

Zoning Regulations

*As adopted by the City Council – July 17, 1995
Effective Date: February 1, 2019
(including Amendments through 2/1/2019)*

prepared for:

Prairie Village, Kansas

prepared by:

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CORPORATION

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**Adopted by the City Council July 17, 1995
Effective Date: February 1, 2019
(including Amendments through 10/01/2018)**

CHAPTER 19.01 - GENERAL PROVISIONS

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19.01.050	Vesting of Development Rights.

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 ordinance 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 ordinance 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 ordinance, whether or not such other provisions of the Code are specifically cross-referenced in this ordinance. Cross-references to other

Chapter 19.01 – General Provisions

provisions of the Code in this ordinance 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 ordinance 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 ordinance and any amendment thereto be in conformity with adopted planning policies, the City hereby expresses its intent that neither this ordinance 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 ordinance 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 ordinance are more restrictive or impose higher standards than any such private restriction, the requirements of this ordinance shall control. Where the provisions of any private restriction are more restrictive or impose higher standards than the provisions of this ordinance, 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 ordinance 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 ordinance.

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 ordinance 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 or by imprisonment for not more than six months for each offense or both such fine and imprisonment. Each day's violation of this ordinance 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 ordinance 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 ordinance, or any building, structure or land is proposed to be used in violation of this ordinance, 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 (5) 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.

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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.

19.02.030 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.

19.02.050 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.

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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 (4) 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 (6) unrelated children or more than two (2) adults for up to twelve (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 (6) or less unrelated children or not more than two (2) adults for up to twelve (12) hours of any 24-hour day. (Ord 2208, Sec. II, 2009)

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)

Chapter 19.02 – Definitions

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 fifty per cent of the income is generated from the sale of food consumed on the premises.

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 ordinance. (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 10 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.

Chapter 19.02 – Definitions

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 forty 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.

19.02.295 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, chiropodists, naturopaths, optometrists, dentists or any such profession, the practice of which is licensed in the State.

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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 (3) 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.

19.02.400 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.

19.02.410 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.

19.02.420 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 fifty percent of the income is derived from the sale of food. "Restaurant" includes, but is not limited to, cafe, cafeteria, grill, pizza parlor, diner, snack shop, hamburger shop and steakhouse.

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.

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- 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. (Ord. 2190, Sec. II, 2009)

All existing utility boxes are nonconforming structures and have all rights granted by Chapter 19.40 “Nonconformities”. Utility boxes are exempt from Section 19.40.015B Enlargement, Repair and Maintenance and Section 19.40.015C 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)

19.02.505 Wellness Center.

"Wellness Center" means a single purpose or dual-purpose facility for providing therapy or fitness services on an individual basis rather than on a group basis, by appointment for services such as physical therapy, weight lifting, massage therapy, and fitness exercises. Each masseuse/masseur shall be licensed in accordance with the requirements of the Municipal Code.

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 twenty-five 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.

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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

Sections:

- 19.04.005 Districts Designated.
- 19.04.010 Boundaries-Zoning map.
- 19.04.015 Platted lot, block lines.
- 19.04.020 District Classification-Vacated street, Alley.
- 19.04.025 District Classification-Annexations.
- 19.04.030 Restrictions.

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

Chapter 19.04 – Districts and District Maps

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

Sections:

- 19.06.005 Purpose and Intent.
- 19.06.010 Use Regulations.
- 19.06.015 Development Standards.**
- 19.06.020 Accessory Buildings and Structures.**
- 19.06.025 Neighborhood Design Standards.**
- 19.06.045 Parking Regulations.
- 19.06.050 Site Plan Approval and Public Notice.**

19.06.005 Purpose and Intent.

Prairie Village is, for the most part, a single-family residential community. Approximately 45% 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. (Ord. 1882, Sec. 2, 1995)

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.

In District R-1a, no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, altered or converted except for one or more of the following uses:

- A. Single family dwellings;
- B. Golf courses, except for miniature golf and commercial driving ranges;
- C. Publicly owned parks and recreation areas;
- D. Churches and synagogues;
- E. City Hall, police, fire stations;
- F. Publicly owned libraries, museums, art galleries;

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- G. Public schools, college and university educational centers operated by a local district or state agency;
 - H. Group Homes;
 - I. Residential design manufactured homes;
 - J. Accessory uses as provided for and regulated in Chapter 19.34;
 - K. Conditional Use Permits as provided for and regulated in Chapter 19.30;
 - L. Special Use Permits as provided for and regulated in Chapter 19.28.
- (Ord. 1882, Sec. 2, 1995)

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

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- 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 10 feet high. The building shall be setback at least 3 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 3 feet from the side and rear property line, except that any portion of the structure above 10 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 3 feet from the property, provided they are under 10 feet high; however any portion between 10 feet and 20 feet must be stepped back at least 1/3 the height. (Ord. 2392, Sec. 2, 2018)

B. Non-residential Uses. Non-residential uses permitted in residential districts shall be allowed one accessory building for each 1 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. (Ord. 2392, Sec. 2, 2018)

C. Building Coverage. All accessory buildings and structures over 30 inches high shall count towards the overall 30% 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.

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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 than reduces the perceived massing from the streetscape and abutting lots. (Ord.2392, Sec. 2, 2018)

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 street 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. (Ord. 2392, Sec. 2, 2018)

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. *Street Trees.* All lots shall have at least one street 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 trees in the right of way or 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. Street trees shall be selected from the latest version of *Great Trees for the Kansas City Region*, large street tree list, or other list officially adopted by the Tree Board.
 - c. Street trees shall be at least 2.5-inch caliper at planting.
 - d. Street 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:
 - (1) On center between the sidewalk and curb where at least 6 feet of landscape area exists;
 - (2) 4 feet to 8 feet from the back of curb where no sidewalk exists; or
 - (3) Within the first 15 feet of the front lot line where any constraints on the lot or in the right-of-way would prevent other preferred locations.

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2. *Green Space.* Lots shall maintain at least 60% 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% to allow for safe access and parking, provided the total lot impervious surface limit is maintained. (Ord. 2392, Sec. 3, 2018)

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. 15% on all front elevation or any street facing side elevation; and
 - b. 8% on other side elevations; and
 - c. 15% on rear elevations.

