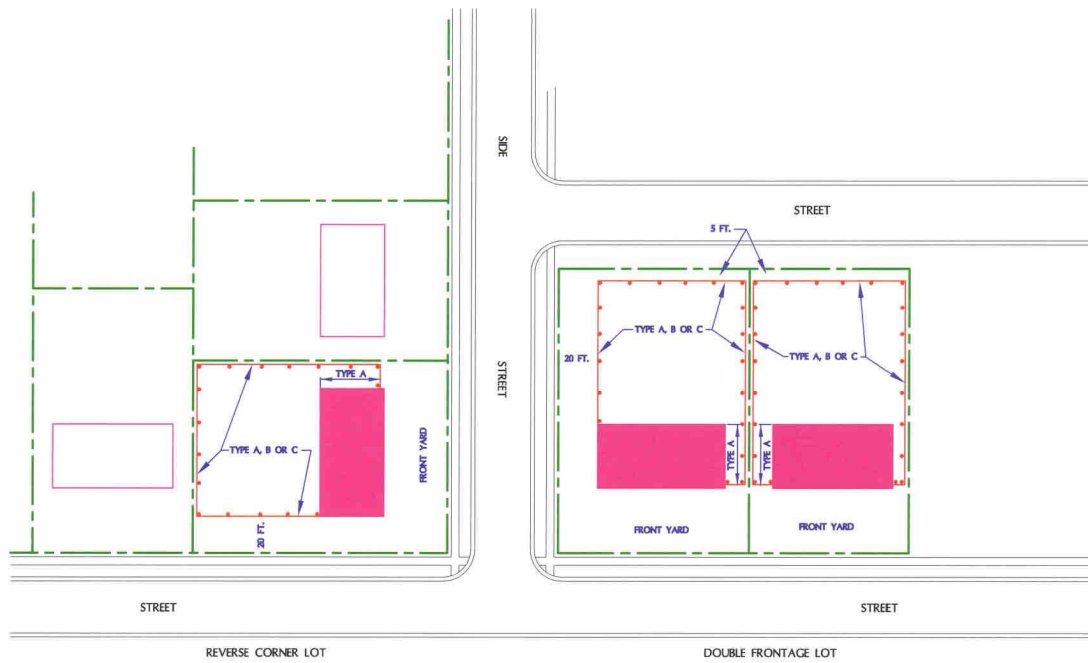


FENCE REGULATIONS

Figure 19.44 - 2: Prairie Village Fence Standards 1



FENCE REGULATIONS

Figure 19.44 - 3: Prairie Village Fence Standards 2**FENCE REGULATIONS**

(Ord. 2117, Sec. 2, 2006; Ord. 2248, Sec. 2, 2011)

Chapter 19.46 - OFF-STREET PARKING AND LOADING REGULATIONS**19.46.005. - APPLICABILITY.**

Off-street parking and loading space, as required in this article, shall be provided for all new buildings and structures or additions thereto. Off-street parking and loading space shall also be required for any expansion or enlargement of an existing building or structure which is altered in any manner so as to enlarge or increase capacity by adding or creating dwelling units, guest rooms, floor area or seats. Existing parking area previously required shall not be used to satisfy required off-street parking for any new structures or additions to existing buildings, structures, or uses of land. Such existing parking space shall be maintained and shall not be reduced so long as the main building, structure or use remains, unless an equivalent number of such spaces are provided elsewhere as provided in this article.

19.46.010. - GENERAL PROVISIONS.

- (a) *Utilization.* Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses.
- (b) *Accessory Use.* Off-street parking shall be considered as an accessory use to the use for which the parking is provided. Parking not located on the same tract on which the main use is located must be located within the zoning district in which parking or storage lots are permitted as a main or conditional use.
- (c) *Computation.* When determination of the number of off-street parking spaces required by this regulation results

in a requirement of a fractional space, the fraction of one-half (1/2 or less may be disregarded, and a fraction in excess of one-half (1/2) shall be counted as one parking space.

- (d) *Mixed Uses.* When a building or development contains mixed uses and has less than 300,000 square feet of net leasable floor area, the off-street parking requirements shall be calculated for each individual use and the total parking requirement shall be the sum of individual parking requirements. When a building or development contains mixed uses excluding residential uses and has greater than 300,000 square feet of net leasable floor area and located in a C-2 General Business District, the off-street parking shall be calculated as set out in the Mixed Business and Commercial Center Standard. Net Leasable Floor Area does not include storage areas.

(Ord 2089, Sec. II, 2004)

19.46.015. - LAYOUT AND DESIGN REQUIREMENTS.

- (a) *Area.* A required off-street parking space shall include the actual parking space and access drives or aisles, ramps, and columns.
- (b) *Access.* Each required off-street parking space shall open directly upon an aisle or driveway of such width and design as to provide safe and efficient means of vehicular access to such parking space.
- (c) *Design.* Off-street parking spaces shall comply with the design standards relating to curb length, stall depth, driveway width, island width, barriers, and ingress and egress as contained in the Parking Design Standards of this article.
- (d) *Surfacing.* All required off-street parking and loading areas, including driveways and aisles, shall be graded and paved with asphalt, concrete or asphaltic concrete.
- (e) *Lighting.* Any lighting used to illuminate off-street parking and loading areas shall be directed away from residential properties in such a way as not to interfere with the residential use.
- (f) *Landscaping.* No open parking areas shall be located closer than 15 feet to a public street, and no closer than eight feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than six feet above the finished grade shall comply with the setback regulations of the main buildings. Such parking setback and other open area shall be brought to finish grade and planted with grass, shrubs and trees, and maintained to at least the average level of maintenance of the other developed property within the immediate neighborhood.

Screening will be required by the building official for a parking area on any side where it may be adversely affect adjacent property, in the form of a wall, screen planting or fence of a height that is adequate.

- (g) *In addition, the following regulations shall apply:*

- (1) In Districts R-1 to R-4 inclusive, parking of motor passenger cars shall be permitted in customary driveways of single and two family dwellings;
- (2) No signs shall be permitted except those necessary for the orderly parking thereon, and not more than one sign with maximum area of 20 square feet at each entrance to identify such parking area and present any regulations governing same;
- (3) The permitted parking ratio and the allowed dimensions of parking spaces, including off-the-premises

parking, for all shops, offices and other business uses which existed on the date of the adoption of this title and which are located on lands zoned District C-0, C-1, C-2, C-3, planned business or by special use permit shall be that which existed on the date of the adoption of this title. Remodeling or reconstruction of said existing buildings may proceed in compliance with applicable codes, provided this prevailing parking ratio is not diminished. Any new construction of or addition to or enlargement of buildings shall require compliance with the parking standards of this title, as applied to the gross floor area of the new buildings or new portion thereof.

(Ord. 2317, Sec. III, 2014)

19.46.020. - PARKING DESIGN STANDARDS.

- (a) Standard parking stall dimensions shall be not less than nine feet by 18 feet, plus the necessary space for maneuvering into and out of the space. Where the end of the parking space abuts a curbed area at least five feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by two feet. Such overhangs shall be measured from the face of the curb. For standard parking lots, minimum dimensions shall be as follows:

	90-degree	60-degree	45-degree
Aisle Width			
1. One-way traffic		18 feet	14 feet
2. Two-way Traffic	24 feet	20 feet	20 feet
End Parking Bay Width			
1. Without overhang	18 feet	20 feet	19 feet
2. With overhang	16 feet	18 feet	17 feet
Center Parking Bay Width	18 feet	18 feet	16 feet

- (b) Minimum dimensions for a parallel parking space shall be nine feet by 23 feet.
- (c) A reduction in the minimum parking dimensions for specific land uses, for other configurations, or for parking lots with compact spaces may be approved by the planning commission as part of the site plan approval process for a specific location.

(Ord. 1953, Sec. 1, 1998)

19.46.025. - ACCESSIBLE PARKING.

For those buildings where such parking is required, parking areas servicing each building entrance shall have the number of level parking spaces for person(s) with disabilities as set forth in the American with Disabilities Act Accessibility Guidelines.

(Ord. 2089, Sec. II, 2004)

19.46.030. - REQUIRED SPACES.

Off-street parking spaces shall be provided as follows:

(a) *Dwelling and Lodging Uses.*

- (1) Boarding or rooming houses: One parking space per each three sleeping rooms.
- (2) Dormitories, fraternities, sororities: Two parking spaces for each three occupants based on the maximum design capacity of the building.
- (3) Manufactured homes: Two parking spaces per each home.
- (4) Nursing homes and convalescent homes: One parking space per each four beds based on the designed maximum capacity of the building, plus one parking space for each employee.
- (5) Single-family and single-family residential design: Two spaces per dwelling unit, one of which shall be provided in an enclosed garage or carport.
- (6) Two-family and multiple-family excluding group homes: Two spaces per dwelling unit.

(b) *Business and Commercial Uses.*

- (1) Automobile, truck, recreational vehicle and mobile home sales and rental lots: One parking space for each 3,000 square feet of open sales lot area devoted to the sale, display and rental of said vehicles, plus one parking space for each employee.
- (2) Day Care Centers. One space for each employee plus one space for each eight children.
- (3) Financial, business, medical or dental clinics and offices, ambulatory surgical centers and professional offices: One parking space for each 300 square feet of gross floor area.
- (4) Bowling alleys: Five parking spaces for each lane.
- (5) Automobile wash: Three holding spaces for each car washing stall plus two drying spaces for each car washing stall.
- (6) Funeral homes and mortuaries: One parking space for each three seats based upon the designed maximum capacity of the parlor, plus one additional parking space for each employee and each vehicle maintained on the premises.
- (7) Furniture and appliance stores, household equipment or furniture repair shop: One parking space for each 400 square feet of floor area.
- (8) Restaurants, private clubs and taverns: One parking space for two and one-half (2.5) seats based on the maximum designed seating capacity; provided, however, that drive-in and drive-through restaurants shall

have a minimum of at least ten parking spaces.

- (9) Retail stores and shops: One space per 250 square feet of gross floor area.
- (10) Service stations: One parking space for each employee plus two spaces for each service bay.
- (11) Theaters, auditoriums, and places of assembly, with or without fixed seats: One parking space for each four people, based upon the designed maximum capacity of the building.
- (12) All other business and commercial establishments not specified above: One parking space for each 250 square feet of gross floor area.
- (13) Mixed Office and Commercial Centers that exceed 300,000 square feet in net leasable floor area and are located in District C-2 General Business District shall provide a minimum of 3.5 spaces per 1,000 square feet of leasable area.

(c) *Other Uses.*

- (1) Churches: One parking space for each four seats based upon the maximum designed seating capacity, including choir lofts.
 - (2) Elementary, junior high and equivalent parochial and private schools: Two parking spaces for each classroom.
 - (3) High schools, colleges, universities and other similar public or private institutions of higher learning: Eight parking spaces for each classroom, plus one space for each two employees.
 - (4) Hospitals: One parking space for each four beds, plus one parking space for each resident or staff doctor plus one space for each two employees based on the largest working shift in any 24-hour period.
 - (5) Laundromats: One space for each two washing machines.
 - (6) Fraternal associations and union headquarters: One parking space for each four seats based upon the design maximum seating capacity.
 - (7) Public Swimming pools: One parking space for each 38 square feet of water area.
 - (8) Trade and commercial schools: One parking space for each three students and one space for each employee.
- (d) *Assignment of Parking for Uses Not Listed.* Any use not included in sections (a)—(c) above, "Required Spaces", shall be assigned a parking requirement by the planning commission, with the approval of the governing body.

(Ord. 2089, 2004; Ord. 2317, Sec. II, 2014)

19.46.035. - PLANS AND APPROVAL REQUIRED.

Plans showing the layout of all required off-street parking and loading areas shall be submitted to and approved by the building official prior to issuance of a building permit. Before approving any parking layout, the building official shall satisfy himself that the spaces provided are usable and meet standard design criteria contained herein. All required off-street parking spaces shall be clearly marked.

19.46.040. - OFF-STREET LOADING.

Off-street space for the standing, loading and unloading of trucks shall be provided at all buildings in Districts C-1, and C-2 the occupancy of which involves the daily receipt and dispatch of materials by truck. The space shall be so arranged that it will not interfere with the use of off-street parking space provided in accordance with the requirements of this chapter. This requirement may be waived by the board only in case where the volume of goods to be handled is so minor that it can be handled from trucks using on-street or off-street parking facilities without undue interference with peak hour automobile parking.

19.46.045. - ACCESS STREETS AND LOADING DOCKS.

The location and limitation of access streets and alleys for ingress and egress and the limitation and location of loading docks within and for the use districts described within this title shall be reserved to the Planning Commission and the plan for the proposed development presenting a unified and organized arrangement for such access streets, alleys and loading facilities shall be approved by the Planning Commission before development may be commenced within the use district.

Chapter 19.47 - LANDSCAPE STANDARDS

19.47.010. - INTENT AND APPLICABILITY.

(a) *Intent.* The intent of the landscape standards are to:

- (1) Create an attractive aesthetic environment in the city, and preserve the value of properties as new investment occurs.
- (2) Improve the relationship of buildings and sites to the streetscape, and coordinate the designs of multiple sites and buildings along a block through consistent frontage designs.
- (3) Encourage creative and efficient site design where the layout of sites and buildings can allow open spaces and landscape to serve multiple aesthetic, screening, environmental, and social or recreational functions.
- (4) Enhance the environmental and ecological function of un-built portions of sites.
- (5) Reduce the exposure and adverse impacts of intense land uses, activities and site conditions on streets and adjacent areas, and mitigate the effects through landscape designs.
- (6) Preserve the tree canopy and streetscape of Prairie Village for the aesthetic, economic, and environmental benefits of tree preservation.

(b) *Applicability.* A landscape plan shall be required for any application that requires a site plan approval per section 19.32. Landscape standards shall specifically apply to:

- (1) All development in the R-3, R-4, C-O, C-1, C-2, and MXD districts.
- (2) Any permitted non-residential uses in the R-1A, R-1B, or R-2 districts, including any conditional uses, special uses, or accessory uses that have a landscape requirement as part of their conditions.
- (3) Any single-family development project that requires streetscape or landscape improvements per the Neighborhood Design Standards shall meet the standards in Sections 19.06.025 and 19.08.025.
- (4) The tree protection provisions apply as specifically stated in section 19.47.010.

(Ord. 2407, Sec. XVIII, 2019; Ord. No. 2446, § II, 3-15-2021, eff. 6-1-2021)

19.47.020. - REQUIRED LANDSCAPE.

(a) *Site Elements and Planting.* The required landscape shall be based on different elements of the site, according to Table 19.47 A: Plant Specifications.

Table 19.47 A: Plant Specifications

Site Element	Trees	Evergreen	Shrubs
<i>Streetscape and Frontage.</i> The area between the front building line and the street, including any plantings required in the ROW, used to create a relationship between the site and the public realm.	1 large tree per 40' of lot frontage		
	2 large trees per 40' if buildings setback more than 30'.	n/a	n/a
	Corner lots shall meet this requirement on side lot lines at a rate of 50% of the streetscape and frontage rate.		
<i>Foundation.</i> Areas along the building frontage (within the first 10' - 20' from the building) used to provide accents and soften larger expanses of buildings.	1 ornamental tree per 25' of building frontage.	Evergreens may be substituted for ornamental trees at a rate of 1 for 1 for up to 50% of the requirement.	5 shrubs for 25' of building frontages.
	Side elevations on corner lots shall provide this standard on at least 50% of the building.		
<i>Parking.</i> Areas on the perimeter, or interior of parking where landscape is used to soften the appearance, mitigate heat gain and infiltrate stormwater.	1 large tree per 40' of parking perimeter; and		
	1 large tree per 40 parking spaces in internal islands or added to the perimeter.	Evergreens may be substituted for perimeter trees at a rate of 2 for 1, for up to 50% of the	5 shrubs for 25' of perimeter.

	Ornamental trees may be substituted for large trees at a rate of 2 for 1 for up to 50% of the internal islands requirements.	perimeter requirement that does not face a front lot line.	Any parking near the right-of-way or adjacent to lots may require buffers per <u>section 19.47.040</u> .
Buffers. Areas of a site that require additional landscape to mitigate potential impacts on streetscape or adjacent property.	See <u>Section 19.47.040</u> .		

- (b) *Credits for Existing Vegetation.* Preservation of existing landscape material that is healthy and of a desirable species may count towards these requirements provided protection measures in section 19.47.060 are taken to ensure the survival of the vegetation through construction and all other location and design standards are met. Credits shall be on a one for one basis provided existing trees shall be at least three inches caliper to count. Landscape material that is of exceptional quality due to size, maturity and health may be credited on a two for one basis.
- (c) *Design.* The required landscape material shall be arranged and designed on a particular site in a way that best achieves the intent expressed in section 19.47.010, with regard to the specific context, street frontage, property adjacencies and other elements proposed on the site. Specifically, designs shall:
- (1) Create an attractive site.
 - (2) Improve the relationships of buildings and sites to the streetscape and block.
 - (3) Promote efficient layouts of the site and landscape areas.
 - (4) Enhance environmental and ecological functions of the site.
 - (5) Screen and buffer any potential adverse impacts of site elements.

(Ord. 2407, Sec. XVIII, 2019; Ord. No. 2446, § II, 3-15-2021, eff. 6-1-2021)

19.47.030. - LANDSCAPE SPECIFICATIONS.

- (a) *Location.* Required plantings shall be planted in the following specific locations and open spaces on the lot.
- (1) *Frontage Trees.* Frontage trees shall be located in line with other trees along the block to create a rhythm along the streetscape and enclosure of the tree canopy. In the absence of a clearly established line along the

block, trees may be planted the following locations, where applicable and in order of priority:

- a. Street trees on center between the sidewalk and curb where at least six feet of landscape area exists;
- b. Street trees four to eight feet from the back of curb where no sidewalk exists; or
- c. Private frontage trees within the first five feet of the front lot line where any constraints in the right-of-way or on the lot would prevent other preferred locations.
- d. Where the depth of the frontage between the building and streetscape require additional trees per Table 19.47 A, any additional trees shall be located between the front building line and the street.
- e. Ornamental trees may be substituted for large frontage trees only in situations where no other alternative is available due to constraints of the site and right-of-way conditions.
- f. Planting of any frontage trees in the right-of-way or any work in the right-of-way shall be coordinated with public works for permits, location, and planting specifications.
- g. Any work within the sight line triangle should be reviewed for compliance with the city's Sight Line Obstruction Ordinance 2059, Section 1.

(2) *Foundation Trees and Shrubs.* Foundation plantings shall generally be located in open spaces within 20 feet of the building, or within planting beds at least eight feet deep and along at least 35 percent of the building. Groupings of required trees and shrubs are permitted to provide the best balance of the following goals:

- a. Relate sites and building to the lot frontage and streetscape;
- b. Accent or emphasize points of significance along the building frontage;
- c. Soften larger expanses of building wall planes along the frontage; and
- d. Maintain visibility of signs or key elements of the building.

(3) *Parking Perimeter and Island Planting.* Parking lot perimeters shall be permeable vegetated ground cover meeting the following size and dimension requirements:

- a. Parking lot perimeters shall be at least eight feet wide except for locations where walkways are necessary to provide access to the building or to a public sidewalk in the streetscape, in which case the width of the walkway shall be added to the minimum eight feet requirement.
- b. Parking lot islands shall be at least 120 square feet and at least eight feet wide in all directions. Parking lots under 80 spaces shall not require islands; parking lots 80 spaces or more shall require at least one island per 40 spaces. Islands may stand alone within the parking lot or may project into the parking area from the perimeter buffer, but should generally be spaced equally throughout the parking lot. In general no space shall be further than 100 feet from an island or perimeter buffer, and no more than 40 consecutive spaces shall occur without being adjacent to a perimeter buffer, "end cap," or "peninsula" island.

(b) *Specifications.* Required planting shall meet the following specifications at planting.

Table 19.47 B: Plant Specifications

Type	Specification

Large Tree	2" caliper
Ornamental Tree	1.5" caliper
Evergreen	5' minimum height
Shrub	18" minimum height
Ground Cover	50% coverage at planting; Full coverage within 2 growing seasons
Turf	All proposed or required turf areas shall be sodded.

All landscape materials shall meet the American Standards for Nursery Stock, published by the American Nurserymen's Association, and be selected for its native characteristics or survival in the climate for the Kansas City region, and be planted and maintained according to ANSI-accredited specifications for this region. Right-of-way trees must be selected from the City of Prairie Village Right-of-Way Tree List.

(c) *Tree Diversity*. The required trees planted shall promote diversity with the following species selection criteria:

Table 19.47 C: Tree Diversity

Required Trees	Diversity
1 - 4	No specific requirement, but trees should be diversified from those existing trees in the vicinity.
5 - 10	At least 2 genus No more than 50% of any one species
11 - 20	At least 3 genus; AND At least 4 species No more than 40% of any one species
21 or more	At least 3 genus ; AND At least 5 species No more than 33% of any one species

- (d) *Maintenance.* All landscape plans shall include installation specifications, a statement on the of maintenance methods. All plantings shall be properly maintained. All elements of an approved landscape plan, including plant materials shall be considered elements of the project in the same manner as parking, buildings or other details. Plant materials which fail to grow within a two-year period, or which exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated. The city may order that any plant that dies or is in danger of dying be removed and replaced by the property owner. Planting may be deferred for up to six months from completion of any site or right-of-way construction to allow for timely planting that ensures the health and survival of plants.

(Ord. 2407, Sec. XVIII, 2019)

19.47.040. - BUFFERS AND SCREENING.

Intense land uses or unattractive site elements shall be buffered and screened from streetscapes and adjacent property using the following strategies and techniques, which may require additional landscape materials beyond the requirements in Table 19.47 A.

- (a) Areas of parking or circulation near streets or property lines may require two and one-half (2.5) to four feet hedge and/or ornamental wall screen.
- (b) Accessory structures, mechanical equipment, trash enclosures, loading or service areas, and other similar functional or utility elements of the site shall be buffered and screened from streetscapes or adjacent property with a combination of landscape, fencing, walls or other structure components compatible with the building design.
- (c) Commercial uses, or parking service areas of non-residential uses allowed in residential districts, abutting residential property may require a screen and buffer combination, using a combination of dense vegetation, fences and walls compatible with the buildings, other structural or landscape elements of the site.
- (d) Areas that transition to different uses or building scale, whether across streetscapes or between lots along the same street, may require enhanced landscape areas to soften transitions.
- (e) Areas designed as gathering places, for social function or as civic amenities to support the site or area may require enhanced landscape to create human-scale spaces, comfort, visual interest, and appropriate transitions.

(Ord. 2407, Sec. XVIII, 2019)

19.47.050. - EXCEPTIONS.

- (a) *Administrative Adjustment.* Staff may grant an administrative adjustment of up to ten percent of any location or dimension requirement (i.e. nine feet or 11 feet instead of ten feet) and up to 25 percent of any plant requirement (i.e. three plants instead of four plants), or types of plant and species where the following criteria are met:
- (1) The proposed landscape plan taken as a whole equally or better meets the intent of this section, and any design objective of the specific standards.
 - (2) The proposed plan incorporates any existing vegetation in a manner that is not better served by new plants.

- (3) The proposed plan uses sound landscape architecture design principles and industry standards considering the context, species, and planting specifications that ensure the long-term maintenance and survival of plants.
- (4) The request for the adjustment is justified by some specific conditions on the site that would make compliance with the standard less effective than the proposed plan or unreasonably difficult when compared to the proposed plan.

(b) *Site Plan Exceptions.* The planning commission may grant exceptions to these standards beyond what is permitted by administrative adjustments through the site plan review process. The planning commission shall use the same criteria stated for administrative adjustments. In addition, the planning commission may consider balancing the need for adaptive reuse of existing sites with a landscape budget proportionate to the amount of work being done on the site.

(Ord. 2407, Sec. XVIII, 2019)

19.47.060. - TREE PROTECTION.

(a) *Applicability.* The provisions of this section shall specifically apply to:

- (1) Any removal of a tree in the public right-of-way, except for those authorized by an official city project.
- (2) All applications that are subject to the landscape standards in section 19.47.010(b);
- (3) The following situations in R-1A and R-1B zoning where:
 - a. Any new residential structure is built on a vacant lot;
 - b. An existing residential structure is torn down, whether it is just a demolition or a demolition and rebuild of a new residential structure;
 - c. Any remodel of an existing residential structure that adds more than 600 square feet to the existing building footprint; and
 - d. Any remodel of an existing residential structure that tears down more than ten percent of the existing structure associated with the new construction.

(b) *Tree Protection and Removal Plan.* A tree protection and removal plan shall be provided for all applicable projects where:

- (1) The property has a tree protected by section 19.47.060(c);
- (2) As part of a landscape plan associated with development, where existing trees will be retained and protected to meet landscape requirements;
- (3) Any trees are proposed to be removed as part of a building permit associated with situations listed in 19.47.060(a) above.

The tree protections and removal plan shall:

- (1) Show all existing trees, including size and species;
- (2) Identify trees proposed for removal and those to be retained;
- (3) Include locations of protection fences and other protection measures required by this Section.

(c) *Protected Trees.* Trees are protected based on their size and location, as specified in Table 19-57-D and Figure 19-

47-1. Protected trees require mitigation if removed; trees prohibited from removal require special circumstances and approval to remove the tree, and require additional mitigation if authorized to be removed.

Table 19-47-D Protected Trees

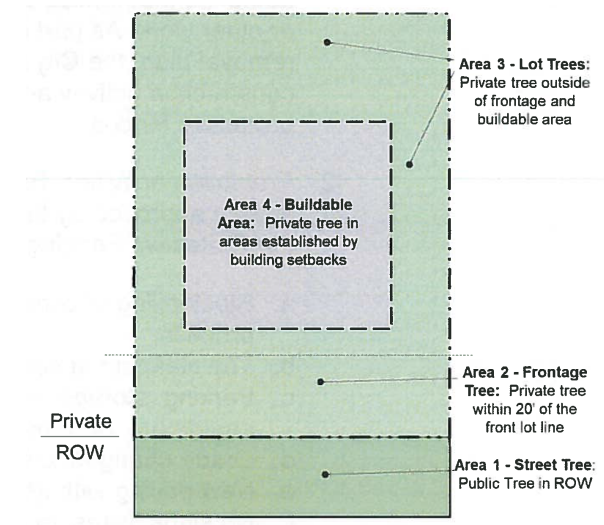
<i>Location</i>	<i>Protected Tree (caliper)</i>	<i>Mitigation if removed [2]</i>	<i>Prohibited from Removal [1] (caliper)</i>	<i>Mitigation if removed [2]</i>
Area 1: Street Trees	-	-	All trees	1 tree for each 6" caliper removed (maximum 3)
Area 2: Frontage Trees	3"—6"	1 for 1 tree replacement	6" +	1 tree for each 6" caliper removed (maximum 3)
Area 3: Lot Trees	6"—20"	1 for 1 tree replacement	20" +	1 tree for each 12" caliper removed
Area 4: Buildable Area Trees	6"—30"	1 for 1 tree replacement	30" +	1 tree for each 15" caliper removed
All Areas	-	-	Any Kansas State Champion Tree	1 tree for each 6" caliper removed (maximum 3)

[1] Trees prohibited from removal may only be removed as provided in Section 19.47.060(e)

[2] Replacement trees shall be at least 2" caliper trees, as required by Section 19.47.030(b)

(1) *Area 1:* Area 1, "street trees" includes any tree that is in the public right-of-way.

Figure 19-4-1 Tree protection provisions and required mitigation is based on the area of the lot and the size of trees in particular areas.



- (2) *Area 2:* Area 2, "frontage trees" includes any tree that is three inches caliper or more, on private property and within 20 feet of the front lot line.
- (3) *Area 3:* Area 3, "lot trees," includes any tree that is six inches caliper or more, on private property, but outside of the frontage or buildable area.
- (4) *Area 4:* Area 4, "buildable area trees" includes any tree that is six inches caliper or more, and in the buildable area determined by the zoning setbacks applicable to the principal building.

- (d) *Protection Measures.* All trees that are prohibited from removal and any other tree that will remain on site according to the Tree Protection and Removal plan shall be protected by the following measures:
 - (1) *Fences.* Protective/temporary fences shall be required for all trees noted to remain on the tree protection and removal plan, or otherwise not authorized for removal. Fences shall be a snow fence, chain-link fence, orange vinyl construction fence, or other similar fencing with a minimum four feet height. The protective fence shall prevent infringement on the root system from any construction-related activities and be installed according to Table 19-47-E.

Table 19-47-E: Protective Fencing		
Tree Size	Fenced Area (lessor of); 5' minimum in all cases	
> 28" DBH	20' from center of tree	Fencing protecting at least 75% of the drip line
20" DBH—28" DBH	15' from center of tree	

< 20" DBH	10' from center of tree	
All required protective/temporary fences shall be at least 4' high		
On lots less than 10,000 square feet, the Director may approve fences 15' from the center of tree for trees > 28" DBH and 10' from the center of tree for trees up to 28" DBH.		

Fenced areas shall exclude any preexisting structures, foundations, slabs, roadways, sidewalks, and driveways. The fence shall be installed along the edge of the driveways/roadways encompassing the tree to restrict access from the street side. All fences shall appear on construction documents and be installed prior to any other construction-related activity. The fence shall remain in place at all times until all other construction-related activity has been completed or final grade achieved. The city may authorize that fences be moved at certain times for final grading, access, or other work. As part of a permit or review of a tree protection and removal plan, the city may determine that areas of the site removed from construction activity and where damage to roots is not likely may not need protective fences.

(2) *Prohibited activities.* Except for utility work or in association with other activity approved by the city, the following activities are not allowed within the protective fencing area:

- a. Stock piling of construction materials or waste from the construction process;
- b. The cleaning of construction equipment;
- c. Parking, storage, or placement of any vehicles, construction equipment, or temporary structures;
- d. Grade changes, cut of fill, in excess of two inches;
- e. New paving with asphalt, concrete, or other materials; and
- f. No signs, wires, or other attachments other than those of a protective nature shall be attached to any tree.

(e) *Exceptions for Removal.* It is the property owner's responsibility to ensure that no person remove, damage, or otherwise impair any tree prohibited from removal without written authorization from the building official to remove the tree. The building official may consider an exception to remove the tree only upon a written request indicating the specific tree and documentation establishing justification for removal. The building official shall generally grant the exception for the following:

- (1) The tree is dead;
- (2) The tree is diseased or dying, and constitutes a threat to healthy trees, property, or public safety; or
- (3) Removal of the tree is necessary for construction, development, or redevelopment under the following criteria:
 - a. All reasonable efforts have been made to avoid removing the tree through comparable alternative designs;

- b. The presence of the tree places an undue financial burden on the applicant; and
- c. No other reasonable accommodations, including adjustments to the otherwise allowable building footprint or site design can be made to preserve the tree.

The building official may seek advice from the Prairie Village Tree Board, other staff, or departments or a third party consultant. Written authorization by the building official shall be valid for the duration of any permit associated with the authorization. Except for applications associated with a site plan approved by the planning commission, the building official's decision may be appealed as provided in section 19.54.025.

- (f) *Violation and Enforcement.* Removal, damage, or impairment of any protected tree, except as provided in this section, is a violation of this section, enforceable as provided in section 19.01.045, and each tree shall be considered a separate incident. Any fines and penalties shall be in addition to the mitigation measures required in sub-section (c) for removal of protected trees.

(Ord. No. 2446, § II, 3-15-2021, eff. 6-1-2021)

Chapter 19.48 - SIGN STANDARDS

19.48.010. - INTENT AND APPLICABILITY.

- (a) *Intent.* The intent of the sign standards are to:

- (1) Create an attractive aesthetic environment in the city.
- (2) Enhance the quality and civic design of the community through the visual priority of buildings, open spaces, streetscapes, landscape, and other investments in the public realm.
- (3) Preserve the unique character of distinct areas by ensuring signs contribute to an appropriate sense of place.
- (4) Ensure safety of pedestrians, motorists or other users of the public rights-of-way with proper location, construction, design, operation and maintenance of signs.
- (5) Promote economic viability by assuring that the city is a visually pleasant place to visit, conduct business, and live.
- (6) Provide effective and efficient identification and communication for businesses, institutions, and other community destinations without excessive competition for visual attention.
- (7) Protect property values and investments by minimizing adverse effects of signs on adjacent property, such as light trespass, obstructing views and access, or visual clutter and blight.
- (8) Ensure that the constitutionally guaranteed right of free speech is protected through reasonable standards for signs as a way of public communication.

- (b) *Applicability.*

- (1) All new signs and replacement of existing signs that are visible from the right-of-way, from adjacent property, or from internal publicly accessible common or private spaces intended to serve as an extension of public-streets and open spaces shall require a sign permit demonstrating compliance with these sign standards, unless exempt from a permit by section 19.48.020. Ordinary maintenance, care, or repair of existing signs

without altering the essential construction elements of an existing sign shall not require a permit for zoning and design standards, but any associated electrical or construction work may require permitting per applicable building codes.

- (2) Applications for a sign permit shall be signed by the owner or the owner's legal tenant, and include plans and specifications demonstrating compliance with all applicable standards of this chapter, and any other building and construction codes of the city. The Building Official is authorized to establish forms and submittal requirements, and may request any additional information on a particular site, building, or sign necessary to evaluate compliance with these standards.
- (3) Any owner of a site or building subject to property-specific sign standards approved by the city prior to December 1, 2019, may apply for a sign permit under these generally applicable standards and procedures. The owner may opt out of the previous property-specific standards by way of the application, and the owner shall issue a signed statement of that fact with the application. Upon approval of any sign applied for in this manner, the property-specific sign standards shall no longer be in effect, and any further property-specific standards shall only be enforced by the city subject to the standards and procedures in section 19.48.100.

(Ord. 2004, Sec. II, 2001; Ord. 2138, Sec. II, 2006; Ord. 2407, Sec. XIX, 2019)

19.48.020. - EXEMPT SIGNS.

The following signs are exempt from the permit process provided they meet all other applicable requirements of this chapter. Unless specifically noted, they are additional signs that do not count towards the sign allowance specified for the zoning districts. Any sign that exceeds the limits of the exemption may only be permitted within the allowances and standards of a specifically permitted sign type.

- (a) *Property Identification Signs.* Signs clearly indicating the property address or building identification are encouraged to enhance the ability of public safety, emergency services personnel, and the general public to locate the property. Property identification signs are subject to the following limitations:
 - (1) *Address Signs.* Two per address up to two square feet each, only one of which may be ground mounted. Address signs on buildings shall be between four feet and nine feet high. Ground-mounted address signs shall be no more than 36 inches high.
 - (2) *Building Name Plate.* Each building may have one name plate sign up to three square feet, except that a name plate sign such as engraved stone, bronze, brass or similar ornamental detail integrated with the architecture and associated with the permanence of the building, rather than a particular tenant, may be up to 24 square feet when approved by the planning commission as part of the construction or substantial modification of the building.
- (b) *Public Safety, Traffic Control or Public Information.* Signs designed and located to control traffic movement and safety of vehicles and pedestrians according to uniform traffic control device standards, signs required by the City's Building or Fire Code, or signs otherwise required to support any official action or legal obligation of a federal, state or local government, may be designed and located to meet the public purpose or requirements of other codes.
- (c) *Flags.* Up to three non-commercial flags may be permitted per lot. Flags shall be mounted to the building and

below the building height or mounted on a permanent pole subject to the height restrictions of the zoning district and setback from the property line a distance equal to the height. Total flag area per property shall not exceed 80 square feet and no more than 40 square feet per flag for property zoned residential, and shall not exceed 200 square feet or 96 square feet per flag for property zoned non-residential.