Any molding or architectural details integrated with the window or door opening may count for up to 3% 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% of the wall plane. Architectural details may include:
 - (1) Projecting windows, bays or other ornamental architectural details with offsets of a minimum of 1.5 feet.
 - (2) Off-sets of the building mass such as step backs or cantilevers of at least 2 feet.
 - (3) Single-story front entry features such as stoops, porticos or porches.
 - (4) 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 4 feet additional setback on at least 25% of the elevation.
3. *Garage Limits.* The following garage door standards maintain a human scale for front facades, create a relationship between the façade 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 9 feet wide for single bays or 18 feet wide for double bays and 8 feet, 2 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
<i>Under 48'</i>	50% of elevation
<i>48' to 60'</i>	24'
<i>Over 60'</i>	40% of elevation

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- 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 2 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
<i>In front up to 4'</i>	Front wall plane for the garage mass shall be limited to 360 s.f. max.
<i>More than 4' but less than 12' in front</i>	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.
<i>12' or more in front</i>	Prohibited, unless side oriented doors. Then, subject to a wall plane limit of no more than 360 square feet.
<i>All others (flush or setback from the main mass)</i>	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. (Ord. 2392, Sec. 2, 2018)

E. Building Foundations.

1. New residential structures shall establish the top of foundation between 6 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 6 inches for every additional 5 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:

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- 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. (Ord.2392, Sec. 2, 2018)

F. Exceptions. The Planning Commission may grant exceptions to the Neighborhood Design Standards in this section 19.06.025 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 19.06.025 A and the intent stated for the particular standard being altered. (Ord. 2392, Sec. 2, 2018)

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

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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)

Chapter 19.08 – District R-1B Single Family Residential District

CHAPTER 19.08 - DISTRICT R-1B SINGLE FAMILY RESIDENTIAL DISTRICT

Sections:

- 19.08.005 Use Regulations.
- 19.08.015 Development Standards
- 19.08.020 Accessory Buildings and Structures
- 19.08.025 Neighborhood Design Standards
- 19.08.040 Parking Regulations.
- 19.08.045 Site Plan Approval and Public Notice

19.08.005 Use Regulations.

In District R-1b, no building, structure, land or premises shall be used, and no building or structure shall be thereafter erected, constructed, reconstructed, moved, altered or converted except for one or more of the following uses:

- A. Single family dwellings;
- B. Golf courses, except for miniature golf and commercial driving ranges;
- C. Publicly owned parks and recreation areas;
- D. Churches and synagogues;
- E. City Hall, police, fire stations;
- F. Publicly owned libraries, museums, art galleries;
- G. Public schools, college and university educational centers operated by a local district or state agency;
- H. Group homes;
- I. Residential-design manufactured homes;
- J. Accessory uses are provided for and regulated in Chapter 19.34;
- K. Conditional Use Permits as provided for and regulated Chapter 19.30;
- L. Special Use Permits as provided for and regulated in Chapter 19.28.

(Ord. 1882, Sec. 3, 1995)

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 19.08A – 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;

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	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 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 19.08.025, 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 10 feet high. The building shall be setback at least 3 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.

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- d. The building shall be setback at least 3 feet from the side and rear property line, except that any portion of the structure above 10 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 3 feet from the property, provided they are under 10 feet high; however any portion between 10 feet and 20 feet must be stepped back at least 1/3 the height. (Ord. 2392, Sec. 3, 2018)
- B. **Non-residential Uses.** Non-residential uses permitted in residential districts shall be allowed one accessory building for each 1 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. (Ord. 2392, Sec. 3, 2018)
- C. **Building Coverage.** All accessory buildings and structures over 30 inches high shall count towards the overall 30% 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 than reduces the perceived massing from the streetscape and abutting lots. (Ord. 2392, Sec. 3, 2018)
- 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 street 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. (Ord. 2392, Sec. 3, 2018)

- 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

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buildings to the streetscape and provide natural elements and green space to compliment development.

1. *Street Trees.* All lots shall have at least one street 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 trees in the right of way or 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. Street trees shall be selected from the latest version of *Great Trees for the Kansas City Region*, large street tree list or other list officially adopted by the Tree Board.
 - c. Street trees shall be at least 2.5-inch caliper at planting.
 - d. Street 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:
 - (1) On center between the sidewalk and curb where at least 6 feet of landscape area exists;
 - (2) 4 feet to 8 feet from the back of curb where no sidewalk exists; or
 - (3) Within the first 15 feet of the front lot line where any constraints on the lot or in the right-of-way would prevent other preferred locations.
 2. *Green Space.* Lots shall maintain at least 60% 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% to allow for safe access and parking, provided the total lot impervious surface limit is maintained. (Ord. 2392, Sec. 3, 2018)
- 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. 15% on front elevation or any street facing side elevation; and
 - b. 8% on other side elevations; and
 - c. 15% on rear elevations.
 Any molding or architectural details integrated with the window or door opening may count for up to 3% 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% of the wall plane. Architectural details may include:
 - (1) Projecting windows, bays or other ornamental architectural details with offsets of a minimum of 1.5 feet.

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- (2) Off-sets of the building mass such as step backs or cantilevers of at least 2 feet.
- (3) Single-story front entry features such as stoops, porticos or porches.
- (4) 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 4 feet additional setback on at least 25% of the elevation.
- 3. **Garage Limits.** The following garage door standards maintain a human scale for front facades, create a relationship between the façade 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 9 feet wide for single bays, or 18 feet wide for double bays and 8 feet, 2 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 19.08 B – Garage Mass Limits	
Front Facade Width	Maximum width of garage mass
<i>Under 48'</i>	50% of elevation
<i>48' to 60'</i>	24'
<i>Over 60'</i>	40% of elevation

- c. No more than 2 bays (2-single or 1 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 2 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
<i>In front up to 4'</i>	Front wall plane for the garage mass shall be limited to 360 s.f. max.
<i>More than 4' but less than 12' in front</i>	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.
<i>12' or more in front</i>	Prohibited, unless side oriented doors. Then, subject to a wall plane limit of no more than 360 square feet.
<i>All others (flush or setback from the main mass)</i>	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. (Ord. 2392, Sec. 3, 2018)

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E. Building Foundations.

1. New residential structures shall establish the top of foundation between 6 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 6 inches for every additional 5 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. (Ord. 2392, Sec. 3, 2018)

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)

Chapter 19.08 – District R-1B Single Family Residential District**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)

19.06.045 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)

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Chapter 19.10 - DISTRICT R-2 TWO FAMILY RESIDENTIAL DISTRICT

Sections:

19.10.005	Use Regulations.
19.10.010	Height and Area Regulations Generally.
19.10.015	Height.
19.10.020	Front Yard.
19.10.025	Side Yard.
19.10.030	Rear Yard.
19.10.035	Lot Width.
19.10.040	Lot Area Per Family.
19.10.045	Minimum Dwelling Size.
19.10.046	Lot Coverage
19.10.050	Parking Regulations.
19.10.055	Site Plan Approval.