- (d) *Window Signs.* Signs mounted to the interior of any first floor windows in non-residential districts, provided signs not exceed more than 33 percent of all first floor window area measured between two feet and ten feet above the first floor elevation, and at least 50 percent of the entire window area remains clear of any visual obstructions including the sign area.
- (e) *Temporary Signs.* Temporary signs are exempt from the sign permit process, provided they are within the allowances specified for the zoning district in Tables 19.48-2 and 19.48-3, and section 19.48.070C.
- (f) *Accessory Signs.* Accessory signs for non-residential uses or multi-family complexes, intended to convey messages guests, patrons, or other users of the site, such as parking instructions, internal directions, building names or unit numbers, security warnings, or other similar minor signs that are accessory if limited to:
 - (1) No more than 20 square feet total sign allowance per site, or 30 square feet per acre, whichever is greater.
 - (2) No more than four total signs per site, or ten per acre, whichever is greater.
 - (3) No single sign may be more than ten square feet;
 - (4) Signs shall be no more than six feet high, whether ground mounted or building mounted;
 - (5) Signs shall be setback at least 20 feet from all property lines; and
 - (6) Grouping or arranging minor signs to have the effect of a larger permitted sign or to convey messages and increase visibility to the general public (as opposed to guests, patrons or other users of the site) makes all signs ineligible for this exemption.
- (g) *Construction Signs.* Signs associated with a temporary non-residential or multi-family construction project and erected to promote public information or public relations regarding the project if limited to:
 - (1) Up to 80 square feet total sign allowance per public street frontage;
 - (2) No more than three signs per street frontage.
 - (3) Signs shall be mounted on a trailer, building or fence, or if mounted on the ground it shall limited to no more than ten feet high; and
 - (4) The signs shall only be posted for the duration of a valid permit associated with the project.Construction signs for single-family and two-family structures in the residential zoning districts are required to meet the applicable temporary sign standards for those districts.
- (h) *Sale or Lease Signs.* One sign shall be permitted for any lot or building being offered for sale if limited to:
 - (1) No more than 12 square feet for residential lots one acre or less.
 - (2) No more than 20 square feet for non-residential property, or any residential property on larger than one acre.
 - (3) No sign shall be more than five feet high if mounted on the ground, and no higher than 20 feet high or the top of the building, whichever is less, if mounted on a building.

(4) Only the period where the property is actively on the market or pending the finalization of a contract for sale

- (i) *Interior Signs.* Any sign that is not visible from the right-of-way, from any point along the perimeter of the property or from adjacent property, or from publicly accessible common or private spaces intended to serve as an extension of public-streets and open spaces are exempt from permits and these standards, other than those applicable by building codes or construction standards.

(Ord. 1952, Sec. I, 1998; Ord. 2138, Sec. II, 2006; Ord. 2407, Sec. XIX, 2019)

19.48.030. - SIGN TYPES.

The following general sign types are distinguished for the purposes of the sign allowances requirements in this chapter.

Table 19.48-A Sign Types

	Type	Description
A	Wall Sign	A sign painted, printed or attached to the exterior surface of a building, awning, canopy or other fixed building surface in a permanent manner with a scale and design legible to vehicles in the public right-of-way or pedestrians at a distance from the building.
B	Monument Sign	A detached sign that is mounted to the ground, independent from any building and on an enclosed, solid base or ornamental surface structure, with a scale and design legible primarily to vehicles in the public right-of-way or pedestrians at a distance from the building or site Detached signs mounted on one or more poles columns or similar structures where the bottom edge is elevated above the ground are prohibited, except as authorized as Pedestrian Signs or Temporary Signs.
C	Pedestrian Signs	A sign with a design and scale to be legible to pedestrians in front of or immediately adjacent to the building, or to be legible to individuals internal to a site containing multiple buildings. Pedestrian signs may be attached to a building or detached, provided they are located in a permanent manner such as hanging below a canopy or awning, projecting from a wall, mounted on a wall, door or window, or free-standing.
D	Temporary Sign	A portable sign which is not permanently embedded in the ground or permanently affixed to a building or structure, and designed or intended to be used for a brief period of time.

(Ord. 2407, Sec. XIX, 2019)

19.48.040. - RESIDENTIAL SIGN ALLOWANCE.

The following signs are permitted in the residential zoning districts (R-1A, R-1B, R-2, R-3 or R-4), for any planned version of these districts, and for any residential building or use permitted in a non-residential district.

Table 19.48-B: Residential District Sign Allowances

Wall Signs	Permitted principal non-residential or multi-family uses:
	■ 2 per building, but no more than 1 per wall
	■ Maximum 5% of facade total allowance, but, no more than 50 s.f. per sign.
	[See additional wall sign standards in <u>Section 19.48.070(B)</u>]
Monument Signs	Permitted principal non-residential or multi-family uses:
	■ 1 per lot
	■ 20 square feet maximum
	■ 5' high maximum
	■ Setback at least 3' from all property lines and at least 12' from a street, whichever is greater
	■ Requires Planning Commission Site Plan approval.
	Monument signs for a neighborhood or groups of housing with 10 or more lots or at least 5 acres may be approved by the Planning Commission, provided:
	■ No sign is larger than the above limits
	■ The design, quality and location is compatible with the character and context of the neighborhood; and

	<ul style="list-style-type: none"> ■ There is a Homeowner's Association to ensure on-going maintenance of the sign and landscape.
	[See additional monument sign standards in <u>section 19.48.070(a).</u>]
Temporary Signs	<ul style="list-style-type: none"> ■ 32 s.f. total sign allowance
	<ul style="list-style-type: none"> ■ <u>16</u> s.f. per sign max;
	<ul style="list-style-type: none"> ■ 5' high maximum, or no higher than 20' or top of the roof, whichever is less if mounted on a building.
	<ul style="list-style-type: none"> ■ 90 day limit per sign; 120 day limit for period where more than sign displayed.
	[See additional temporary sign standards in <u>section 19.48.070(c).</u>]
Pedestrian Sign	Permitted principal non-residential or multi-family uses:
	<ul style="list-style-type: none"> ■ 1 per each public building entrance
	<ul style="list-style-type: none"> ■ 12 s.f. maximum
	<ul style="list-style-type: none"> ■ Mounted on a wall within 10' of the entrance, or mounted on the ground within 20' of the entrance feature an no taller than 5 feet.

(Ord. 2407, Sec. XIX, 2019)

19.48.050. - NON-RESIDENTIAL SIGN ALLOWANCE.

The following signs are permitted in the commercial zoning districts (C-O, C-1, C-2, and C-3), and for any planned version of these districts.

Wall Signs	Permitted principal uses:
	<ul style="list-style-type: none"> ■ 2 per principle facade, up to 4 per building, except that any building with multiple office or store exterior entrances may have a sign, and the total area apportioned to its exterior wall space of each office or store.

	<ul style="list-style-type: none"> ■ Maximum 5% of facade total allowance, but no more 50 s.f. per sign.
	[See additional wall sign standards in <u>section 19.48.070(b).</u>]
Monument Signs	Permitted principal uses:
	<ul style="list-style-type: none"> ■ 1 per street frontage
	<ul style="list-style-type: none"> ■ 20 square feet maximum
	<ul style="list-style-type: none"> ■ 5' high maximum
	<ul style="list-style-type: none"> ■ Setback at least 3' from all property lines and at least 12' from a street, whichever is greater
	<ul style="list-style-type: none"> ■ Gas stations may have 1 monument sign up to 85 square feet, provided it is at least 50' from any residential property.
	<ul style="list-style-type: none"> ■ Requires Planning Commission Site Plan approval.
	[See additional monument sign standards in <u>section 19.48.070(a).</u>]
Temporary Signs	<ul style="list-style-type: none"> ■ 48 s.f. total sign allowance
	<ul style="list-style-type: none"> ■ <u>16</u> s.f. per sign max;
	<ul style="list-style-type: none"> ■ 5' high maximum, or no higher than 20' or top of the roof, whichever is less if mounted on a building.
	<ul style="list-style-type: none"> ■ 90 day limit per sign; 120 day limit for period where more than 1 sign displayed.
	[See additional temporary sign standards in <u>section 19.48.070(c).</u>]
Pedestrian Signs	Wall, Canopy or Awning Signs
	<ul style="list-style-type: none"> ■ 1 per 50 feet of building frontage, or 1 per storefront tenant, whichever is greater. Gas station canopies may have 1 per canopy face.

	■ 6 s.f. maximum
	■ Mounted directly on the surface of the wall, awning or canopy, or if hanging below, at least 7' 6" clear from the sidewalk below the sign.
	Entrance Signs
	■ 1 per primary business entrance, and shall be within 10' of the entrance
	■ 8 s.f. maximum
	■ Mounted flush to the wall, or if projecting may project up to 4' off the wall but must be at least 7'6" clear form the sidewalk below the sign.

(Ord. 2407, Sec. XIX, 2019)

19.48.060. - GENERAL STANDARDS APPLICABLE TO ALL SIGNS.

(a) *Public Health, Safety and Maintenance.*

- (1) All signs shall be designed, constructed, located and maintained in a manner that is compliant with all other building codes, and in no way presents any potential risk to public safety in the judgment of the Building Official.
- (2) No sign shall imitate or resemble government signs for traffic direction or any other public safety symbol.
- (3) No sign shall be placed in any sight triangle applicable to public streets, internal access streets, or driveway access points using the sight distance provisions of article 13-2A of the City Code.
- (4) Any sign projecting over a walkway or other active area in front of a building or other area where people may walk shall maintain at least seven feet six inches vertical clearance.
- (5) All signs and any surrounding grounds or landscape, shall be maintained in good condition, free of any debris, weeds, disrepair or other unsightly conditions.

(b) *Specific Designs Prohibited.*

- (1) No sign shall be placed on any vehicle or trailer, when such vehicle or trailer is placed or parked visible from the right-of-way, and the primary purpose of the sign is to deviate from the standards or criteria of this chapter.
- (2) No sign shall be attached to any public utility pole or shall be installed within the right-of-way of a public road or street, except as permitted by the public authority or where specifically exempt from the right-of-way prohibition by this chapter.

- (3) No sign shall include balloons, streamers, pennants or other air activated elements and animated elements, whether animated by mechanical, electrical, or environmental means, except as authorized through any temporary use or event permit.
- (4) No sign shall have any electronic message, video display or other digital display, except the planning commission may approve the following through the site plan review:
 - a. Time and temperature displays, provided it is in place of an allowed wall sign and is a static display.
 - b. Digital display of prices for gas station monument signs provided no other information than price is displayed.
 - c. In each case, the planning commission shall consider the intent of these standards, and the potential impacts of the lighting or digital display on adjacent property.
- (5) Obscene signs are prohibited. "Obscene" is considered to be any material that:
 - a. The average person, when applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; or
 - b. The work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
 - c. The work, taken as a whole, lacks serious literary, artistic, political, or scientific value.
- (6) Any sign with a business message shall be located on the site of the business activity.

(c) *Illumination.*

- (1) Any illumination shall be designed to eliminate negative impacts on surrounding rights-of-way and properties. In general, any direct source of light shall not be visible from the public street or adjacent residential property.
- (2) The light from an illuminated sign shall not flash or oscillate, or create any negative impact on adjacent property in direct line-of-sight to the sign.
- (3) 3 External light sources shall be directed and shielded to limit direct illumination of any object other than the sign.
- (4) Exposed incandescent, neon or other tube lighting shall be limited to window signs mounted to the inside of the building, or as an accent of less than ten percent of the sign area of other signs.
- (5) High pressure sodium, low-pressure sodium, and fluorescent lighting are prohibited.

(Ord. 2407, Sec. XIX, 2019)

19.48.070. - STANDARDS FOR SPECIFIC SIGN TYPES.

(a) *Monument Signs.*

- (1) All monument signs shall require sign plan and permit approved by the planning commission according to these standards and criteria.
- (2) Monument signs shall be located within a landscape area at least three feet in all directions from the base of the sign, or be located in a large landscaped yard.
- (3) Monument signs shall have a base at least 75 percent of the width of the widest part of the sign. The base

shall not count as part of the sign area provided it contains no messages or other component of the sign, and is otherwise integrated into the site as a landscape feature.

- (4) All monument signs and bases shall be constructed with durable, quality materials that complement the building and other site elements in terms of material, colors, and ornamentation.
- (5) All monument signs shall be accompanied by a landscape plan that integrates the sign area into the overall site, softens the view and appearance of the structural elements, and otherwise improves the view of the sign and property from the streetscape.
- (6) The Planning Commission shall consider the intent of this chapter and the objectives of the Design Guidelines in section 19.48.080 in approving a sign plan and permit. Deviations from the specific design guidelines may be approved for any sign plan that equally or better meets the intent or design objectives of this chapter.

(b) *Wall Signs.* Wall signs are subject to the following additional limitations:

- (1) Signs attached to a building shall not extend vertically above the highest portion of the wall plane of the facade it is mounted on or the roofline, whichever is less. No portion of a building wall may be built above the roofline, that serves no other structural or architectural purpose, other than to mount a sign or expand the sign area allowance.
- (2) Signs attached to a building shall not project more than 12 inches off the surface it is mounted on unless specifically exempt from this limit by this chapter.

(c) *Temporary Signs.* Temporary signs are subject to the following additional limitations:

- (1) Any temporary sign shall be placed with the permission of the property owner, and it is the responsibility of the person placing the sign and the property owner to ensure the sign meets all standards and is removed when the applicable display time limit has expired.
- (2) Temporary signs shall not be illuminated or painted with a light-reflecting paint.
- (3) Temporary signs shall be constructed of rigid material, designed to resist quick deterioration from the elements, and securely anchored so as not to pose a distraction or hazard to drivers. Non-rigid materials (such as banners) shall be secured by a support or frame to avoid distraction of flapping and set back at least 20 feet from the pavement edge of the fronting roadway, or may be attached securely to a building or structure.
- (4) No temporary sign shall be displayed for more than 90 consecutive days, without 30 days intervening, and any temporary sign related to a particular event shall be removed within seven days from the end of that event.
- (5) The period of time when a property has more than one temporary sign displayed shall not be more than 120 days in a calendar year.
- (6) Relocation of a temporary sign, removal of the sign for a short period, or removal and replacement with a substantially similar sign to expand the time periods is prohibited.
- (7) The building official shall be authorized to require the removal of any temporary sign that pertains to an expired event.

(d) *Multi-tenant Buildings and Sites.*

- (1) All signs for multi-tenant buildings or sites shall require sign plan and permit approved by the planning

commission according to these standards and criteria.

- (2) The sign plan shall demonstrate coordination of all signs on the building, allow sufficient flexibility for the replacement of signs or new tenants without the need for a new sign plan, unless a completely new sign design concept is proposed for the entire building or site.
- (3) The wall sign allowance may be apportioned to any tenant with a separate exterior entrance. In the case where all tenants share a common entrance the wall sign allowance may be apportioned to no more than two signs per facade.
- (4) The monument sign allowance for the building(s) and site shall meet the standards of section 19.48.070(a), however the copy within the allowed sign may be apportioned to multiple tenants.
- (5) The planning commission shall consider the intent of this chapter and the objectives of the Design Guidelines in section 19.48.080 in approving a sign plan and permit. Deviations from the specific design guidelines may be approved for any sign plan that equally or better meets the intent or design objectives of this chapter.

(Ord. 2407, Sec. XIX, 2019)

19.48.080. - DESIGN GUIDELINES.

All signs shall be designed to convey durability and a quality appearance. Signs should meet the following design guidelines, and where the building official determines that a sign presents a substantial deviation from these guidelines and could conflict with the intent of this chapter, the building official may require that the sign permit application be reviewed by the planning commission, according to the procedures and criteria in chapter 19.32.

- (a) Materials, particularly for the frames, casings or bases of signs, should be chosen to compliment the architecture of the building, and coordinate with other accent materials or architectural details of the building. In general, natural construction materials such as wood, metals, ceramic, and stone should be used for frames of all wall signs and bases of monument signs. Synthetic materials should only be used if they are designed to resemble the recommended natural materials. Plastic or acrylic is discouraged as the primary component of signs, except when used for sign panels that are accompanied by frames or individual letter casings that add architectural details to compliment the building.
- (b) Simple 2- and 3-color contrasting colors schemes should be used between the color of the background, letters, and accents to ensure legibility and quality appearances. Symbols and logos may incorporate other colors. Colors or color combinations that interfere with the legibility of the sign copy should be avoided. Fluorescent colors should be limited to accents and typically less than ten percent of the sign area.
- (c) The location of all permanent signs should be incorporated into the architectural design of the building. Placement of signs should be considered part of the overall facade design. Sign locations should be carefully considered, and align with major architectural features such as marquees, building name plates, storefront sign bands, cornices and parapets, entrance features, windows, canopies and other similar architectural features.
- (d) Buildings that have multiple wall or ground signs should coordinate all signs for the building or site. Coordination may be established by combinations of two or more of the following:

- (1) The same fonts, in terms of color, scale, and style. However, a primary and secondary font may be incorporated.
- (2) The same sign background in terms of material and color or coordinated colors.
- (3) The same casing or framing in terms of materials and style, provided it is prominent enough to be a visible coordinating element across multiple signs.
- (4) A consistent scale, orientation, shape or placement of signs. For example, all oval signs, or all signs located within a sign band across storefronts.
- (5) Other elements specific to a proposed sign package.
- (6) Limited deviations in the consistency are allowed for:
 - a. Any one sign may reserve up to 33 percent of the sign area for logos or icons that are unique to the tenant and deviate from the consistency elements.
 - b. Any building with three or more significant tenant spaces, or other similar large building or sites, may have one gateway sign per facade that deviates from the consistency elements provided it is associated with a prominent point of entry or similar point of architectural emphasis.
 - c. Pedestrian signs may deviate according to section 19.48.080(e) below.