19.10.005 Use regulations.

In District R-2 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

- A. Any use permitted in District R-1a;
- B. Dwellings, two family;
- C. Accessory uses as provided in Chapter 19.34;
- D. Conditional Use Permits as approved in accordance with Chapter 19.30;
- E. Special Use Permits as approved in accordance with Chapter 19.28;
- F. Two-Family dwellings may be divided at the party wall as to ownership and owned as separate dwelling units by separate owners and such ownership shall not constitute violation of the lot and yard requirements of the Chapter subject to the following conditions:
 1. Utilities are provided to each unit separately and appropriate easements are dedicated.
 2. Direct access shall be provided to a public street for each unit or an access easement shall be provided.
 3. The property must be in conformance within the subdivision regulations and either be replatted or have a lot split approved.

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 Section 19.10.015 - 19.10.045.

19.10.015 Height.

No building or structure shall exceed thirty-five 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.

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19.10.020 Front yard.

The front yard requirements shall be thirty (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 eighteen (18) feet and neither side yard shall be less than seven (7) feet. Not less than fifteen (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 twenty-five (25) feet.

19.10.035 Lot Width.

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

19.10.040 Lot Area per Family.

Not less than nine thousand six hundred (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 one thousand one hundred (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% 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

Sections:

19.12.005	Use Regulations.
19.12.010	Height and Area Regulations Generally.
19.12.015	Height.
19.12.020	Front Yard.
19.12.025	Side Yard.
19.12.030	Rear Yard.
19.12.035	Lot Area per Family.
19.12.036	Lot Coverage
19.12.040	Parking Regulations.
19.12.045	Site Plan Approval.

19.12.005 Use regulations.

In District R-3 no building, structure, land, or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one or more of the following uses:

- A. Any use permitted in District R-2;
- B. Garden apartment buildings;
- C. Customary accessory uses located on the premises and not involving the conduct of a business or industry and as further listed in Chapter 19.34;
- D. Conditional Use Permits as approved in accordance with Chapter 19.30;
- E. Special Use Permits as approved in accordance with Chapter 19.28.

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 thirty-five (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 thirty (30) feet.

19.12.025 Side Yard.

The side yard requirement shall be ten (10) feet for two story and fifteen (15) feet for two and one-half story buildings; except that not less than fifteen (15) feet shall be provided on the street side of a corner lot.

19.12.030 Rear Yard.

The rear yard requirement shall be twenty-five (25) feet.

19.12.035 Lot Area per Family.

The minimum lot area for garden apartments shall be two thousand five hundred (2,500) square feet per family units; provided that in no case shall apartment buildings and carports, if any, cover more than twenty 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% 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 fifteen (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 19.16 - DISTRICT C-0 OFFICE BUILDING DISTRICT

Sections:

- 19.16.005 Use Regulations.
- 19.16.010 Height and Area Regulations Generally.
- 19.16.015 Height.
- 19.16.020 Front Yard.
- 19.16.025 Side Yard.
- 19.16.030 Rear Yard.
- 19.16.035 Residential Buildings.
- 19.16.040 Site Plan Approval.
- 19.16.045 Parking regulations in District C-0.

19.16.005 Use Regulations.

- A. In District C-0, no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:
1. Any use permitted in District R-3;
 2. Office buildings to be used only for the administrative functions of companies, corporations, social or philanthropic organizations or societies;
 3. Other offices limited to the following:
 - a. Accountants.
 - b. Architects, engineers, landscape architects, city planners.
 - c. Brokers.
 - d. Dentist and dental laboratories.
 - e. Lawyers.
 - f. Physicians and other professions of the healing arts which are registered or licensed as such by the state.
 - g. Real estate and insurance.
 4. Accessory uses as set out in Chapter 19.34;
 5. Wellness Centers;
 6. Bed and Breakfast;
 7. Day care centers;
 8. Conditional Use Permits as approved in accordance with Chapter 19.30;
 9. Special Use Permits as approved in accordance with Chapter 19.28.
- B. No merchandise shall be handled or displayed and no equipment or vehicle other than motor passenger cars shall be stored outside a building in this district for more than twenty-four (24) hours in a thirty (30)-day period. A pharmacy wherein retail sale only of prescription medicines, drugs, pharmaceuticals and orthopedic devices, customarily incidental to the practice of medicine, shall be allowed as an accessory use in an office building provided not less than five (5) physicians occupy offices within the building. No direct exterior entrance to the pharmacy and no exterior sign or advertising relative to the pharmacy shall be permitted.

Chapter 19.16 – District C-0 Office Building District**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 thirty-five (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 (8) 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 thirty (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 (10) feet for one story buildings, fifteen (15) feet for two story buildings, and twenty (20) feet for two and one-half story buildings. There shall be a side yard of not less than fifteen (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 thirty-five (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

Chapter 19.16 – District C-0 Office Building District

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.

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CHAPTER 19.18 - DISTRICT C-1 RESTRICTED BUSINESS DISTRICT

Sections:

- 19.18.005 Use Regulations.
- 19.18.010 Performance Standards.
- 19.18.015 Height and Area Regulations Generally.
- 19.18.020 Height.
- 19.18.025 Front Yard.
- 19.18.030 Side Yard.
- 19.18.035 Rear Yard.
- 19.18.040 Canopies.
- 19.18.045 Site Plan Approval.
- 19.18.050 Parking Regulations in District C-1.

19.18.005 Use regulations.

In District C-1, no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved, or altered, except for one or more of the following uses:

- A. Shops and stores for sale at retail of foods and beverages for human consumption; restaurants, soft goods such as clothing and shoes; drugs and cosmetics; furniture and appliances; printed materials; notions; hardware and paint; kitchenware; toys and sporting goods; jewelry, gifts and novelties; flowers; tobacco products, photographic equipment, antiques; artist and hobby supplies; music supplies and medical supplies; bed and breakfast.
- B. Services such as professional offices, banks and savings and loan associations, insurance, barber shops and beauty shops, schools, day care centers optical shops, seamstress and tailoring, dry cleaning and laundry pickup or coin operated and dry-cleaning operations classed as low hazard in the applicable codes, eating establishments, interior decorator, photographer, shoe repairs, clinics, wellness center.
- C. Offices of all types, including post offices, public or privately owned utilities offices.
- D. Accessory uses as set out in Chapter 19.34.
- E. Conditional Use Permits as approved in accordance with Chapter 19.30.
- F. Special Use Permits as approved in accordance with Chapter 19.28.

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 or 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 fifty 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 fifty 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 thirty-five (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 fifteen (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 fifteen (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 (10) 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 (8) 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 thirty (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.

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CHAPTER 19.20 - DISTRICT C-2 GENERAL BUSINESS DISTRICT

Sections:

19.20.005	Use Regulations.
19.20.010	Performance Standards.
19.20.015	Height and Area Regulations-Generally.
19.20.020	Height.
19.20.025	Front Yard.
19.20.030	Side Yard.
19.20.035	Rear Yard.
19.20.040	Parking Regulations in District C-2.
19.20.045	Site Plan Approval.

19.20.005 Use Regulations.

In District C-2 no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered, except for one of the following uses:

- A. Any use permitted in District C-1;
- B. Shops and stores for the sale at retail or wholesale of department store or discount house merchandise, automobile supplies, bicycles, motorcycles, petroleum products (excluding filling stations and bulk plants), newspapers, pets, books, stationery, office and hotel supplies;
- C. Services such as clubs, dry cleaning and laundries, appliance and small custom maintenance and delivery services, radio and television broadcasting studios, public or private entertainment and recreation, charity and welfare services, vocational and trade schools, veterinary hospitals;
- D. Accessory uses as set out in Chapter 19.34;
- E. Conditional Use Permits as approved in accordance with Chapter 19.30;
- F. Special Use Permits as approved in accordance with Chapter 19.28.

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 twenty 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 fifty 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 fifty 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.

Chapter 19.20 – District C-2 General Business District

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 Section 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 thirty-five (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 fifteen (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 fifteen (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 (10) 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)

Sections:

19.22.005	Purpose and Intent.
19.22.010	Use Regulations.
19.22.015	Height and Area Regulations Generally.
19.22.020	Height.
19.22.025	Front Yard.
19.22.030	Side Yard.
19.22.035	Rear Yard.
19.22.040	Residential Buildings.
19.22.045	Site Plan Approval.
19.22.050	Parking Regulations in District C-3

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.

In District C-3, no building, structure, land or premises shall be used, and no building or structure shall be hereafter erected, constructed, reconstructed, moved or altered for any use except as follows:

- A. There are no outright permitted uses in this district. Uses are only allowed by special use permit and the specifically requested use or list of uses must accompany the application;
- B. Any use permitted in the C-0, C-1, or C-2 Districts except single family and two family residential uses may be requested as a special use in the C-3 District. When the C-3 District is approved, a use or list of uses for the specific location will be included and published in the ordinance;
- C. After the initial adoption of a C-3 District, additional uses may be added by amendment. The procedure for amendment shall be the same as for the initial adoption.

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 Section 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 thirty-six (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 thirty-six (36) feet. In the case of office buildings, the height is measured as follows:

Chapter 19.22 – C-3 Special Use Business District (SUB)

- 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 thirty-six feet (36) in height shall provide not less than the following setbacks:
 - 1. The front setback shall not be less than sixty (60) feet for the building and fifteen (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 forty (40) feet for the building and fifteen (15) feet for a parking area.
 - 3. Side setbacks not adjacent to a street shall be thirty (30) feet and the rear setback shall be seventy (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 thirty (30) feet for the building and fifteen (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 (10) feet for one story buildings, fifteen (15) feet for two story buildings, and twenty (20) feet for two and one half story buildings. There shall be a side yard of not less than fifteen (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 thirty-five 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 fifteen (15) feet to a public street, or no closer than eight (8) feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than six (6) 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

Sections:

19.23.005	Purpose and Intent.
19.23.010	Use Regulations.
19.23.015	Building Height.
19.23.020	Front Yard.
19.23.025	Side Yard.
19.23.030	Rear Yard.
19.23.035	Preliminary Development Plan Submittal.
19.23.040	Public Improvements.
19.23.045	Planning Commission Action.
19.23.050	City Council Action.
19.23.055	Final Development Plan Generally.
19.23.060	Final Development Plan Submittal.
19.23.065	Recording of Approved Plan
19.23.070	Publishing of Ordinance Changing the Zoning

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 shall be established in the conditions of the Ordinance governing the particular Mixed Use Development. Permitted uses may include any uses permitted in any district, uses listed as Special Use Permits, uses listed as Conditional Use Permits, or other uses otherwise not listed that may be compatible with the development. Each planned mixed use district is encouraged to include a mix of residential, office and commercial uses and those uses shall be listed on the development plan. After approval of the “MXD” District, uses may be added, changed or deleted by amendment. The procedure for considering an amendment shall be the same as for the original adoption;

Chapter 19.23 – “MXD” Planned Mixed Use District

19.23.015 Building Height.

- A. No maximum height; the height of buildings shall be as determined by the plan;
- B. At least fifty percent (50%) 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 1000 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 1000 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 fifteen (15) feet to a public street, or no closer than eight (8) feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than six (6)

Chapter 19.23 – “MXD” Planned Mixed Use District

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

Sections:

- 19.24.005 Designation of Equivalent Districts.
- 19.24.010 Statement of Objectives.
- 19.24.015 Standards of Development.
- 19.24.020 Procedures.
- 19.24.025 Conformance to Comprehensive Plan.
- 19.24.030 Rezoning Property to a Planned Zoning District.
- 19.24.035 Planning Commission Action.
- 19.24.040 City Council Action.
- 19.24.045 Recording of Approval.

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;

Chapter 19.24 – Planned Zoning District

- 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 fifty percent of the standard requirement;
 - 2. Setbacks of buildings from a property line other than a public street, may be reduced to sixty 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 two hundred (200) feet thereof.
- B. The following items shall be included on the property to be developed:
 1. Existing topography with contours at five (5) foot intervals and delineating and land areas subject to one hundred (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 two hundred 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.

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- 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.

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CHAPTER 19.25 – OVERLAY ZONING DISTRICTS

Sections:

- 19.25.005 Overlay Districts.
- 19.25.010 Districts Established.
- 19.25.015 Purpose.
- 19.25.020 Selection Criteria.
- 19.25.025 Establishment of District.
- 19.25.030 Procedure.
- 19.25.035 Allowed Uses.
- 19.25.040 Development/Design Standards.
- 19.25.045 Appeals.
- 19.25.050 NC Districts Established.
- 19.25.055 NC District Development/Design Standards Established
- 19.25.060 Reserved for Incorporation by Reference of Design Guidelines Adopted.

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)

Chapter 19.25 – Overlay Zoning Districts

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 (5) acres in size. Areas of less than five (5) acres may be designated as an NC Overlay District only when they abut an existing five (5) 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% of the area within the proposed NC District or by at least 51% 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)

Chapter 19.25 – Overlay Zoning Districts

19.25.045 Appeals.

- (1) notwithstanding the procedure set forth in Section 19.54, a person aggrieved by a decision of the City staff, determining 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 (10) 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 (10) 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 thirty 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, 2018)

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:

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

(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

Sections:

19.26.005	Interpretation.
19.26.010	Definitions.
19.26.015	Application of Provisions.
19.26.020	Districts-Established.
19.26.025	Districts-Rules for Interpreting Boundaries.
19.26.030	Analysis of Flood Hazard.
19.26.035	Permit-Required.
19.26.040	Application for Permit.
19.26.045	District Standards.
19.26.050	Floodway Overlay District-Permitted Uses.
19.26.055	Floodway Fringe Overlay District-Permitted Uses.
19.26.060	Certification and Information.
19.26.065	Variances.
19.26.070	Nonconforming Uses.
19.26.075	Appeal to City Council.
19.26.080	Amendments.
19.26.085	Warning and Disclaimer of Liability.
19.26.090	Compliance to Provisions Required.
19.26.095	Effect of Provisions on Existing Standards.
19.26.100	Enforcement.
19.26.105	Penalties for Violation.
19.26.110	Severability.