(e) Pedestrian signs should help create architectural variety and unique business identities from establishment to establishment. In multi-tenant buildings, pedestrian signs should be used to create interest and variety of the tenants, while overall building and site signs should create consistency and identity of the place and building.

(Ord. 2407, Sec. XIX, 2019)

19.48.090. - ALTERNATIVE SIGN PLANS.

Shopping centers, office parks or other multi-tenant projects with three or more buildings or four or more acres may propose a property specific sign plan. The sign package shall be based on the intent, types of signs, and standards of this chapter, but the planning commission may approve deviations to these standards where they find that the plan:

- (a) Promotes a unique character for the area, and improves the image and identity of the project as it relates to the surrounding community.
- (b) Presents uniform designs to coordinate multiple components of the project, and where there are distinctions in the type and design of the signs, they are well-coordinated in light of the overall plan.
- (c) The plan has clear and explicit standards for the size, location, design and quality of the signs, and it anticipates future tenants or changes in tenants without requiring amendments to the plan.
- (d) The property owner or landlord has authorized the plan, and any changes to the plan will require the property or landlord to submit a new application to be approved by the planning commission.

(Ord. 2407, Sec. XIX, 2019)

19.48.100. - INTERPRETATION OF MEASUREMENTS.

The following shall be used in interpreting dimensional standards for signs:

- (a) *Sign Area.* Signs mounted on or displayed as a standard geometrical shape shall be measured by the standard

mathematical formula for that shape. Signs mounted on or displayed as an irregular shape shall be measured by the smallest area of up to two standard geometrical shapes that can encompass the entire sign mounting.

- (b) *Detached Signs.* The area of the sign shall be computed by the entire area of the face of the structure, cabinet or module enclosed by the border of the frame.
- (c) *Wall, window or other building-mounted signs.* Any building mounted sign mounted on a background shall be measured by the area of the background. If mounted directly on the wall, the area shall be computed by means of the smallest single and continuous perimeter of up to two standard geometric shapes that enclose the outer limits of the writing, emblem or other display.
- (d) *Wall Area.* The area of a wall for determining that wall sign allowance shall be the continuous plane of the facade that a sign is mounted on, or when apportioned to multiple tenants the exterior wall area associated with each tenants gross leasable floor area. Structures built solely to expand the wall plane for the purpose of increasing the sign area or mounting a sign shall not count towards the wall area.
- (e) *Window Area.* The area of a window for determining the window sign allowance shall be the actual surface of the clear glass inside the window casing. Larger windows or glass panels shall only count this area between two feet and ten feet above the finished floor elevation.
- (f) *Double-faced Signs.* Where the sign faces of a double-faced sign are no more than three feet apart at any location, only one face will be measured in computing sign area. If the two faces of a double-faced sign are of unequal area, the area of the sign will be the area of the larger face. In all other cases, the areas of all faces of a multi-faced sign or the surface area of objects will be added together to compute the area of the sign.

(Ord. 2407, Sec. XIX, 2019)

Chapter 19.50 - ALTERNATIVE ENERGY SYSTEMS

19.50.005. - INTENT AND APPLICABILITY.

- (a) *Intent.* The intent of this chapter is:
 - (1) To allow residents to use renewable energy resources, specifically wind, solar and geothermal, as an alternative to the prevailing sources of natural gas and electricity.
 - (2) To promote small-scale, site-specific energy strategies that can reduce consumption and reliance on fossil fuels or other non-renewable energy source, and allow more efficient heating, cooling, and lighting of sites and buildings.
 - (3) To establish standards for the use of renewable energy equipment that ensure effective site design, minimize potential impacts on adjacent property, and promote the character of neighborhoods and districts in the city.
- (b) *Applicability.* Site-specific renewable energy systems that meet the standards of this chapter are considered an accessory use to the principal use of property, and shall be approved by the issuance of a building permit, subject to all applicable building codes. Some applications also require site plan or special use permits as specified in this chapter. Applications for hybrid energy systems that use combinations of two or more of the types of systems in this chapter may be joined as a single application, subject to the most detailed approval procedure for any

component of the system. Any renewable energy systems not meeting the standards of this chapter, or any authorized exceptions or alternative approval procedures specified in this chapter, may only be permitted by a variance subject to the procedures and criteria in chapter 19.54 of this chapter.

(Ord. 2407, Sec. XX, 2019)

19.50.010. - SOLAR ENERGY.

The following regulations shall apply to accessory solar energy systems:

- (1) *Related Ordinances.* All equipment shall comply with any other applicable provisions of the municipal code or this chapter, including building setbacks, yard requirements and height restrictions.
- (2) *Solar Easements.* In order to preserve and protect the solar access accords between adjacent property, a solar easement may be arranged between adjacent property owners. However, the solar easement may not be used to negate any other development or design standard required by this chapter or other applicable law. It is the responsibility of the parties to the easement to report and file the easement with the building official at the time of any building permit application that may be impacted by the easement.
- (3) *Compatibility.* The design of any solar energy system shall generally be compatible with the character of the neighborhood or district, the architectural design of the buildings, and situated on a site in a manner that minimizes potential negative impacts on adjacent property or public streetscapes. Compatibility shall be evaluated as follows:
 - (1) Systems mounted on pitched roof structures or vertical walls shall not project more than five inches off the surface of the roof or wall and be generally parallel to the roof pitch or vertical wall.
 - (2) Systems mounted on flat roofs shall be setback from the roof edge a distance equal to the amount they project off the roof deck, or be concealed from street level or ground level of adjacent property by a parapet. Any panels or accessory equipment that projects more than two feet off the roof deck shall be screened in the same manner as other rooftop accessory building equipment.
 - (3) Framing, mounting racks, piping, conduits or other associated equipment shall be designed, located or use colors to minimize the visibility from streetscapes or adjacent property, and blend with the overall design of the building.
 - (4) Ground mounted solar panels shall be located behind the front building line, and be setback from adjacent property by at least ten feet. No ground-mounted equipment shall exceed eight feet high. All ground-mounted equipment shall be screened from adjacent property and the street by fences, landscape or a combination of both. This provision shall not apply to solar energy facilities attached to utility poles, light fixtures or other similar accessory structures provided they be designed in a manner that integrates the energy collecting components into the design of the structure in a manner that does not significantly alter the appearance of the structure, when compared to other similarly functioning accessory structures.
 - (5) No solar panel shall be mounted in a location where it could create additional glare on adjacent sites or otherwise damage plants or structures on adjacent property from reflectiveness or heat sources. Panels in locations with the potential to contribute to this situation may satisfy this requirement with manufacturer's specifications that demonstrate minimal glare, reflectiveness and heat gain.

- (d) *Exceptions and Alternatives.* Any solar energy system that does not meet the standards of this section may only be permitted with a site plan, approved by the planning commission according to the procedures and criteria of chapter 19.32. In addition, the planning commission shall consider the following criteria:
- (1) The intent of this Chapter, and whether the proposal is contrary to the intent of any other sections of this chapter.
 - (2) The context of the application, and in particular the relationship of the proposed facilities to surrounding property.
 - (3) Whether the proposed design and requested exceptions are necessary to ensure that the function and efficiency of the solar energy system is maintained, and whether the exception could negatively impact other design or sustainability principles.

(Ord. 2407, Sec. XX, 2019)

19.50.015. - WIND ENERGY.

The following regulations shall apply to accessory wind energy systems:

- (a) *Site Plan Approval.* The following wind energy systems may be permitted with a site plan, approved by the planning commission according to the procedures and criteria of chapter 19.32.
- (1) Wind turbines installed on any structure which is otherwise permitted to be three stories or greater, and at least 35 feet tall, provided that the wind turbines shall add no more than 20 additional feet to the structure.
 - (2) Wind turbines on structures less than three stories or under 35 feet tall, provided the turbine adds no more than one-half the actual height of the structure.
 - (3) Wind turbines installed on light or utility poles up to 25 feet tall, provided the wind turbine adds no more than 20 percent to the actual height of the pole.
 - (4) The planning commission shall consider the following criteria in addition to the general site plan criteria:
 - a. Whether the location and design of the turbine is architecturally compatible with the building.
 - b. Whether the location on the site is likely to generate noise, physical, optical (light-or shadow-flicker), or aesthetic impacts on adjacent property.
 - c. Any other potential physical impacts or conflicts from the location of the system, the type and typical function of the system, or other issues associated with the siting or operation of the wind turbine.
- (b) *Special Use Permit.* Any wind turbine in a non-residential zoning district, which does not meet the criteria or eligibility for site plan approval, may be permitted with a special use permit, approved by the city council according to the procedures and criteria of chapter 19.28. The special use permit shall meet the following additional criteria:
- (1) No turbine more than 150 feet tall may be approved in any circumstance.
 - (2) Any ground-mounted turbine shall be on a lot of at least one acre.
 - (3) All ground-mounted wind turbines shall be setback from the property line a distance equal to its height,

measured at the highest rotation of the blades. When two or more turbines are on the same lot, they shall be separated from each other by this same distance.

- (4) Wind turbines shall be painted a non-reflective, non-obtrusive color that blends with the context, surroundings or buildings in the vicinity.
- (5) All tower structures shall be self-supporting monopoles, unless attached to a structurally reinforced roof where not support structure is warranted. Lattice structures shall not be permitted.
- (6) Blade sizes for rotary turbines shall be limited to one-third (1/3) the support structure height. Blade clearance for a ground-mounted horizontal-axis, propeller-style wind turbine shall not be less than 30 feet at the lowest point.
- (7) Turbines shall not be lit unless such lighting is required by the Federal Aviation Administration (FAA) or other applicable authority.
- (8) Signs shall be limited to the appropriate warning signs (e.g. electrical hazard or high voltage) placed on the wind turbine tower(s), electrical equipment, and the wind turbine.
- (9) Reasonable efforts shall be made to locate utility connections from the wind turbine(s) underground, depending on the appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for the utility interconnections may be above ground if required by the utility provider. For electrical transformers with a footprint greater than 2 square feet in area, landscaping shall be provided where necessary to substantially screen the structure from public view and/or view of adjacent lots.
- (10) All electrical wires associated with the wind turbine shall be located underground or inside the monopole except for those necessary to connect the wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the ground wiring.
- (11) Each wind turbine shall be equipped with both manual and automatic overspeed controls to limit the rotational speed of the blade within the design limits of the rotor. Manual electrical and/or overspeed shutdown disconnect switches shall be provided and clearly labeled on the turbine structure. No wind turbine shall be permitted that lacks an automatic braking, furling, or feathering system to prevent uncontrolled rotation, overspeeding and excessive pressure on the tower structure, rotor blades and turbine components.
- (12) The noise emitted from any wind turbine shall not exceed 55 dbA as measured at the nearest property line, except during short-term events such as utility outages and severe winds.
- (13) No building permit for a wind turbine shall be issued until a copy of the utility company's approval for interconnection of a customer-owned generator has been provided. Off-grid systems are exempt from this notice.
- (14) Any wind turbine that is not operated for energy production for a continuous period of 12 months shall be considered abandoned, and the owner of the turbine shall remove it within 90 days of receipt of a notice from the city. If the turbine is not removed within 90 days, the city may remove the turbine at the owner's expense. Any wind turbine, functional or abandoned/inoperable, which is determined to be a public safety

risk may be ordered to be removed by the owner. In the event that the owner does not remove the turbine in a timely manner, the city may have the turbine removed, with costs billed to the property owner as a lien against the property.

(Ord. 2250, Sec. II, 2012; Ord. 2407, Sec. XX, 2019)

19.50.020. - GEOTHERMAL ENERGY.

- (a) *Site Plan Approval*. Geothermal energy installations are permitted with a site plan, approved by Staff, including all buildings, property lines, and location of pipes and other elements of the system. The site plan shall include a description of the system, the type, model, and brand of the system, and the contractor installing the system. A building permit will also be required, but may be incorporated into the permit of any other building being constructed associated with the system. Staff may require additional information if it is necessary to fully evaluate the site plan or building permit.

(Ord. 2407, Sec. XX, 2019)

19.50.030. - DEFINITIONS.

- (a) *Geothermal Energy* means energy that is stored in the Earth.
- (b) *Horizontal-axis Wind Turbine* means the main rotor shaft of the turbine is oriented horizontally. This type of turbine must be pointed into the wind.
- (c) *Meteorological Tower* means a tower separate from a wind turbine designed to support the gathering of wind energy resource data. A meteorological tower shall include the tower, anemometers, wind direction vanes, and any telemetry devices that are used to monitor or transmit wind speed and wind flow characteristics at a given location.
- (d) *Roof-mounted Wind Turbine* means a turbine system mounted to the roof of a building.
- (e) *Solar Access* means access to the envelope of air space exposed to the face of any solar energy system through which the sun passes and which allows the solar energy system to function. Such access is necessary to any solar energy system.
- (f) *Solar Air Space Envelope* means that volume of air space whose lower limits are defined by a plane sloping upward to the south at an angle of 22 degrees from the horizontal plane, measured from the bottom of the solar collector system and whose lateral limits are defined by planes which correspond to the direct rays of the sun on each end (east and west) of the solar collector system at 0900 and 1600 solar time from September 21 through April 21.
- (g) *Solar Collector* means both passive and active systems. An active collector shall include panels designed to collect and transfer solar energy into heated water, air or electricity. Passive collectors shall include windows and window walls, which admit solar rays to obtain direct heat or to obtain heat for storage. Such windows and window walls of passive systems may extend to ground level. Greenhouses, atriums, and solariums are included in this definition.
- (h) *Solar Easement* means an easement arising by agreement between property owners and establishing the solar air

space envelope within which building and vegetation obstructions are prohibited.

(i) *Vertical-axis Wind Turbine* means the main rotor shaft of the turbine is arranged.

(j) *Wind Turbine* means any machine designed for the purpose of converting wind energy into electrical energy.

Wind turbine shall include all parts of the system, including the tower and turbine composed of the blades and rotor.

(Ord. 2407, Sec. XX, 2019)

Chapter 19.52 - PROCEDURAL PROVISIONS

19.52.000. - GOVERNING BODY.

Governing body means the 12 members of the city council plus the mayor for a total of 13 members.

(Ord. 2199, Sec. II, 2009)

19.52.005. - APPLICATION.

A proposed amendment that affects specific property may be initiated by application of the owner of the property affected, the planning commission or the governing body. If such application is made by the owner's agent, said agent shall enter upon the application the name and current mailing address of the owner. If the property is under contract or option to purchase, the name and current mailing address of the purchaser shall also be shown on the application. All applications shall be made on forms prescribed by the city and duly filed with the city clerk or their designee.

A proposed amendment to supplement, change or generally revise the boundaries or zoning regulations may be initiated by the governing body or planning commission.

(Ord. 2199, Sec. III, 2009)

19.52.010. - FILING FEE.

A fee as established by the city council shall accompany each application for amendment. In addition, the applicant is obligated to pay all costs incurred by the city, including publication costs, consultant's charges for application review, court reporter costs, and costs of the original transcript of the hearing of the planning commission and copies of the same. Simultaneously with the payment of the filing fee, the applicant shall accompany each application with a cost advance as specified to be used by the city to pay for said costs. If the costs are less than the stipulated cost advance, the city shall refund the difference to the applicant. If the costs are more than the stipulated cost advance, the city shall so notify the applicant who is obligated to pay such excesses forthwith.

19.52.015. - PUBLIC HEARING.

All such applications shall be scheduled for hearing not later than the second regular monthly meeting of the planning commission following the date of the earliest publication period available as required by law. Any such hearing may, for good cause, in the discretion of the planning commission, be continued for a definite time to be specified in the record of the commission. Notice of such hearing shall be published in one issue of the official newspaper of Prairie Village, such notice to be published not less than 20 days exclusive of the days of the publication and hearing, prior to the date of said hearing before the commission. The application area shall be designated by legal description or a general description sufficient to identify the property under consideration. If a general description is used, said notice shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. In addition to such publication, the applicant shall be responsible for mailing notice of such proposed change to all the owners of lands located within 200 feet, except public streets and ways, of the area proposed to be rezoned at least 20 days prior to the hearing, thus providing an opportunity to all interested parties to be heard. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed change. A copy of the publication notice shall be included and such mailed notices shall be addressed to the owners of land mentioned above and not to non-owner occupants. Failure to receive such notice shall not invalidate any subsequent action taken. The applicant shall file with the city clerk or their designee, not less than six days prior to the date of the hearing, an affidavit to the effect that such notices were indeed mailed in compliance with this title.

(Ord. 2199, Sec. III, 2009)

19.52.020. - TRAFFIC STUDY REQUIREMENT.

In the case of an application for rezoning of land for a use which may, in the opinion of the commission or governing body, substantially change traffic patterns, or create traffic congestion, either body may, by motion, require that the applicant procure the services of a competent professional traffic engineer for the purpose of preparing a traffic study. Such study shall show whether or not the traffic generated by the proposed development will be handled on the site in an orderly and efficient manner and that vehicular ingress and egress from the site onto public streets will function in an orderly and efficient manner.

19.52.025. - POSTING OF PROPERTY.

Each applicant for rezoning; within 48 hours of filing such application, place a sign upon the lot, tract or parcel for which the application was filed. Said sign shall be furnished by the city and the applicant shall firmly affix and attach the sign to a wood or metal backing or frame and place the sign as hereinafter set forth. Said signs shall read as follows:

REZONING PENDING
APPLICATION NUMBER. . . .
From. . . .To. . . .
PUBLIC HEARING AT CITY HALL
BEFORE PLANNING
COMMISSION ON
.
CITY OF PRAIRIE VILLAGE, KANSAS

Unauthorized Removal, Defacing, or Destruction of
this Sign Punishable upon Conviction by
Fine not Exceeding \$100.00 and/or not more than 30 days imprisonment.

Said sign shall be maintained and kept in place by the applicant until the conclusion of the public hearing before the planning commission, or until withdrawal of the application, at which time the sign shall be removed by the applicant. The applicant shall file an affidavit at the time of said public hearing before the planning commission that the sign was placed and maintained to said hearing date as required by this title. No application shall be heard by the planning commission or the governing body unless such affidavit has been filed.

The bottom of said sign shall be a minimum of two feet above the ground line. Said sign shall be placed within five feet of the street right-of-way line, in a central position on such lot, tract or parcel of land and shall have no visual obstructions thereto. If the lot, tract or parcel of land has more than one street abutting thereto, the sign shall face the street with the greatest traffic flow. If the lot, tract, or parcel of land is larger than five acres, a sign as required by this title shall be placed so as to face each of the streets abutting thereto.

It is a misdemeanor for any person to remove, deface or destroy any sign provided for by this title. Any person, upon conviction thereof, shall be fined a sum not to exceed \$100.00, or imprisoned in jail for not more than 30 days or be both so fined and imprisoned.

19.52.030. - FACTORS.

The factors to be considered in approving or disapproving a zoning request shall include, but not be limited to the following:

- (1) The character of the neighborhood;
- (2) The zoning and uses of property nearby;
- (3) The suitability of the property for the uses to which it has been restricted under its existing zoning;
- (4) The extent that a change will detrimentally affect neighboring property;
- (5) The length of time of any vacancy of the property;
- (6) The relative gain to public health, safety and welfare by destruction of value of the applicant's property as compared to the hardship on other individual landowners;
- (7) City staff recommendations; and
- (8) Conformance with the Comprehensive Plan.

19.52.035. - PLANNING COMMISSION ACTION.

After the public hearing, the planning commission, by a majority of members present and voting, shall be required to recommend approval or denial of the amendment to the governing body. If the planning commission fails to make a recommendation on a rezoning request, it shall be deemed to have made a recommendation of disapproval. The planning commission shall submit its recommendation, and the reasons therefore, to the governing body.

(Ord. 2199, Sec. III, 2009)

19.52.040. - GOVERNING BODY ACTION.

After receipt of the planning commission's recommendations of any such amendment, the governing body may:

- (1) Adopt such recommendation by a simple majority (seven votes) and if it is to approve a change, adopt an ordinance to that effect;
- (2) Override such recommendation by a two-thirds (2/3) majority vote of the membership of the governing body (nine votes) and if it is to approve a change, adopt an ordinance to that effect; or
- (3) Return such recommendation to the planning commission with a statement specifying the basis for the governing body's failure to approve or disapprove by a simple majority of the quorum present.

If the governing body returns the recommendations, the planning commission may resubmit its original recommendations giving the reasons therefore or submit a new and amended recommendation. If the planning commission fails to deliver its recommendation to the governing body following the planning commission's next regular meeting, such inaction shall be deemed a resubmission of the original recommendation. Upon the receipt of any such recommendation, the governing body may adopt or it may revise or amend and adopt such recommendation by a simple majority (seven votes) thereof or it need take no further action.

19.52.045. - PROTEST.

Regardless of whether or not the planning commission approves or disapproves a zoning amendment, if a protest petition against such amendment is filed in the Office of the City Clerk within 14 days after the date of the conclusion of the public hearing pursuant to the publication notice, signed by the owners of record of 20 percent or more of any real property proposed to be rezoned or by the owners of record of 20 percent or more of the total area required to be notified of the proposed rezoning of specific property, excluding streets and public ways, the ordinance adopting such amendment shall not be passed except by at least a three-fourths (3/4) vote of all members of the governing body (ten votes).

(Ord. 2199, Sec. III, 2009)

19.52.050. - LESSER DISTRICTS.

The planning commission may recommend a lesser change than that requested. Lesser change is deemed to be a more restrictive change. The restrictiveness of the zoning classifications in this Code and title are established in the following descending order from most restrictive to least restrictive:

- (1) R-1a and RP-1a Most restrictive
- (2) R-1b and RP-1b
- (3) R-2 and RP-2
- (4) R-3 and RP-3
- (5) R-4 and RP-4
- (6) C-3
- (7) C-0 and CP-0

(8) C-1 and CP-1

(9) C-2 and CP-2

19.52.055. - REAPPLICATION WAITING PERIOD.

In the case of denial of an application by the governing body, the applicant must wait a period of six months from the date of denial before reapplying for approval of a special use permit unless the legal description of the property has substantially changed or the new application is for a special use permit that is a different use than the original.

The city administrator, or his/her designee, shall determine if an application concerns "substantially the same" property, development and land use as a prior application. The landowner may appeal such determination to the planning commission.

The governing body may waive the waiting period for good cause shown.

(Ord. 2307, Sec. II, 2014)

Chapter 19.54 - BOARD OF ZONING APPEALS

19.54.005. - APPOINTMENT-TERMS-COMPENSATION-QUALIFICATION-OFFICES.

There is hereby created a board of zoning appeals in and for the City of Prairie Village. Said board shall consist of the entire membership of the planning commission. Membership terms shall expire upon expiration of planning commission membership. Vacancies shall be filled by appointment to the planning commission. Members of the board shall serve without compensation and none of them shall hold any other public office of the city; except as a member of the planning commission. The board shall annually elect one of its members a chairperson, one as a vice-chairperson and shall appoint a secretary, who may be an officer or employee of the city.

19.54.010. - RULES-MEETINGS-MINUTES-RECORDS.

The board shall adopt rules in accordance with the provisions of this title and any amendments hereof. Meetings of the board shall be held at the call of the chairperson, and at such other times as the board may determine. The board shall keep minutes of its proceedings, showing evidence presented, findings of fact by the board, decisions of the board, and the vote upon each question. Records of all official actions of the board shall be filed in its office and shall be a public record.

19.54.015. - DEPOSIT-REFUND.

The board shall require the payment to the secretary of the board by the party appealing, at the time of filing notice of appeal, of the sum stipulated in section 16.22.005 as a deposit to cover expenses incurred for preparation, publication and mailing of notices, and any other expense incurred by the board in connection with such appeal. If the secretary believes that the sum will be inadequate, or in fact does find the sum inadequate under the circumstances, (s)he shall require an appropriate additional deposit. Failure to make the deposit herein required, or any additional deposit required hereunder,

shall preclude any action or further action by the board relating to said appeal until the same is paid. Any funds not required to cover such expense shall, upon disposition of the appeal by the board, or withdrawal of the appeal be returned to the depositor.

19.54.020. - PUBLIC HEARING.

The BOARD OF ZONING APPEALS shall administer the details of appeals, variances and exceptions referred to it regarding the application of this title as hereinafter provided. The board shall fix a reasonable time for the hearing of applications referred to it. Notice of the time, place and subject of such hearing shall be published once in the official city newspaper at least 20 days prior to the date fixed for hearing. The application area shall be designated by a legal description or a general description sufficient to identify the property under consideration. If a general description is used, said notice shall include a statement that a complete legal description is available for public inspection and shall indicate where such information is available. In addition to such publication, the applicant shall be responsible for mailing notice of such proposed application to all the owners of lands located within 200 feet, except public streets and ways, of the application area at least 20 days prior to the hearing, thus providing an opportunity to all interested parties to be heard. Such mailed notice shall be given by certified mail, return receipt requested, and shall be in the form of a letter explaining the proposed application. A copy of the publication notice shall be included and such mailed notices shall be addressed to the owners of land mentioned above and not to non-owner occupants. Failure to receive such notice shall not invalidate any subsequent action taken. The applicant shall file with the secretary of the board, not less than six days prior to the date of the hearing, an affidavit to the effect that such notices were indeed mailed in compliance with this title.

19.54.025. - APPEALS.

Appeals to the board may be taken by any person aggrieved, or by any officer of the city or any governmental agency or body affected by any decision of the officer administering the provisions of this title. Such appeal shall be filed with the secretary of the board within 30 days after the decision of the building official by the filing of a notice of appeal specifying the grounds thereof and including the payment of the fee required thereof. The officer from whom the appeal is taken, when notified by the board or its agent, shall forthwith transmit to the board all the papers constituting the record upon which the action appealed from was taken. The board shall have power to hear and decide appeals where it is alleged there is error in any order, requirement, decision or determination made by an administrative official in the enforcement of this title. In exercising the foregoing powers, the board, in conformity with this title and amendments thereto, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination, and to that end shall have all the powers of the officer from whom the appeal is taken; may attach appropriate conditions; and may issue or direct the issuance of a permit.

19.54.030. - VARIANCES.

The board may authorize in specific cases a variance from the specific terms of this title which will not be contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this title will, in an individual case, result in unnecessary hardship, and provided that the spirit of this title shall be observed, public safety and welfare

secured, and substantial justice done. Such variance shall not permit any use not permitted by this title in such district. A request for a variance may be granted in such case, upon a finding by the board that all of the following conditions have been met:

- (a) That the variance requested arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owner or the applicant;
- (b) That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents;
- (c) That the strict application of the provisions of these regulations of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application;
- (d) That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
- (e) That granting the variance desired will not be opposed to the general spirit and intent of these regulations.

In no case may a variance or exception for the width of a lot, or for a front, side or rear yard be granted on a lot created by a lot split.

19.54.035. - EXCEPTIONS.

The board may grant exceptions to the provisions of these regulations in those instances where the board is specifically authorized to grant such exceptions and only under the terms of these regulations. In no event shall exceptions to the provisions of these regulations be granted where the use or exception contemplated is not specifically listed as an exception in these regulations. Further, under no conditions shall the board of zoning appeals have the power to grant an exception when conditions of this exception, as established in these regulations, are not found to be present.

19.54.040. - PERFORMANCE.

In making any decision varying or modifying any provisions of the zoning regulations, the board shall impose such restrictions, terms, time limitations, landscaping, screening, and other appropriate safeguards as needed to protect adjoining property.

The board may require a performance bond to guarantee the installation of improvements such as parking lot surfacing, landscaping, etc. The amount of the bond shall be based on a general estimate of cost for the improvements as determined by the board and shall be enforceable by or payable to the city in the sum equal to the cost of constructing the required improvements.

In lieu of the performance requirement, the board may specify a time limit for the completion of such required improvements and in the event the improvements are not completed within the specified time, the board may declare the granting of the application null and void after reconsideration.

19.54.04.5 - BOARD OF ZONING APPEALS ACTION.

In exercising the foregoing powers, the board, in conformity with the provisions of this Act, may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination and to that end shall have all the powers of the officer from whom the appeal is taken, may attach appropriate conditions and may issue or direct the issuance of a building permit.

A majority of the board shall constitute a quorum for the transaction of business and a concurring vote of a majority of the quorum shall be necessary to reverse any order, requirements, decision or determination of the building official or to decide in favor of the applicant upon any matter which it is required to pass under these regulations or to affect any variation in such regulation.

19.54.050. - APPEALS FROM THE BOARD.

Any person, official, or governmental agency dissatisfied with any order or determination of the board may bring an action in the District Court to determine the reasonableness of any such order or determination. Such appeal must be filed in the District Court within 30 days of the final decision of the board.

APPENDIX A CHARTER ORDINANCES

NOTE: The charter ordinances included herein are for information only. Each of them contains the substance as adopted by the governing body but enacting clauses, publication clauses and signatures have been omitted to conserve space. Complete copies of each charter ordinance as adopted are on file in the office of the city clerk and with the Kansas secretary of state. Date of passage by the governing body of each charter ordinance is shown in parentheses at the end of the text.

CHARTER ORDINANCE NO. 890

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 13-819 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE POLICE JUDGE PRO TEMPORE.

(Repealed by C.O. No. 4)

CHARTER ORDINANCE NO. 896

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM SECTION 13-513 AND SECTION 13-527, OF THE GENERAL STATUTES OF KANSAS, 1949, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE VACANCY IN THE OFFICE OF MAYOR; APPOINTIVE OFFICERS AND EMPLOYEES; TERMS AND SALARIES; VACANCIES AND FILLING VACANCIES.

Section 1. Vacancy in the Office of Mayor; Filling the Vacancy. When any vacancy shall happen in the office of mayor by death, resignation, removal from city, removal from office, or refusal to qualify, the president of the council, or in the case of the mayor-elect's refusal or failure to qualify, the new president of the council shall become mayor until the next regular city election, and a vacancy shall occur in the office of the councilman becoming mayor.

Whenever any temporary absence shall happen in the office of mayor, the president of the council for the time being shall exercise the duties of the office of mayor, with all the rights, privileges and jurisdiction of the mayor until the mayor shall return.

(3-15-65)

CHARTER ORDINANCE NO. 3

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM SECTIONS 7, 8 AND 19, CHAPTER 274, SESSION LAWS OF 1968, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, CONCERNING ELECTIONS, DATES OF CITY ELECTIONS, TERMS OF OFFICE AND MATTERS RELATED THERETO.

(Repealed by C.O. No. 11)

CHARTER ORDINANCE NO. 4

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 890 RELATING TO POLICE JUDGE PRO TEMPORE.

Section 1. An ordinance repealing Charter Ordinance No. 890 relating to police judge pro tempore for the reason that it is obsolete.

(2-20-73)

CHARTER ORDINANCE NO. 5

A CHARTER ORDINANCE AMENDING CHAPTER 1, ARTICLE 3, SECTION 1-301, OF THE REVISED ORDINANCES OF PRAIRIE VILLAGE, 1966, ENTITLED "APPOINTIVE OFFICERS' EMPLOYEES" BY REPEALING SECTION 1-301 AND ENACTING IN LIEU THEREOF A NEW SECTION OF LIKE NUMBER AND SUBJECT.

(Repealed by C.O. No. 8)

CHARTER ORDINANCE NO. 6

A CHARTER ORDINANCE AMENDING CHARTER ORDINANCE NO. 944 AND SECTION 1.20.010 OF THE PRAIRIE VILLAGE MUNICIPAL, 1973, ENTITLED OFFICIAL CITY NEWSPAPERS, EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 13-1420 PERTAINING TO THE DESIGNATION OF THE OFFICIAL NEWSPAPERS OF THE CITY.

Section 1. Ordinance No. 944 and Title of the Prairie Village Municipal Code, 1973, entitled General Provisions, is hereby amended by amending Section 1.20.010 of Chapter 1.20 entitled Official Newspapers as follows:

1.20.010. Official City Newspaper. The Johnson County Herald and/or the Sun Publications, Inc. are selected and designated as official newspapers of the City of Prairie Village, Kansas. This ordinance exempts the City of Prairie Village, Kansas from K.S.A. 13-1420.

(2-3-75)

CHARTER ORDINANCE NO. 7

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS PERTAINING TO POLICE DEPARTMENT PENSIONS AS CONTAINED IN ARTICLE 13-14a OF CHAPTER 13 OF KANSAS STATUTES ANNOTATED; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT AND ADOPTING AS AMENDED POLICE PENSION PLAN AND TRUST.

WHEREAS, The governing body of the City of Prairie Village, has adopted by ordinance as amended and revised police pension fund and trust;

WHEREAS, certain provisions of the said revised retirement plan and trust are contrary to the provisions of Chapter 13 of the Kansas Statutes Annotated and it is proper for the City of Prairie Village, Kansas, to exempt itself from said provisions pursuant to the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas.

Section 1. The City of Prairie Village, Kansas, a city of the first class, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself form and make inapplicable to it, the provision of K.S.A. 13-14a01 through and including K.S.A. 13-14a101 as they may apply to a revised policy pension trust and plan which was adopted by the City of Prairie Village, Kansas on the 20th day of October, 1975, by Ordinance No. 1383.

(10-20-75)

CHARTER ORDINANCE NO. 8

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 5 AS CODIFIED IN SECTION 2.16.010 OF THE PRAIRIE VILLAGE MUNICIPAL CODE, 1973, ENTITLED APPOINTIVE OFFICERS AND EMPLOYEES — TERMS AND SALARY — VACANCIES.

Section 1. Repeal. The City of Prairie Village, Kansas, a city of the first class, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby repeals Charter Ordinance No. 5 and Section 2.16.010 of the Prairie Village Municipal Code, 1973, entitled Appointive Officers and Employees — Terms and Salary — Vacancies.

(11-17-75)

CHARTER ORDINANCE NO. 9

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 19-1310 AND SUBSTITUTING ADDITIONAL PROVISIONS TO THE PRAIRIE VILLAGE MUNICIPAL CODE RELATING TO A LICENSE REQUIRED FOR MISCELLANEOUS PROFESSIONS.

Section 1. By virtue of the powers vested in it by Article 12, Section 5, of the constitution of the State of Kansas, the City of Prairie Village, Kansas hereby exempts itself from the provisions of K.S.A. 19-1310.