19.26.005 Interpretation.

In their interpretation and application, the provisions of this ordinance 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 ordinance shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this ordinance 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.

Chapter 19.26 – Floodway Overlay (FW) and Floodway Fringe Overlay (FF) Districts

- 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 premium 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.

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- 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 ordinance.
- 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 chance 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.

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- W. "Substantial Damage" - "Substantial damage" means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's 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 cod 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 ordinance 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 ordinance. In all areas covered by this ordinance, 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 ordinance 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 ordinance 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 ordinance uses a reasonable method of analyzing flood hazards which consists of a series of interrelated steps.

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- 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 ordinance is representative of large floods known to have occurred in this region to occur on the particular streams subject to this ordinance. 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 (1%) 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.

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- 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 ordinance 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 (5) acres or fifty (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 reference Section 3 of this ordinance;

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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 insure 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 nature preserves.

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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 ordinance 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 ordinance 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;

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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 ordinance 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 ordinance 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 ordinance. 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% 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 ordinance. 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 ordinance 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

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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 ordinance 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 ordinance 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 ordinance 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 ordinance 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 ordinance 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 ordinance and other applicable regulations.

19.26.095 Effect of Provisions on Existing Standards.

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

19.26.105 Penalties for Violation.

Violation of the provisions of this ordinance 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 ordinance 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 ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this ordinance shall not be affected thereby.

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CHAPTER 19.28 - SPECIAL USE PERMITS

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19.28.000 Governing Body.

Governing Body means twelve (12) members of the City Council plus the Mayor for a total of thirteen (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

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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 twenty (20) days or more than forty (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 two hundred feet, except public streets and ways, of the application area at least twenty (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 (6) 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 forty-eight (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 one hundred dollars (\$100.00), or imprisoned in jail for not more than thirty (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 fourteen (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. (Ord. 1973, Sec. I, 1999; Ord. 2199, Sec. V, 2009)

- 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 it 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

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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)

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% 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 3/4 vote (10 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 (7 votes) and if the recommendation is to approve, adopt an ordinance to that effect;
- B. Override such recommendation by a 2/3 majority vote of the membership of the Governing Body (9 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 (7 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 (6) 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

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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. (Ord. 2029, Sec. II, 2002)
- H. Assembly halls;
- 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 & C-3 Districts only;
- L. Skating rinks, arcades and similar commercial recreation facilities in C-1, C-2 & 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:
 - a. The initial approval shall be for a period of three years;
 - b. 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. Utility or Storage Buildings: Detached storage or utility buildings for nonresidential uses.
 - S. DELETED. (Ord. 1909, Sec. II, 1997; Ord. 2190, Sec. III, 2009)
 - T. Private Schools, Colleges and University Education Centers (Ord. 1919, Sec. I, 1997)

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 (6) 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. I, 2014)

CHAPTER 19.30 - CONDITIONAL USE PERMITS

Sections:

- 19.30.005 General.
- 19.30.010 Public Hearing.
- 19.30.015 Notice of Hearing.
- 19.30.020 Conduct of Hearing.
- 19.30.025 Applications.
- 19.30.030 Factors for Consideration. (Ord. 1974, Sec. I, 1999)
- 19.30.035 Planning Commission Action.
- 19.30.040 Expiration of Approval.
- 19.30.045 Assignments. (Ord. 1974, Sec. II, 1999)
- 19.30.050 Appeals of Conditional Use Permits.
- 19.30.055 Specifically Listed Conditional Uses. (Ord. 2029, Sec. IV, 2002)

19.30.005 General.

Conditional uses are those types of uses, which, due to their nature, may be detrimental to the health, safety, welfare or property values of the immediate neighborhood and its environs. Within various zoning districts, conditional uses may be permitted only after compliance with specified conditions as established by these Zoning Regulations and by the Planning Commission. In no event shall a Conditional Use Permit be granted where the conditional use contemplated is not specifically listed as a conditional use in the Zoning Regulations.

19.30.010 Public Hearing.

The Planning Commission shall hold a public hearing on each proposed Conditional Use Permit application and shall cause an accurate written summary to be made of the proceedings.

19.30.015 Notice of Hearing.

A notice of said public hearing shall be published in the newspaper at least twenty (20) days prior to the public hearing and a copy shall be mailed by the applicant, return receipt requested, to all owners of record of lands within two hundred feet of the property to which the Conditional Use Permit application applies. Said notice shall be sent at least twenty (20) days before the hearing at which said Conditional Use Permit application is scheduled to be considered. Such notice shall fix the time and place for such hearing, shall contain a statement regarding the proposed conditional use, and shall contain a legal description or general description that is sufficient to identify the property under consideration. All notices shall contain a statement that a complete legal description is available for public inspection and shall indicate where such information is available. When the notice has been properly addressed and deposited in the mail, failure of a party to receive such notice shall not invalidate any subsequent action taken by the Planning Commission. The applicant shall furnish all return receipts to the Secretary of the

Planning Commission. Such notice is sufficient to permit the Planning Commission to take action on a proposed Conditional Use Permit as described in such notice.

19.30.020 Conduct of Hearing.

The hearing shall be conducted and a record of the proceedings shall be preserved in such manner and according to such procedures as the Planning Commission may from time to time prescribe by rule. Any interested person or party may appear and be heard at the hearing in person, by agent or by attorney. The Planning Commission may request a report on any proposed Conditional Use Permit from any governmental official or agency, or any other person, firm or corporation. If such a report is made, a copy thereof shall be made available to the applicant or any other interested persons upon request and shall be available for review in the office of the Secretary of the Planning Commission.

19.30.025 Applications.

- A. The applicant shall prepare and submit at the time of filing an application as supplied by the City, fourteen (14) copies of a site plan of the property to which the Conditional Use Permit application applies and one (1) copy of any other information that may be helpful to the Planning Commission in reviewing said application. The Site Plan shall be submitted in accordance with the requirements set out in Section 19.32 Site Plan Approval.
- B. An application shall be accompanied by a filing fee in an amount as established by the City Council. A separate filing fee shall be required for each request.

19.30.030 Factors for Consideration.

The Planning Commission shall make findings of fact to support its decision to approve or disapprove a Conditional Use Permit. (Ord. 1974, Sec. I, 1999)

In making its decision, consideration shall be given to any of the following factors that are relevant to the request: (Ord. 1974, Sec. I, 1999)

- 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 at the specified location will not adversely affect the welfare or convenience of the public;
- C. The proposed condition use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located;
- D. The location and size of the conditional 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 conditional 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 conditional 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 process, obnoxious odors or unnecessarily intrusive noises.

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. 1974, Sec. I, 1999)

19.30.035 Planning Commission Action.

Upon conclusion of the public hearing and preparation of the findings of fact, the Planning Commission shall by resolution by a majority of its members present and voting, approve, approve subject to conditions or deny the conditional use application.

In granting a Conditional Use Permit, the Planning Commission may impose such conditions, safeguards and restrictions upon the premises benefited by the Conditional Use as may be necessary to reduce or minimize any potentially injurious effect of such Conditional Use upon other property in the neighborhood, and to carry out the general purpose and intent of these regulations.

19.30.040 Expiration of Approval.

All Conditional Use Permits shall be valid for the length of time set forth by the Planning Commission in the approval of said Conditional Use Permit application 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 (6) consecutive months. Such use shall not thereafter be re-established or resumed, unless a new permit is issued following the procedures set forth herein.

19.30.045 Assignments.

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 he/she has read the conditions of approval and agrees to be bound by the terms of approval. (Ord. 1974, Sec. II, 1999)

19.30.050 Appeals of Conditional Use Permits.

Any person, official or governmental agency dissatisfied with the Planning Commission's decision on any Conditional Use Permit application may bring an action in the District Court to determine the reasonableness of any such decision. Such appeals must be filed in the District Court within thirty (30) calendar days after the date that the decision of the Planning Commission was made.

19.30.055 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, but may be renewable after public hearing;
- B. Off-street parking lots and parking structures;
- C. Drive-up, drive-through or drive-in services in the C-0, C-1, and C-2 Districts. Such permit shall not be approved unless the following conditions and procedures are met:
 - a. The access, circulation and stacking pattern of vehicles using such facility shall be reviewed and approved by the city's traffic engineers prior to Planning Commission approval of plans.
 - b. Alcoholic or cereal malt beverages shall not be sold or otherwise dispensed at such facility.
 - c. A conditional use permit for drive-up, drive-through or drive-in food services shall be approved only for premises located in Districts C-1 and C-2.
- 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; (Ord. 1899, Sec. I, 1996; Ord. 1909, Sec. I, 1997; Ord. 2249, Sec. III, 2012)
- E. Property Maintenance Facilities. Buildings, structures and premises for property maintenance facilities, and uses;
- F. Portable carts, booths and stands or other similar facilities used for retail sales of merchandise.
- G. Utility boxes that have a footprint larger than twelve (12) square feet in area, a pad greater than 2.5 times the area of the utility box footprint or greater than 32 square feet; or have a height of more than fifty-six (56) inches. (Ord. 2029 Sec. IV, 2002; Ord. 2225, Sec. III, 2010)

CHAPTER 19.32 - SITE PLAN APPROVAL

Sections:

19.32.005	Purpose and Intent.
19.32.010	Applicability.
19.32.015	Application
19.32.020	Authority
19.32.025	Submission Requirements
19.32.030	Standard of Approval
19.32.035	Improvements
19.32.040	Site Plan Modifications

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 exiting 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 fourteen (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 (10) 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 1 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;

Chapter 19.32 – Site Plan Approval

- 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 fines, 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.

The Planning Commission shall give consideration to the following criteria in approving or disapproving a Site Plan:

- A. The site is capable of accommodating the building(s), parking areas and drives with appropriate open space and landscape;
- B. Utilities are available with adequate capacity to serve the proposed development;
- C. The plan provides for adequate management of stormwater runoff;
- D. The plan provides for safe and easy ingress, egress and internal traffic circulation;
- E. The plan is consistent with good land planning and site engineering design principles;
- F. An appropriate degree of compatibility will prevail between the architectural quality of the proposed building(s) and the surrounding neighborhood;
- G. The plan represents an overall development pattern that is consistent with the Comprehensive Plan and other adopted planning policies.

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 (5%), nor
- B. Increase by more than ten percent (10%) the floor area proposed for non-residential use; nor
- C. Increase by more than five percent (5%) 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:
 - a. Pedestrian or vehicular traffic flow.
 - b. The juxtaposition of different land uses.
 - c. The relation of open space to residential development.
 - d. 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

Sections:

19.33.005	Intent.
19.33.010	Purpose.
19.33.015	Definitions.
19.33.020	Special Use Permit Requirement.
19.33.025	Factors For Consideration.
19.33.030	Application Information.
19.33.035	Design Requirements.
19.33.040	Conditions of Approval.
19.33.045	Site Plan Approval.
19.33.050	Exceptions.
19.33.055	Existing Site Improvements.
19.33.060	Small Wireless Communications Antennae.

19.33.005 Intent.

The Telecommunications Act of 1996 grants authority to local jurisdictions over decisions regarding the placement, construction, and modification of wireless communication 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 communication facilities, towers and antennae results in visual clutter that adversely affects community aesthetics and damages the character of the City. This ordinance 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 safety and welfare of the community is protected.

(Ord. 2189, Sec. II, 2009)

19.33.010 Purpose.

A wireless communication facility, tower or antenna including its equipment, but excluding small wireless communication antennae as setout 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 ordinance. More specifically, these regulations are necessary to:

- A. Provide for suitable location of wireless communication 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 communication facilities, towers and antennae through specific design and siting criteria;
- C. Maximize the use of existing towers and alternative tower structures so as to minimize the need for new tower locations;
- D. Examine co-location among wireless service providers on existing and newly constructed sites in order to reduce the overall number of towers needed; and
- E. Promote the use of innovative stealth, camouflage and disguise techniques for wireless communication facilities, towers, and antennae so as to integrate their appearance with the many architectural and natural themes found throughout the City.

(Ord. 2189, Sec. II, 2009)