Section 2. The Prairie Village Municipal Code Section 5.04.010 is hereby amended to read as follows:

5.04.9010. License Required. No person, firm or corporation, either as principal officer, agent, servant or employee, shall conduct, pursue, carry on, or operate in the city, any business, trade, occupation, or profession, or render or furnish its service hereinafter specified in this chapter without first making application to the city clerk for license therefore, paying to the office of city clerk the license fee hereinafter prescribed and obtaining an occupational license, from the city. Professions shall include, but shall not be limited to accountants, architects, attorneys, auctioneers, dentists, osteopaths and photographers.

Any person, firm or corporation not required to pay an occupation fee in this city prior to the effective date of this ordinance, but who is required to pay said fee after the effective date of this ordinance shall pay said fee for an occupation license on the same basis as a person, firm, or corporation who applies for a license on the effective date of this ordinance, as defined in Section 5.04.060 C of the Prairie Village Municipal Code.

Section 3. Existing Section 5.04.010 of the Prairie Village Municipal Code is hereby repealed.

(10-16-78)

CHARTER ORDINANCE NO. 10

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 79-5011; PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT; AND AUTHORIZING THE LEVYING OF TAXES TO CREATE A SPECIAL FUND FOR THE PURPOSE OF PAYING COSTS FOR CONSTRUCTION AND MAINTENANCE OF STREETS, CURBS, GUTTERS, SIDEWALKS, STORM DRAINAGE FACILITIES, PARKS AND CITY OWNED IMPROVEMENTS.

Section 1. The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself from and make inapplicable to it K.S.A. 79-5011, and to provide substitute and additional provisions as hereinafter set forth in this charter ordinance. K.S.A. 79-5011 is a part of an enactment of the legislature applicable to this city but not applicable uniformly to all cities.

Section 2. The provisions of K.S.A. 79-5001 to 79-5016, inclusive, shall not apply to or limit the levy of taxes by the City of Prairie Village for the payment of:

- (a) Principal and interest upon bonds and temporary notes;
- (b) No-fund warrants issued with the approval of the state board of tax appeals;
- (c) Legal judgments rendered against the city;
- (d) Rent due under any lease with a public building commission;
- (e) Special assessments charged against the city at large;
- (f) Costs for construction, repair, maintenance and improvement of streets, curbs, gutters, sidewalks, storm drainage facilities, parks and city owned improvements.

Section 3. The provisions of Article 50 of Chapter 79 of Kansas Statutes Annotated shall not apply to any taxes levied by the City of Prairie Village, levied under the provisions of K.S.A. 40-2305, 72-4424, 74-4920, 74-4967, 12-11a01, 12-1617h, 13-14,100, 19-262 and K.S.A. 1977 Supp. 13-14a01, 19-4004, 19-4011, 19-4102, 19-4443, 71-301

and 72-7074 or to any tax levies required for the payment of employer contributions to any pension and retirement program or to any other taxes authorized by state law to be levied in addition to or exempt from the aggregate levy limitation of the City of Prairie Village.

Amounts produced from any levy specified or authorized in this charter ordinance, including any levy or purpose authorized to be levied in addition to or exempt from the aggregate levy limit of the city, shall not be used in computing any aggregate limitation under Article 50 of Chapter 79 of the Kansas Statutes Annotated.

Section 4. The City of Prairie Village is hereby authorized to levy a tax for the purpose of the payment of costs for the construction, repair, maintenance and improvement of streets, curbs, gutters, sidewalks, storm drainage facilities, parks and city owned improvements. As used in this charter ordinance "costs" for these specific items of construction and maintenance shall mean the city's cost for labor, equipment, materials, commodities and services necessary for their construction, repair, maintenance and improvement.

(5-18-81)

CHARTER ORDINANCE NO. 11

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 3 OF THE CITY OF PRAIRIE VILLAGE, KANSAS AND FURTHER EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 25-2107, K.S.A. 25-2108(a) AND K.S.A. 13-304 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS, CONCERNING ELECTIONS, DATES OF CITY ELECTIONS, TERMS OF OFFICE AND MATTERS RELATED THERETO.

(Repealed by C.O. No. 13)

CHARTER ORDINANCE NO. 12

CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM CERTAIN PROVISIONS OF K.S.A. 13-1017, RELATING TO PUBLIC IMPROVEMENTS, ESTIMATE OF THE COST OF SUCH IMPROVEMENTS, CONTRACTS, BIDS, BOND ISSUE, WHEN, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects and exempts itself from and makes inapplicable to it, the provisions of K.S.A. 13-1017, which apply only to certain cities of the first class, and to provide substitute and additionally provisions as hereinafter provided.

Section 2. Before undertaking the construction or reconstruction of any sidewalk, curb, gutter, bridge, pavement, sewer, or any other public improvement of any street, highway, public ground, or public building or facilities, or any other kind of public improvement, shall be commenced or ordered by the governing body, or under its authority, a detailed estimate of the cost of the improvement shall be made under oath by the city engineer (or some other competent person appointed for such purposes by the governing body), and the estimate shall be submitted to the governing body for its action thereon. In all cases where the estimated costs of the contemplated building, facility, or other improvement, amounts to more than \$10,000, sealed proposals for the improvement shall be invited by advertisement, published by the city clerk once in the official city paper. The governing body shall let all such work

by contract to the lowest responsible bidder, if there is any whose bid does not exceed the estimate.

Notwithstanding the foregoing, the governing body reserves the right to refuse all or any part of any bid when it is felt that such action is in the best interest of the city.

If no responsible person proposed to enter into the contract at a price not exceeding the estimated cost, all bids shall be rejected and the same proceedings as before repeated, until some responsible person by sealed proposal offers to contract for the work at a price not exceeding the estimated costs. If no responsible bid is received within the estimate, the governing body shall have the power to make the improvement within the estimated cost thereof, and shall further have the power to purchase the necessary tools, machinery, apparatus and materials; employ the necessary labor; and construct the necessary plant or plants for the purpose of carrying into effect the provisions of this act. In no case shall the city be liable for anything beyond the estimated cost or the original contract price for doing such work or making such improvements.

Before any type of public improvement is commenced, the money to pay for the same must be available in the city treasury as provided by law or provision may be made of the issuance of internal improvement bonds to pay for any such improvement as provided by law. Provided that this section shall not be construed to include any repair or maintenance work not amounting to substantial alteration, addition or change in any structure, street or facility. Public improvement as used herein shall not include the making of repairs or the maintenance of any building, street, sidewalk, or other public facility in Prairie Village by employees of Prairie Village or the making of any expenditures from the city budget for such purposes.

(6-5-89 repealed by Charter Ordinance 19, 04-03-2000)

CHARTER ORDINANCE NO. 13

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 11 OF THE CITY OF PRAIRIE VILLAGE, KANSAS AND FURTHER, EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 25-2107, K.S.A. 13-304 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS, CONCERNING ELECTIONS, DATES OF CITY ELECTIONS, TERMS OF OFFICE AND MATTERS RELATED THERETO.

Section 1. The City of Prairie Village, Kansas, hereby repeals Charter Ordinance No. 11 pertaining to these same matters codified in the Prairie Village Municipal Code, Sections 2.08.020, 2.08.030, and 2.08.040 enacted in 1983.

Section 2. The City of Prairie Village, Kansas, a mayor-council city of the first class by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it K.S.A. 25-2107 and K.S.A. 13-304, and provides substitute and additional provisions therefor as hereinafter provided.

Section 3. In every odd-numbered year, there shall, in the City of Prairie Village, Kansas, be elected a mayor from the city at large, who shall hold office for four years and until a successor is elected and qualified; provided that the mayor elected in 1991 shall have a term expiring in 1995.

In case of a vacancy occurring by reason of resignation, death, removal from office or when the mayor no longer resides in the city, the president of the council will fill the vacancy until the next election for that position.

The mayor of the city shall receive such compensation as may be fixed by ordinance. Adopted April 2, 1990 -
Repealed by Charter Ordinance 20

CHARTER ORDINANCE NO. 14

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 25-2107 AND K.S.A. 13-304 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS, CONCERNING ELECTIONS, DATES OF CITY ELECTIONS, TERMS OF OFFICE AND MATTERS RELATED THERETO.

Section 1. The City of Prairie Village, Kansas, a mayor-council, city of the first class by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and makes in applicable to it K.S.A. 25-2107 and K.S.A. 13-304, and provides substitute and additional provisions therefore as hereinafter provided.

Section 2. In each even numbered year commencing with the year 1992, there shall, in the City of Prairie Village, Kansas, be elected one councilmember from each ward who shall hold office for four years and until a successor is elected and qualified; provided that councilmembers elected in April of 1991 shall have terms expiring in April of 1994. In case of a vacancy occurring by reason of resignation, death, removal from office or when a councilmember no longer resides in the ward in which the councilmember has been elected, the mayor by and with the consent of the remaining councilmembers may appoint some suitable elector residing in such ward to fill the vacancy until the next election for that council position.

The mayor may appoint such other officers as are created by statute and/or ordinance, who shall hold their offices for a period of four years, unless sooner removed by the mayor and council. All officers of the city shall receive such compensation as may be fixed by ordinance.

(4-2-90)

CHARTER ORDINANCE NO. 15

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 25-2113(b) PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, CONCERNING ELECTIONS AND MATTERS RELATED THERETO, BY PROVIDING FOR NON-PARTISAN ELECTIONS.

Section 1. The City of Prairie Village, Kansas, a mayor-council, city of the first class by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it those provisions of K.S.A. 25-2113(b) that may require partisan elections by cities of the first class in counties which have been declared urban areas as authorized by Article 2, Section 17 of the constitution of Kansas and provides substitute and additional provisions therefor as hereinafter provided.

Section 2. City elections for mayor and council shall be non-partisan.

Section 3. The general election of city officers, when required, will be held on the first Tuesday of April.

(4-2-90)

CHARTER ORDINANCE NO. 16

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 12-4202 (1989 SUPP.), 12-4203 (1982), 12-4204 (1982), 12-4205 (1989 SUPP.) AND 12-4207 (1982), AND ANY AMENDMENTS THERETO WHICH RELATE TO THE FILING AND SERVICE OF COMPLAINTS AND NOTICES TO APPEAR; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

Section 1. The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself and make inapplicable to it the provisions of K.S.A. 12-4202 (1989 Supp.), 12-4203 (1982), 12-4204 (1982), 12-4205 (1989 Supp.) and 12-4207 (1982) and any amendments thereto. The above referenced provisions are part of the Kansas Code of Procedure for Municipal Courts, an enactment of the legislature which is applicable to the City of Prairie Village but not uniformly applicable to all cities.

Section 2. City Officer shall mean city attorney, assistant city attorney, city prosecutor, building official, animal control officer, community service officer, code enforcement officer, codes administrator and municipal court clerk. Said individuals shall have the authority to investigate violations of city ordinances, order compliance with city ordinances and issue complaints and notices to appear for noncompliance with the same, and to prepare and serve notice to appear by mail forms as set out below in the same manner as a law enforcement officer. Said authority on the part of a city officer does not include the powers of arrest, search, detention or other power of law enforcement officers, except as provided by law.

Section 3. Complaints; Requirements; Form. A complaint shall be in writing and shall be signed by the complainant. More than one violation may be charged in the same complaint. The complaint shall be deemed sufficient if it is substantially in the form of a complaint set forth in Section 4 herein or substantially in the following form:

IN THE MUNICIPAL COURT OF THE CITY OF PRAIRIE VILLAGE, KANSAS
(Form Inserted Here)

the foregoing provisions notwithstanding, and notwithstanding the provisions of K.S.A. 12-4113(g) (1989 Supp.), or any amendments thereof, whenever a law enforcement officer or city officer as defined herein issues a complaint for violation of any city ordinance, and such complaint includes information required by law and is signed by the officer preparing the same, then such complaint shall be deemed lawful for purposes of prosecution under this act, even though the same has not been sworn to before a municipal judge or notary public.

Section 4. Uniform Complaint and Notice to Appear; Contents; Form. A uniform complaint and notice to appear shall describe the offense charged, shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five days after such notice to appear is given. A uniform complaint and notice to appear may be signed by any law enforcement officer or city officer of the city, and shall be deemed lawful for purposes of prosecution, even though the same has not been sworn to before a municipal judge or notary public.

A uniform complaint and notice to appear shall be deemed sufficient if in substantially the form of the notice to appear set out below;

UNIFORM COMPLAINT AND NOTICE TO APPEAR

(Form Inserted Here)

Section 5. Complaint and Notice to Appear; Contents; Form. A complaint and notice to appear shall describe the offense charged and shall summon the accused person to appear, shall contain a space in which the accused person may agree, in writing, to appear at a time not less than five days after such notice to appear is given. A complaint and notice to appear may be signed by any law enforcement officer or city officer of the city and shall be deemed lawful for purposes of prosecution even though the same has not been sworn to before a municipal judge or notary public.

A complaint and notice to appear shall be deemed sufficient if in substantially the form as set out below:

COMPLAINT AND NOTICE TO APPEAR

(Form Inserted Here)

Section 6. SAME; SERVICE; RETURN. The notice to appear shall be served upon the accused person by delivering a copy to him or her personally, or by leaving it at the dwelling house of the accused person or usual place of abode with some person of suitable age and discretion then residing therein, or by mailing it to the last known address of said person. A notice to appear may be served by any law enforcement officer or city officer and, if mailed, shall be mailed by a law enforcement officer or city officer. Upon service by mail, the law enforcement officer or city officer shall execute a verification to be filed with a copy of the notice to appeal. Said verification shall be deemed sufficient if in substantially the following form:

The undersigned hereby certifies that on the _____ day of _____, 19____ a copy of Notice to Appear was mailed to _____ at _____.

Signature of Law Enforcement
Officer, or City Officer

Section 7. Same; How Used; Issuance of Warrant; Refusal to Issue; Effect. A copy of the complaint shall be served, together with a notice to appear by a law enforcement officer or city officer upon the accused person, and forthwith, the complaint shall be filed with the municipal court, except that a complaint may be filed initially with the municipal court by any individual, and if so filed, a copy of the complaint shall forthwith be delivered to the assistant city attorney. The assistant city attorney shall cause a notice to appear to be issued unless he or she has good reason to believe that the accused person will not appear in response to a notice to appear, in which case he may request that a warrant be issued. Such warrant will be issued if the complaint is positively sworn to and the municipal judge has probable cause to believe that (a) there has been the commission of a violation of a municipal ordinance, (b) the accused person committed such violation and (c) the accused person will not appear in response to a notice to appear.

If the assistant city attorney fails either to cause a notice to appear or to request a warrant to be issued, on a complaint initially filed with the municipal court, the municipal judge may, upon affidavits filed with him or her alleging the violation of an ordinance, order the assistant city attorney to institute proceedings against any person.

Any such municipal judge shall be disqualified from sitting in any case wherein such order was entered and is further prohibited from communicating about such case with the municipal judge pro tem appointed by the municipal judge to preside therein.

(12-3-90)

CHARTER ORDINANCE NO. 17

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 25-2303, K.S.A. 25-2309, K.S.A. 25-2315 CONCERNING THE CITY'S RESPONSIBILITIES REGARDING VOTER REGISTRATION PRACTICES AND PROCEDURES.

Section 1. The City of Prairie Village, Kansas, a mayor-council, city of the first class by the power vested in it by Article 12, Section 5, of the constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it K.S.A. 25-2303, K.S.A. 25-2309, and K.S.A. 25-2315 and amendments thereto, which apply to this city, but do not apply uniformly to all cities.

(2-18-97)

CHARTER ORDINANCE NO. 18

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM K.S.A. 12-4112, ENTITLED "COSTS," AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT, RELATING TO THE CODE OF PROCEDURE FOR MUNICIPAL COURTS.

Section 1. The City of Prairie Village, Kansas, a mayor-council city of the first class, by the power vested in it by Article 12, Section 5 of the constitution of the State of Kansas, hereby elects to exempt itself from and makes inapplicable to it K.S.A. 12-4112 and provides substitute and additional provisions on the same subject as hereinafter provided.

Section 2. If the accused person is unable to pay the costs assessed, the costs shall be and remain a judgment against him/her which may be enforced as judgments for payment of money in civil cases. It shall be the duty of the clerk of the court to issue execution for unpaid fines and costs at least one each year.

Section 3. Such costs shall be assessed as provided in the city fee schedule, which may be amended from time to time by the governing body.

(11/17/1997)

CHARTER ORDINANCE 19

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-1017, RELATING TO PUBLIC IMPROVEMENTS, ESTIMATE OF THE COST OF SUCH IMPROVEMENTS, CONTRACTS, BIDS, BOND ISSUE, WHEN AND RELATED MATTERS THERETO AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT.

WHEREAS, the Governing Body has determined that it is in the best interest of the City to make substitute provisions for the making of estimated costs of public improvements, contracts, bids, and related matters that established by statute, and

Section 1. The Governing Body of the City of Prairie Village, Kansas duly adopted Charter Ordinance No. 12 on the 5th day of June, 1989, and that said ordinance exempted the City from the provisions of KSA 13-1017 and that said ordinance is still in full force and effect and codified as Section 2.62.010 of the Municipal Code of the City of Prairie Village.

Section 2. The City of Prairie Village, Kansas by the power vested in it by Article XII, Section 5 of the Constitution of the State of Kansas, hereby elects and exempts itself from and makes inapplicable to wit, the provisions of KSA 13-1017, which apply only to certain cities of the first class, and to provide substitute and additional provisions as hereinafter.

Section 3. The City of Prairie Village hereby repeals in its entirety Charter Ordinance 12 and Section 2.62.010 of the Prairie Village Municipal Code and adopts in lieu thereof the following new Section 2.62.010.