Chapter 19.33 – Wireless Communication Facilities

19.33.015 Definitions.

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

- A. **Alternative Tower Structure:** This shall mean man-made trees, clock towers, bell steeples, light poles and similar alternative-design mounting structures that camouflage or conceal the presence of antennas or towers.
- B. **Antenna:** Any structure or device used to collect or radiate electromagnetic waves for the provision of cellular, paging, personal communications services (PCS) and microwave communications. Such structures and devices include, but are not limited to, directional antennas, such as panels, microwave dishes and satellite dishes and omnidirectional antennas, such as whips.
- C. **Co-location:** The act of siting Telecommunications Facilities from more than one provider in the same location on the same Support Structure as other Telecommunications Facilities. Co-location also means locating Telecommunications Facilities on an existing structure (for example: buildings, water tanks, towers, utility poles, etc.) without the need to construct a new support structure.
- D. **Equipment:** Any equipment serving or being used in conjunction with a Telecommunications Facility or Support Structure. This equipment includes, but is not limited to, utility or transmission equipment, power supplies, generators, batteries, cables, equipment buildings, cabinets and storage sheds, shelters or other structures.
- E. **Equipment Compound:** The area in which the equipment and tower may be located which is enclosed with a fence or wall or is within a building or structure.
- F. **Maintenance:** Ensuring that Telecommunications Facilities and 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 Support Structure’s foundation or of the Support Structure itself or replacing Antennas and Accessory Equipment on a like-for-like basis on an existing Telecommunications 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.
- G. **Modifications:** Improvements to existing Telecommunications Facilities and Support Structures, that result in some material change to the Facility or Support Structure. Such Modifications include, but are not limited to, extending the height of the Support Structure, replacing the support structure and the expansion of the compound area for additional equipment.
- H. **Monopole:** A single, freestanding pole-type structure supporting one or more Antenna.
- I. **Stealth Telecommunications Facility:** Any Telecommunications Facility that is integrated as an architectural feature of a structure or the landscape so that the purpose of the Facility for providing wireless services is not readily apparent to a casual observer.
- J. **Support Structure(s):** Monopoles, Towers, Utility Poles and other freestanding self-supporting structure which supports a device used in transmitting or receiving radio frequency energy.
- K. **Wireless Communications Facility(ies):** Any unmanned facility established for the purpose of providing wireless transmission of voice, data, images or other information including, but not limited to, cellular telephone service, personal communications service (PCS), and paging service. A Wireless Communication Facility can consist of one or more Antennas and Accessory Equipment or one base station.

(Ord. 2189, Sec. II, 2009)

Chapter 19.33 – Wireless Communication Facilities**19.33.020 Special Use Permit Requirement.**

Unless otherwise excepted herein, wireless communication facilities, towers and antennae 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.

(Ord. 2189, Sec. II, 2009)

19.33.025 Factors For Consideration.

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 factors to be considered in approving or disapproving a Special Use Permit for a wireless facility shall include, but not be limited to the following:

- 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 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.
- M. City Staff recommendations.

(Ord. 2189, Sec. II, 2009)

19.33.030 Application Information.

At the time the application is filed, the applicant shall submit the following information:

- A. A study comparing potential sites within an approximate one mile radius of the proposed application area. The study shall include the location and capacity of existing towers,

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alternative tower sites, a discussion of the ability or inability of each site to host the proposed communications facility and reasons why certain of these sites were excluded from consideration. The study must show what other sites are available and why the proposed location was selected over the others. It must also establish the need for the proposed facility and include a map showing the service area of the proposed facility as well as other alternative tower sites and antennas.

If the use of existing towers, alternative tower structures, sites are unavailable, a reason or reasons specifying why they are unavailable needs to be set out and may include one or more of the following: refusal by current tower or site owner; topographical limitations; adjacent impediments blocking transmission; site limitations to tower or facility construction; technical limitations of the system; equipment exceeds structural capacity of facility or tower; no space on existing facility or tower; other limiting factors rendering existing facilities or towers unusable. The documentation submitted must use technological and written evidence, that these sites are inadequate to fulfill the grid needs of the wireless service provider, or that a reasonable co-location lease agreement could not be reached with the owners of said alternative sites.

The applicant shall submit an overall plan that shows the coverage gaps in service or lack of network capacity throughout the entire City and provide an indication of future needed/proposed wireless communication facilities, towers, and/or antenna.

The applicant shall demonstrate how the proposed communication facility, will impact its overall network within the City of Prairie Village and adjacent cities on both sides of the state line.

The study shall also provide documentation establishing the minimum height necessary to provide the applicant's services and the height required to provide for co-location. The study shall include coverage maps for the proposed monopole at the requested height and at ten feet descending intervals to 50 feet.

The Planning Commission or Governing Body at its discretion may require a third party analysis, at the applicant's expense, to confirm the need for the facility.

The applicant shall be responsible to provide timely updates of the above described study and information during the Special Use Permit process.

- B. Multiple photo simulations of the proposed facility as viewed from the adjacent residential properties and public rights of way as directed by City Staff.
- C. When possible, all wireless communication towers and alternative tower structures must be designed to accommodate multiple providers (co-location), unless after consideration of the recommendation of the Planning Commission, the City Council finds that the height or other factors required to make such an accommodation will have a more detrimental effect on the community than having multiple sites. Failure of a permit holder to negotiate in good faith to provide fairly priced co-location opportunities, based on industry standards may be grounds for denial or revocation of the Special Use Permit. A signed statement shall be submitted indicating the applicant's intention to share space on the tower with other providers.
- D. Any application for construction of a new wireless communication facility, tower, antenna or equipment compound must provide a detailed site plan of the proposed project. This properly scaled site plan will include one page (including ground contours)

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that portrays the layout of the site, including the proposed facility, the fall radius of any proposed monopole, as well as proposed and existing structures within 200 feet of the tower base 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, as well as dimensioned proposed and existing drives, must be included on this plan. Detailed exterior elevations (from all views) of the tower, screening wall, 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 Planning Commission.

- 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 on a site will also 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.
 G. The applicant shall provide a copy of its FCC license
 H. Copies of letters sent to other wireless communication providers and their response regarding their interest to co-locate.
 I. Any other relevant information requested by City Staff.
 J. Application and fee. 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.

(Ord. 2189, Sec. II, 2009)

19.33.035 Design Requirements.

- A. Setbacks
1. The equipment compound 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 shall maintain the same setbacks that are required for a principal building.
 3. Non-stealth monopoles or towers shall setback a minimum distance from all property lines equal to the height of the tower unless a reduction or waiver is granted by the City Council.
 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 City Council who will make the final determination. In approving a setback reduction or waiver, the Commission and Council shall consider the following:
 - a. That there are special circumstances or conditions affecting the proposed cell tower installation;
 - b. That the setback waiver is necessary for reasonable development of the cell tower installation or the landowners property;
 - c. That the granting of the setback waiver will not be detrimental to the public 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.

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B. Screening and Landscape Buffer

Adequate screening of the equipment cabinets located at the tower base 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 by other than authorized personnel.

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 City Council.

C. Tower/Antennae Design

1. All non-stealth towers shall maintain a hot dipped galvanized finish, and shall be a monopole design unless otherwise approved by the Planning Commission or City Council.
2. All antennae installed on towers 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 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 or structure shall be painted to match the color of the building or structure of the background against which they are most commonly seen.
5. All electrical cables shall be installed within the monopole. For installations on buildings, water towers and other structures, cables shall be enclosed with a shield that is painted the same color as the building, water tower, or structure. Underground cables that are a part of the installation shall be required to be located at a safe depth underground.

D. Illumination

Communication 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 communication tower shall be 150 feet plus a lighting rod not exceeding ten feet (10’).

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.