Chapter 2.62

Section 2.62.010 Public Improvements - Bid Procedures

Before the City undertakes the construction or reconstruction of any public improvement, including but not limited to any sidewalk, curb, gutter, bridge, pavement, sewer, street, highway, public ground or public building, facility, or any kind of public improvement shall be commenced or ordered by the Governing Body, a detailed estimated cost of the improvement shall be made under oath by the Public Works Director, or some other competent person appointed for such purposes by the Governing Body. The City Clerk shall receive and open the estimated costs at the time for receiving bids. The Governing Body shall act on estimated costs and received bids.

In all cases where the estimated costs of the contemplated improvement amounts to more than \$50,000, sealed proposals for improvement shall be invited by advertisement, published by the City Clerk once in the Official city paper. The Governing Body shall let all such work by contracting to the lowest and best responsible bidder. Notwithstanding the foregoing the Governing Body reserves the right to refuse all or any part of any bid when it determines that such action is in the best interest of the City.

If no responsible person proposes to enter into the contract at a price not exceeding the estimated costs, the Governing Body may reject all bids and repeat the bidding process. In the alternative, if all bids exceed the estimated costs, the Governing Body may accept and let the work by contract to the lowest and responsible bidder only if that cost is not greater than ten percent over the estimated costs. The Public Works Director or other competent person letting the bid shall give a full explanation to the Governing Body for the reason for the discrepancy. In no case shall the City be liable for anything beyond the estimated cost of the original contract price for doing such work or making such improvements.

This section does not apply to:

- Any repair or maintenance work not amounting to substantial alteration, addition or change in the original use of the public improvement.
- The construction, reconstruction, repair or the maintenance of any public improvement by the employees of the City.
- Improvements financed by economic development bonds issued pursuant to K.S.A. 12-1740, et. seq.

The Governing Body may waive the bidding process set forth therein by an affirmative vote of the majority of the Governing Body, if it determines the best interest of the City would be served.

Before any type of public improvement is commenced, the money to pay for the same must be available in the city treasury as provided by law, or provision may be made for the issuance of internal improvement bonds to pay for any such improvement as provided by law.

(04/03/2000)

CHARTER ORDINANCE 20

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-304 AND K.S.A. 13-513, AND PROVIDING SUBSTITUTE PROVISIONS ON THE SAME SUBJECTS; AND REPEALING AND AMENDING SECTION 3 OF CHARTER ORDINANCE 13 RELATING TO A VACANCY IN THE OFFICE OF MAYOR.

Section I. That Section 3 of Charter Ordinance 13 is hereby repealed and amended to read as follows:

Section III: In every other odd numbered year, a Mayor for the City of Prairie Village shall be elected from the City at large. Once elected, the Mayor shall hold office for four (4) years and until a successor is elected and qualified. The Mayor elected in 1999 shall have a term expiring in 2003.

In case of a vacancy occurring by reason of resignation, death, removal from office or the Mayor no longer residing in the City, the President of the Council will fill the vacancy by serving as Mayor until the Council elects a new Mayor. The Council shall elect, by a majority of those Council Members present, a new Mayor from those Council Members serving at the time of the vacancy within thirty (30) days of the vacancy to serve until the next regularly scheduled City election. The vacancy in the Council created by the Council electing a new Mayor will be filled in accordance with Section 2.08.030 of the Prairie Village Municipal Code.

(06/18/2001)

CHARTER ORDINANCE 21

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM THE PROVISIONS OF K.S.A. 47-712 WHICH PROHIBITS ALCOHOLIC LIQUOR SALE ON SUNDAY AND CERTAIN HOLIDAYS, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS AUTHORIZING THE CITY OF PRAIRIE VILLAGE, KANSAS, TO ALLOW ALCOHOLIC LIQUOR SALES ON SUNDAY AND SPECIFIED HOLIDAYS.

WHEREAS, the City of Prairie Village, Kansas, is authorized to exercise the powers, functions and duties of the city of the first class, including home rule powers in the manner and subject to the limitations provided by Article 12, Section 5 of the Constitution of the State of Kansas; and

WHEREAS, K.S.A. 41-712 was adopted in 1949 as part of an enactment in Chapter 242 of the Session Laws that contained statutes that were non-uniform; and that the City of Prairie Village has the authority to exempt itself from the provisions of said statute.

Section One: The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and does exempt itself from and make inapplicable to it the provisions of K.S.A. 41-712 which applies to this city but is part of enactment commonly known as Kansas Liquor Control Act, as enacted in Chapter 242 of the Session Laws of 1949, which enactment applies to this city but does not apply uniformly to all cities.

Section Two: The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby enacts the following substitute and additional provisions in lieu of those provisions from which it is exempted pursuant to Section One above:

Sale at retail; forbidden on certain days; hours of sale, exception No person shall sell at retail any alcoholic liquor: (1) before 9:00 a.m. or after 11:00 p.m. Monday through Saturday; or (2) before 11:00 a.m. or after 8:00 p.m. on Sunday, Memorial Day, Independence Day, or Labor Day; or (3) on Christmas Day or Thanksgiving Day.

(07/07/2003)

CHARTER ORDINANCE 22

A CHARTER ORDINANCE REPEALING CHARTER ORDINANCE NO. 12 OF THE CITY OF PRAIRIE VILLAGE, KANSAS AND FURTHER EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM K.S.A. 13-1017 AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS TO ESTABLISH A UNIFORM POLICY FOR BID SOLICITATION, PURCHASE ORDER SYSTEM AND APPROVAL IN ESTABLISHING A BID PROCEDURE FOR PUBLIC IMPROVEMENT PROJECTS.

Section 1. The City of Prairie Village, Kansas, hereby repeals Charter Ordinance No. 12.

Section 2. The City of Prairie Village, Kansas, a Mayor-Council city of the first class by the powers vest in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself and make inapplicable to it all of the provisions of K.S.A. 13-1017, relating to public improvements, estimates of the cost to such improvements, contracts, bids, bond issue and when.

Section 3. The City Council of the City of Prairie Village, Kansas, shall from time to time adopt a policy that provides a procedure for determining when bids are required on public improvement projects and, further, adopt a procedure in determining when construction cost estimates are required and how they are received for public improvement projects. This policy shall be reviewed and amended from time to time by the City Council of this City.

(02/06/2006)

CHARTER ORDINANCE NO. 23

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, JOHNSON COUNTY, KANSAS, FROM THE PROVISIONS OF THE WATER POLLUTION CONTROL ACT, K.S.A. 12-3101 THROUGH K.S.A. 12-3107, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS RELATING TO THE ESTABLISHMENT, OPERATION, MAINTENANCE, IMPROVEMENT, AND REGULATIONS OF SEWER SYSTEMS, INCLUDING BUT NOT LIMITED TO, STORM AND SURFACE WATER DRAINAGE SYSTEMS AND FLOOD PROTECTION WORKS, AND TO THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING FOR THE PROPERTY AND IMPROVEMENTS NECESSARY FOR ALL ASPECTS OF THE MANAGEMENT OF THESE SYSTEMS.

WHEREAS, the City of Prairie Village, Johnson County, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, may exempt itself from the provisions of statutory enactment that is not uniformly applicable to all cities, and may adopt substitute and additional provisions thereto; and

WHEREAS, the Water Pollution Control Act, K.S.A. 12-3101, et seq., is applicable to the City, but not uniformly applicable to all cities;

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

SECTION 01 EXEMPTION OF KANSAS STATUTES

- A. The City of Prairie Village, Johnson County, Kansas (the "City"), by virtue of the powers vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt itself and make inapplicable to it Sections 12-3101, 12-3102, 12-3103, 12-3104, 12-3105, 12-3106, and 12-3107 of the Kansas Statutes Annotated, which apply to the City, acting as a city of the first class, and which are not uniformly applicable to all cities, and the City hereby provides further substitute and additional provisions as set forth herein.

SECTION 02 DEFINITIONS

- A. For the purpose of this Chapter Ordinance, the following words and phrases shall have the meaning ascribed to them in this section:
- a. "Person" shall mean any person, firm, corporation, association, partnership, political unit, or organization.
 - b. "Sewer", "Sewer System", and "Sewer Systems" shall mean surface water and storm sewers that exist at the time this Charter Ordinance is adopted or that are hereafter established and all appurtenances necessary in the maintenance, operation, regulation, and improvements of the same, including, but not limited to, pumping stations; enclosed sewer systems; outfall sewers; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; other Stormwater conveyances; detentions and retention facilities; and other flood control facilities and works for the collection, conveyance, pumping, treating, controlling, managing and disposing of water carried pollutants or storm or surface water.
 - c. "Stormwater Customer" shall mean the owner of any real property served or benefited, whether voluntarily or involuntarily, by the function of any Sewer, Sewer System, or Sewer Systems, which captures, controls, conveys, discharges, manages, or regulates the flow or water quality of storm and surface waters within and

from the City, or is served or benefited by the administration, activities and operation of the Stormwater Management Program of the City. This service or benefit shall include, but not be limited to, capturing, controlling, conveying, discharging, improving, managing and regulating the flow and water quality of storm and surface water from a property or from other properties situated at higher or lower elevations that might otherwise be subservient in right, and the administrative, planning, technical, regulatory and enforcement actions necessary to provide these services and/or benefits.

- d. "Stormwater Management Program" means all aspects of work necessary to perform and provide storm and surface water services in the City, including but not limited to administration, planning, engineering, operations, maintenance, best management practices, control measures, public education, citizen participation, regulation and enforcement, protection, and capital improvements, plus such non-operating expenses as reserves and bond debt service coverage as are associated with provision of the Stormwater Management Program.
- e. "Stormwater Management System" means surface water and storm sewers and all appurtenances necessary in the maintenance, operation, regulation, and improvement of the same, including, but not limited to, pumping stations; enclosed storm sewers; outfall sewers; surface drains; street, curb and alley improvements associated with storm or surface water improvements; natural and manmade wetlands; channels; ditches; rivers; streams; detention and retention facilities; and other flood control facilities and works for the collection, conveyance, pumping, infiltration, treating, controlling, managing and disposing of water carried pollutants or storm or surface water.

SECTION 03 SEWER SYSTEMS: POWERS OF THE CITY

- A. The City shall have all powers necessary or convenient to plan, study, design, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, protect, manage, and regulate and enforce the proper use of a Sewer System or Sewer Systems, including the powers that the City may, from time to time, establish by way of ordinances, and/or resolutions adopted by the Governing Body of the City and including, but not by way of limitation, the following powers:
- B. To impose service, user, impact, in lieu of construction, buy in and plan review and inspection fees, special assessments, system development and other charges and/or taxes of Stormwater Customers. The method of calculating and fixing these charges and/or taxes shall be as established by regular ordinance or by rules and regulations heretofore or hereafter adopted;
- C. To provide that charges and/or taxes authorized herein, may be certified by the City Clerk to the County Clerk of Johnson County, Kansas, to be placed on the tax roll for collection, subject to the same penalties and to be collected in like manner as taxes;
- D. To use the proceeds of the charges and/or taxes authorized herein, together with any other available revenues, to pay costs of the Stormwater Management Program, including, but not limited to, the costs to plan, study, design, engineer, and operate the Stormwater Management Program, and to plan, study, design, engineer, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, manage, protect, acquire real or personal property by purchase, lease, donation, condemnation, or otherwise for, and regulate and enforce the use of a Sewer System or Sewer Systems;

- E. To use and to pledge the proceeds of the charges and/or taxes authorized herein and any available taxes, to pay the principal and interest on general obligation or revenue bonds heretofore or hereafter issued; and pending the issue of the general obligations bonds or revenue bonds to issue temporary financing for these purposes;
- F. To contract with agencies of the federal government, the State of Kansas, other states, counties, cities, drainage districts, public bodies of the state, or other states, or with any person to jointly plan, study, design, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate maintain, protect, acquire real or personal property by purchase, lease, donation, condemnation, or otherwise for a Sewer System or Sewer Systems; regulate the use of a Sewer System or Sewer Systems; and to plan, study, design, engineer, operate, administer, maintain, and manage the Stormwater Management Program;
- G. To contract with agencies of the federal government, the State of Kansas, other states, counties, cities, drainage districts, public bodies of the state, or other states, or with any person for receiving and treating storm or surface water from outside the limits of the City;
- H. To carry out the Stormwater Management Program, including, but not limited to, the power to plan study, design, engineer, design, administer, manage, and operate the Stormwater Management Program and to plan study, design, engineer, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, manage, protect, acquire real or personal property by purchase, lease, donation, condemnation, or otherwise for, and regulate and enforce the use of a Sewer System or Sewer Systems;
- I. To borrow money and to apply for and accept advances, loans, grants, contributions, or any other form of financial assistance from the federal government, the State of Kansas, other states, counties, cities, drainage districts, or any other public body for the purposes of this act, and the City may, when contracting with the federal government for financial assistance, include in any contract the conditions impose pursuant to federal law as the City may deem reasonable and appropriate;
- J. To, under the authority granted herein, establish a stormwater utility to be accounted for as separate enterprise fund or special revenue fund of the City, as deemed reasonable and appropriate by the Governing Body of the City; and
- K. To utilize any mechanism deemed reasonable and appropriate by the Governing Body of the City to deliver billings to Stormwater Customers for services.

SECTION 04 RULES AND REGULATIONS AUTHORIZED:

- A. The City shall have the power by ordinance or resolution to adopt rules and regulations that shall relate to the management and operation of its Stormwater Management Program and Sewer System or Sewer Systems; the method of calculating and fixing the charges and/or taxes applicable to properties served by the Sewer System or Sewer Systems or activities associated therewith; security for the payment thereof, and methods and rules of collection; and the disposition of the revenue therefrom. In the event any person by the City's Sewer System or Sewer Systems shall neglect, fail, or refuse to pay service fees fixed by the Governing Body of the City, as authorized by rules and regulations adopted under authority of this section and if a billing system has been established for the delivery and collection of service fees, the City may take any action authorized by law to collect any fees that are due and owing.

SECTION 05 ISSUANCE OF SEWER SYSTEM REVENUE BONDS

- A. The Governing Body of the City shall have the power to use any unencumbered municipal revenues or to issue revenue bonds from time to time in its discretion, without an election, to finance the planning, altering, enlarging, extending improving, constructing and reconstructing of a Sewer System or Sewer Systems under this Charter Ordinance. These bonds shall be made payable, as to both principal and interest, solely from the income, proceeds, revenues, and funds of the City derived from or held in connection with its Sewer System or Sewer Systems; provided, however, that payments on these bonds, both as to principal and interest, may be further secured by a pledge of other unencumbered municipal revenues and of any loan, grant or contribution from the federal government, the State of Kansas, other states, counties, cities, drainage districts, public bodies of the state or other states or any person.
- B. Bonds issued under this section shall constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and shall not be subject to the provisions of any other law relating to the authorization, issuance or sale of bonds. Bonds issued under the provisions of this Charter Ordinance are declared to be issued for an essential public and governmental purpose and, together with interest thereon and income therefrom, shall be exempted from all taxes.
- C. Bonds issued under this section shall be authorized by ordinance or resolution of the governing body and may be issued in one or more series and shall bear such date or dates, be payable of demand or mature at such time or times, bear interest at such rate or rates, not exceeding the maximum rate of interest prescribed by K.S.A. 10-1009, be in such denomination or denominations, be in such form, have such rank or priority, be executed in such manner, and be subject to such terms of redemption (with or without premium), be secured in such manner, and have such other characteristics as may be provided by such ordinance or resolution.
- D. Pending the issuance of revenue bonds authorized by this Charter Ordinance, the Governing Body of the City may issue revenue anticipation bonds of the City for the purpose of providing interim financing for a project, these revenue anticipation bonds being payable from revenue bonds issued to provide permanent financing for activities authorized by this Charter Ordinance and the income, proceeds, revenues and funds of the City derived from or held in connection with its Sewer System or Sewer Systems.

SECTION 06 POWERS SUPPLEMENTAL AND ADDITIONAL

- A. The power granted herein with respect to the Stormwater Management Program, including, but not limited to the power to plan, study, design, engineer, alter, enlarge, extend, improve, construct, reconstruct, develop, redevelop, operate, maintain, manage, protect, acquire real or personal property by purchase, lease, donation, condemnation, or otherwise for, and regulate the use of a Sewer System or Sewer Systems and to issue bonds shall be supplemental to and not amendatory of the provisions of all other laws heretofore or hereafter in force and shall not be construed to limit the City's authority under the provisions of any other laws.

SECTION 07 SEVERABILITY

- A. In the event that any portion or section of this Charter Ordinance is determined to be invalid, illegal or unconstitutional by a court of competent jurisdiction, that decision shall not in any manner affect the remaining portions of this section of this ordinance or chapter which shall remain in full force and effect.

(4/21/2008)

CHARTER ORDINANCE NO. 24

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 25-2108a, AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO THE REQUIREMENTS FOR PRIMARY ELECTIONS FOR CITY OFFICERS

Section I. The City of Prairie Village, Kansas, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to exempt itself and make inapplicable to it the provisions of K.S.A. 25-108s and any amendments thereto, which is applicable to the City of Prairie Village but the act of which it is a part is not uniformly applicable to all cities, and the City hereby provides further substitute and additional provisions as set forth herein.

Section 2. Primary Elections

- (a) There shall be a primary election of city officers on the Tuesday preceding by five weeks the first Tuesday in April of every year that the City of Prairie Village has a city election, except as otherwise provided in subsection (b) of this section.
- (b) No primary election for city officers shall be held unless by holding such primary one (1) or more persons will be eliminated as candidates for office. In the event there are not more than two (2) candidates for any one office, the names of the candidates for such office shall not appear on the primary election ballots, and there shall be no primary election for city officers, but the names of such candidates shall be placed on the general city election.

Adopted by the Governing Body June 15, 2009.

CHARTER ORDINANCE NO. 25

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS FROM THE PROVISIONS OF K.S.A. 13-1024a AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO GENERAL IMPROVEMENTS AND THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING FOR SAID IMPROVEMENTS.

WHEREAS, Article 12, Section 5 of the Constitution of the State of Kansas (the "Act"), provides that cities may exercise certain home rule powers, including passing charter ordinances which exempt such cities from non-uniform statutes and acts of the Kansas Legislature; and

WHEREAS, the City of Prairie Village, Kansas (the "City") is a City, as defined in the Act and is a City of the first class, duly created and organized, under the laws of the State of Kansas; and

WHEREAS, K.S.A. 13-1024a is part of an enactment of the Kansas Legislature (K.S.A. 13-1024a et seq.) relating to general improvements and the issuance of bonds for such purposes, which enactment is applicable to the City, but is not uniformly applicable to all cities within the State of Kansas; and

WHEREAS, the Governing Body of the City desires, by charter ordinance, to exempt the City from the provisions of K.S.A. 13-1024a, and to provide substitute and additional provisions therefore.

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

SECTION 1. Exemption - K.S.A. 13-1024a. The City of Prairie Village, Kansas (the "City") by virtue of the powers vested in it by the Act, hereby elects to exempt itself from and hereby makes inapplicable to it the provisions of K.S.A. 13-1024a, and does hereby provide the following substitute and additional provisions in place thereof:

For the purpose of paying for any bridge, viaduct, street, sidewalk or pedestrian way improvement, airport, public building or structure, parking improvement, or other public utility or works, including any appurtenances related thereto and the land necessary therefore, for lands for public parks and recreation facilities, including golf courses, stadiums and community centers, and developing and making improvements to the same, within or without the city, for the establishment, development and construction of crematories, desiccating or reduction works, including any appurtenances related thereto and the land necessary therefore, within or without the city, or for the improvement, repair or extension of any waterworks, sanitary sewer facilities, sewage treatment or disposal plant, sewerage system, storm water improvement, electric light plant, crematory, desiccating or reduction works or other public utility plant or works owned by the city, and for the purpose of rebuilding, adding to or extending to the same or acquiring land necessary therefore from time to time, as the necessities of the city may require, or for the acquisition of equipment, vehicles and other personal property to be used in relation to any of the improvements authorized herein, the city may borrow money and issue its general obligation bonds and/or temporary notes for the same.

SECTION 2. Severability. If any provision or section of this Charter Ordinance is deemed or ruled unconstitutional or otherwise illegal or invalid by any court of competent jurisdiction, such illegality or invalidity shall not affect any other provision of this Charter Ordinance. In such instance, this Charter Ordinance shall be construed and enforced as if such illegal or invalid provision had not been contained herein.

SECTION 3. Effective Date. This Charter Ordinance shall be published once a week for two consecutive weeks in the official City newspaper, and shall take effect sixty-one (61) days after final publication, unless a petition signed by a number of electors of the City equal to not less than ten percent (10%) of the number of electors who voted at the last preceding regular City election shall be filed in the office of the City Clerk, demanding that this Charter Ordinance be submitted to a vote of the electors, in which event this Charter Ordinance shall take effect when approved by a majority of the electors voting at an election held for such purpose.

PASSED with at least a two-thirds (2/3) vote of the entire Governing Body of the City of Prairie Village, Kansas, on August 3, 2009. This ordinance is currently under appeal.

CHARTER ORDINANCE NO. 26

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-513 AND K.S.A. 12-104a, WHICH RELATE TO VACANCIES IN THE OFFICE OF MAYOR OR COUNCIL MEMBER, AND FROM K.S.A. 25-2108a RELATING TO PRIMARY ELECTIONS, AND REPEALING CHARTER ORDINANCE NOS. 14, 20 AND 24.

Section 1. The City of Prairie Village, by the power vested in it by Article 12, Section 5 of the Constitution of the State of Kansas, hereby elects to and exempts itself from and makes inapplicable to it K.S.A. 13-513 and K.S.A. 12-104a relating to the filling of governing body vacancies, and K.S.A. 25-2108a relating to primary elections, which

enactments apply to this City, but do not apply uniformly to all cities, and provides substitute and additional provisions as hereafter set forth.

Section 2. Substitute and additional provision on the subjects addressed by K.S.A. 13-513 and K.S.A. 12-104a relating to the filling of governing body vacancies, and K.S.A. 25-2108a relating to primary elections, are and will be contained in one or more ordinary ordinances.

Section 3. Charter Ordinance Nos. 14, 20 and 24 or other City ordinances, in conflict herewith are hereby repealed.

(11-2-2015)

CHARTER ORDINANCE NO. 27

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF SUBPARAGRAPHS (b) AND (f) OF K.S.A. 12-1696, SUBPARAGRAPH (a) OF K.S.A. 12-1697 AND FROM THE PROVISIONS OF SUBPARAGRAPH (e) OF K.S.A. 12-1698, WHICH RELATE TO THE LEVY OF A TRANSIENT GUEST TAX, TO CERTAIN DEFINITIONS, TO THE MAXIMUM RATE THEREOF, AND TO THE PURPOSES FOR WHICH TRANSIENT GUEST TAX REVENUES MAY BE SPENT; AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECTS.

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

Section 1. The City of Prairie Village, Kansas, is a city of the first class, and by the power vested in it by Article 12, Section 5, of the Constitution of the State of Kansas, hereby elects to exempt, and does hereby exempt, itself from, and makes inapplicable to it, the provisions of subparagraphs (b) and (f) of K.S.A. 12-1696, subparagraph (a) of K.S.A. 12-1697 and the provisions of subparagraph (e) of K.S.A. 12-1698, which relate to the levy of a transient guest tax, to the definitions of "hotel, motel or tourist court" and "accommodations broker", to the levy and maximum rate thereof, and to the purposes for which transient guest tax revenues may be spent, and hereby provides substitute and additional provisions on the same subjects as set forth herein. The referenced statutes are not uniformly applicable to all cities in Kansas.

Section 2. The following is hereby substituted for the provisions of K.S.A. 12-1696(b) and K.S.A. 12-1696(f):

As used in this Charter Ordinance, the following words and phrases shall have the meanings respectively ascribed to them herein:

"Hotel, motel or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having six or more bedrooms furnished for the accommodation of such guests.

"Accommodations broker" means any business which maintains an inventory of six or more bedrooms in one location which are offered for pay to a person or persons for not more than 28 consecutive days.

Section 3. A transient guest tax of nine percent (9%) is hereby levied upon the gross receipts derived from or paid directly or through an accommodations broker by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court located within the City of Prairie Village. The percentage of such transient guest tax may hereafter be determined by the Governing body by ordinary ordinance.

Section 4. Revenues received by the City from the transient guest tax shall be expended for all, or any portion of, community, economic development and cultural activities which encourage or which are deemed to result in increased economic development, visitors and tourism for the City, and to the payments of principal and interest on bonds issued by the City, including bonds issued pursuant to K.S.A. 12-1774.

Section 5. All other provisions of K.S.A. 12-1696, K.S.A. 12-1697 and K.S.A. 12-1698, not exempted hereby, shall remain the same.

(12-7-2015)

CHARTER ORDINANCE NO. 28

A CHARTER ORDINANCE EXEMPTING THE CITY OF PRAIRIE VILLAGE, KANSAS, FROM THE PROVISIONS OF K.S.A. 13-1024a AND PROVIDING SUBSTITUTE AND ADDITIONAL PROVISIONS ON THE SAME SUBJECT RELATING TO GENERAL IMPROVEMENTS AND THE ISSUANCE OF BONDS FOR THE PURPOSE OF PAYING FOR SAID IMPROVEMENTS; AND REPEALING CHARTER ORDINANCE NO. 25.

Section 1. Exemption - K.S.A. 13-1024a. The City by virtue of the powers vested in it by the Act, hereby elects to exempt itself from and hereby makes inapplicable to it the provisions of K.S.A. 13-1024a, and does hereby provide the following substitute and additional provisions in place thereof:

For the purpose of paying for any bridge, viaduct, street, sidewalk or pedestrian way improvement, airport, public building or structure, parking improvement, or other public utility or works, including any appurtenances related thereto and the land necessary therefor, for lands for public parks and recreation facilities, including golf courses, stadiums and community centers, and developing and making improvements to the same, within or without the city, for the establishment, development and construction of crematories, desiccating or reduction works, including any appurtenances related thereto and the land necessary therefor, within or without the city, or for the improvement, repair or extension of any streetlights, waterworks, sanitary sewer facilities, sewage treatment or disposal plant, sewerage system, storm water improvement, electric light plant, crematory, desiccating or reduction works or other public utility plant or works owned by the city, and for the purpose of rebuilding, adding to or extending to the same or acquiring land necessary therefor from time to time, as the necessities of the city may require, or for the acquisition of equipment, vehicles and other personal property to be used in relation to any of the improvements authorized herein, the city may borrow money and issue its general obligation bonds and/or temporary notes for the same.

(7-18-2016)

CHARTER ORDINANCE NO. 29

A CHARTER ORDINANCE OF THE CITY OF PRAIRIE VILLAGE, KANSAS, KANSAS, RELATING TO TRANSIENT GUEST TAX LEVY, EXEMPTING THE CITY FROM THE PROVISIONS OF K.S.A. 12-1696 THROUGH 12-1698a, INCLUSIVE, PROVIDING FOR ADDITIONAL AND SUBSTITUTE PROVISIONS ON THE SAME SUBJECT, AND REPEALING CHARTER ORDINANCE NO. 27.

SECTION 1. That pursuant to the provisions of Section 5(c) of Article Twelve (12) of the Constitution of the State of Kansas, the City of Prairie Village, Kansas, hereby exempts itself from the provisions of K.S.A. 12-1696 through 12-1698a, inclusive, and adopts the following additional and substitute provisions:

- a. As used in this Charter Ordinance, the following words and phrases shall have the meanings respectively ascribed to them herein:
 - i. "Person" means an individual, firm, partnership, corporation, joint venture or other association of persons;
 - ii. "Hotel, motel or tourist court" means any structure or building which contains rooms furnished for the purposes of providing lodging, which may or may not also provide meals, entertainment or various other personal services to transient guests, and which is kept, used, maintained, advertised or held out to the public as a place where sleeping accommodations are sought for pay or compensation by transient or permanent guests and having six or more bedrooms furnished for the accommodation of such guests. The terms shall not include group homes (as defined by K.S.A. 12-736, as amended).
 - iii. "Transient guest" means a person who occupies a room in a hotel, motel or tourist court for not more than 28 consecutive days;
 - iv. "Business" means any person engaged in the business of renting, leasing or letting living quarters, sleeping accommodations, rooms or a part thereof in connection with any motel, hotel or tourist court;
 - v. "Accommodations broker" means any business which maintains an inventory of six or more rooms in one or more locations which are offered for pay to a person or persons for not more than 28 consecutive days.
- b. In order to provide revenues to promote tourism and conventions, the governing body of the City of Prairie Village, Kansas (City) is hereby authorized to levy, and the City hereby does levy, a transient guest tax at not to exceed the rate of nine percent (9%) upon the gross receipts derived from or paid directly or through an accommodations broker by transient guests for sleeping accommodations, exclusive of charges for incidental services or facilities, in any hotel, motel or tourist court located within the City of Prairie Village. The percentage of such transient guest tax may hereafter be determined by the Governing body by ordinary ordinance.
- c. Any transient guest tax levied pursuant to this section shall be based on the gross rental receipts collected by any business or accommodations broker.
- d. The transient guest taxes levied pursuant to this section shall be paid by the consumer or user to the business and it shall be the duty of each and every business to collect from the consumer or user the full amount of any such tax, or an amount equal as nearly as possible or practicable to the average equivalent thereto. Each business collecting any of the taxes levied hereunder shall be responsible for paying over the same to the City, and the City shall administer and enforce the collection of such taxes. To the extent the City timely and actually receives transient guest taxes from a third-party provider or platform (whether pursuant to a

voluntary collection agreement or otherwise), then a business shall not be responsible for payment of transient guest taxes; provided, that to the extent transient guest taxes are not so timely or actually received, the business will remain responsible for payment of transient guest taxes.

- e. The collection of any City transient guest tax authorized to be levied pursuant to this section has previously commenced under previous Charter Ordinance No. 27, and shall continue as of the effective date of this Charter Ordinance.
- f. Any tax levied and collected shall become due and payable by the business monthly, on or before the 25th day of the month immediately succeeding the month in which it is collected, with the first payment due and payable on or before the 25th day of the month specified in the resolution of the governing body which levies the tax. Each business shall make a true report to the City, on a form prescribed by the City Clerk, providing such information as may be necessary to determine the amounts to which any such tax shall apply for all gross rental receipts for the applicable month or months, which report shall be accompanied by the tax disclosed thereby. Records of gross rental receipts shall be kept separate and apart from the records of other retail sales made by a business in order to facilitate the examination of books and records as provided herein.
- g. The City Clerk or the City's authorized representative shall have the right at all reasonable times during business hours to make such examination and inspection of the books and records of a business as may be necessary to determine the accuracy of such reports.
- h. The City Clerk is hereby authorized to administer and collect any transient guest tax levied pursuant to this Charter Ordinance and to adopt such procedures as may be necessary for the efficient and effective administration and enforcement of the collection thereof. Whenever any business liable to pay any transient guest tax refuses or neglects to pay the same, the amount, including any penalty, shall be collected in the manner prescribed for the collection of the transient guest tax by the Code of Ordinances and amendments thereto. All of the taxes collected under the provisions of this Charter Ordinance shall be remitted by the City to the City Clerk in accordance with the provisions of the Code of Ordinances, and amendments thereto. Upon receipt of each such remittance, the City Clerk shall deposit the entire amount in the City treasury, and the city treasurer shall credit 2% of all taxes so collected to the City general fund to defray the expenses of the department in administration and enforcement of the collection thereof. The remainder of such taxes shall be credited to the City transient guest tax fund, which fund is hereby established.
- i. Revenues received by the City from the transient guest tax shall be expended for all, or any portion of, community, economic development and cultural activities which encourage or which are deemed to result in increased economic development, visitors and tourism for the City, and to the payments of principal and interest on bonds issued by the City, including bonds issued pursuant to K.S.A. 12-1774.
- j. Interest and penalties for failure to pay or untimely payment of transient guest tax shall be as follows:
 - i. If any taxpayer shall fail to pay the tax levied pursuant to this Charter Ordinance, and amendments thereto, there shall be added to the unpaid balance of the tax, interest at the rate per month prescribed by the Code of Ordinances, and amendments thereto, from the date the tax was due until paid.
 - ii. If any taxpayer due to negligence or intentional disregard fails to pay the tax due at the time required by or under the provisions of this Charter Ordinance, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 10% of the unpaid balance of tax due.

- iii. If any person fails to pay any tax, within sixty (60) days from the date the return or tax was due, except in the case of an extension of time granted by the city manager, there shall be added to the tax due a penalty equal to 25% of the amount of such tax.
- iv. If any taxpayer, with fraudulent intent, fails to pay any tax or make, render or sign any return, or to supply any information, within the time required by or under the provisions of this Charter Ordinance, and amendments thereto, there shall be added to the tax a penalty in an amount equal to 50% of the unpaid balance of tax due.
- v. Penalty or interest applied under the provisions of subsections j.i and j.iv shall be in addition to the penalty added under any other provisions of this section, but the provisions of subsections j.ii and j.iii shall be mutually exclusive of each other.
- vi. The failure of the taxpayer to comply with the provisions of subsections j.ii and j.iii was due to reasonable causes and not willful neglect; the city administrator may waive or reduce any of the penalties upon making a record of the reasons therefor.
- vii. For serious or repeated and/or continuous violations of any of the requirements of this Charter Ordinance, or for interference with the City staff performance of duties, any license to operate or conduct business as a hotel, motel, or tourist court may be suspended and/or permanently revoked after an opportunity for a hearing before the City Council has been provided. Prior to such action, the City Clerk shall notify the license holder in writing, stating the reasons for which the license is subject to suspension and advising that the license shall be temporarily suspended at the end of thirty (30) days following service of such a notice, unless a request for a hearing is filed with the City Clerk, by the license holder, within ten (10) days.
- viii. Hearings provided for in this Charter Ordinance shall be conducted by the City Council at a time and place designated by the City Council. Based upon the record of such hearing, the City Council shall make a finding and shall sustain, modify, or rescind any official notice or order considered in the hearing. A written report of the hearing decision shall be furnished to the license holder by the City Clerk.
- ix. In addition to all other penalties provided by this section, any person who willfully fails to pay any tax imposed under this Charter Ordinance, and amendments thereto, or who makes a false or fraudulent return, or fails to keep any books or records necessary to determine the accuracy of the person's reports, or who willfully violates any regulations of the City, for the enforcement and administration of the provisions of this Charter Ordinance, inclusive, and amendments thereto, or who aids and abets another in attempting to evade the payment of any tax imposed or who violates any other provision of this Charter Ordinance, inclusive, and amendments thereto, shall, upon conviction thereof, be fined not less than \$100.00 nor more than \$1,000.00, or be imprisoned in the city county jail not less than one (1) month nor more than six (6) months, or be both so fined and imprisoned, in the discretion of the court.

SECTION 2. Charter Ordinance No. 27 is hereby deleted and repealed in its entirety.

(7-20-2020)