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- G. Anti-perch devices that prevent birds from perching or roosting on the installation shall be installed when appropriate.
(Ord. 2189, Sec. II, 2009)

19.33.040 Conditions of Approval.

The Planning Commission and City Council may require any or all of the following conditions and may add additional conditions if deemed necessary for a specific location:

- A. The initial approval of the Special Use Permit shall be for a maximum of five years. At the end of the five year period, the permittee shall resubmit the application and shall demonstrate to the satisfaction of the Planning Commission and the City Council that a good faith effort has been made to cooperate with other providers to establish co-location at the tower site, that a need still exists for the tower, and that all the conditions of approval have been met. The Special Use Permit may then be extended for an additional ten years by the City Council 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 tower, antenna or other facility that is not operated for a continuous period of twelve (12) months shall be considered abandoned and the owner of such tower, antenna or facility shall remove the same within 90 days after receiving notice from the City. If the tower, antenna or facility is not removed within that 90 days period, the governing body may order the tower, antenna or facility removed and may authorize the removal of the same at the permittee's expense. Prior to the issuance of the Special Use Permit, the applicant shall submit a bond to the City in an amount adequate to cover the cost of tower removal and the restoration of the site. This bond will be secured for the term of the Special Use 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 tower 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 communication facility, tower 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 Special Use Permit will become null and void within 90 days of notification of noncompliance unless the noncompliance is corrected. If the Special Use Permit becomes null and void, the applicant will remove the facility tower antenna and all appurtenances and restore the site to its original condition.
- E. The permittee shall keep the property 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 communication facility, tower 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 communication facilities, towers and antennae shall be constructed and maintained in compliance with all applicable local building codes and the applicable standards for such facilities, towers and antennae that are published by the Electronic Industries Alliance.

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- H. All wireless communication facilities, towers 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 (6) 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. A copy of the lease between the applicant and the landowner containing the following provisions:
 - 1. The landowner and the applicant shall have the ability to enter into leases with other carriers for co-location.
 - 2. The landowner shall be responsible for the removal of the communications tower facility in the event that the leaseholder 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 Kansas Corporation Commission.

(Ord. 2189, Sec. II, 2009)

19.33.045 Site Plan Approval.

All installations shall have a site plan approval in accordance with Chapter 19.32, Site Plan Approval.

(Ord. 2189, Sec. II, 2009)

19.33.050 Exceptions.

Any wireless communications facility, tower and antennae that are a stealth design shall be exempt from the Special Use Permit requirements and shall be approved in accordance with Chapter 19.32, Site Plan Approval.

The initial approval of the Site Plan shall be for a maximum of five years. At the end of the five year period, the applicant shall resubmit the application to the Planning Commission and shall demonstrate to the satisfaction of the Planning Commission that a good faith effort has been made to cooperate with other providers to establish co-location at the tower site, that a need still exists for the tower, and that all the conditions of approval have been met. The application may then be extended for an additional ten years.

(Ord. 2189, Sec. II, 2009)

19.33.055 Existing Site Improvements.

Alterations or improvements to existing wireless communication sites shall be allowed when these alterations or improvements are implemented to:

- A. Accommodate additional wireless service providers, provided that the alterations or improvements meet all applicable requirements of this Chapter. Unless otherwise provided for by the current Special Use Permit, application for such alteration or improvement to an existing site 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.

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- B. Any such alteration or improvement 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 antenna 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 communication 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 facility, tower 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 alteration or improvement 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)

19.33.060 Small Wireless Communications Antennae.

The location, design and appearance of small wireless communications antennae installations shall be subject to Staff review and approval as follows:

- A. Small wireless communication antennae shall mean those whip antennae 6' 0" or less in height and panel antennae with a maximum front surface area of 2.0 square feet and not more than 15" in width, 36" in height, and 4" in depth that can be mounted on an existing utility or street light pole.
- B. Prior to installation, the provider shall obtain a permit from the City. If the proposed installation is located in right-of-way, the permit shall be issued in accordance with the City's requirements for a R-O-W permit. Otherwise it shall be issued by the Building Official
- C. The size, location, and appearance of the small wireless antennae will be subject to Staff review and approval. In its discretion, if Staff does not feel the proposed installation meets the intent of this regulation, it may refer approval of the permit to the Planning Commission.
- D. Prior to the review and approval of a permit, the applicant shall enter into an agreement whereby it agrees to abide by the requirements of the City's Right-of-Way Ordinance (as applicable) 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 applicable to the applicant's subsequent small

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- wireless communication antenna permits and shall be in a form approved by the City's legal counsel.
- E. Utility racks will not be permitted and all equipment will be contained within an enclosed utility box. Utility boxes shall be located and installed in accordance with the requirements of the Zoning Regulations as set out in Sections 19.34.020.K and 19.30.055.G.
 - F. Small antennae will be allowed to be mounted on existing utility and street light poles but the installation of taller utility poles or new overhead wiring to accommodate the antennae will not be permitted unless approved as a Special Use Permit.
 - G. Not more than three antennae panels and one provider may be located on a utility or street light pole.
 - H. The coaxial cable connecting the antennae to the equipment box shall be contained inside the pole or shall be flush mounted to the pole and covered with a metal, plastic, or similar material cap that matches the color of the pole and is properly secured and maintained by the provider.
 - I. 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.
 - J. The applicant shall provide any relevant information requested by City Staff.
 - K. Any applicant may appeal a Staff decision to the Planning Commission.
 - L. Any antenna that is not operated for a continuous period of six months shall be considered abandoned and the owner of such antenna shall remove the same within 90 days after receiving notice from the City. If the antenna is not removed within that 90 day period, the Governing Body may order the antenna removed and may authorize the removal of such antenna at the owner's expense.

(Ord. 2189, Sec. II, 2009)

CHAPTER 19.34 - ACCESSORY USES

Sections:

- 19.34.005 Accessory Uses-Generally.
- 19.34.010 Home Occupations as Accessory Uses; When Permitted in Districts R-1, R-2, R-3, RP-1 and RP-2, RP-3 and RP-4.
- 19.34.015 Family Day Care Home as Accessory use; When Permitted in Districts R-1, R-2, RP-1 and RP-2.
- 19.34.020 Other Accessory Uses. (Ord. 2392, Sec. 4, 2018)
- 19.34.025 Accessory Uses-District R-3 and R-4.
- 19.34.030 Accessory Uses - Districts C-O, C-1 and C-3.
- 19.34.035 Accessory Uses - District C-2 and C-3.
- 19.34.040 Accessory Uses - Miscellaneous Provisions.
- 19.34.045 One Accessory Living Quarters
- 19.34.050 Outdoor Lighting

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;

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- 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% 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% 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 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 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 19.34.010.B. 8.
 - c. Exchange of items in a lease agreement between the proprietor of a home occupation or an authorized participant shall not 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 (1) 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 (3) students shall be taught at one time and there will be no more than ten visitations (ten (10) arrivals and ten (10) departures) per day. All other home occupations shall also not generate more than ten (10) business-related visitations per day, which shall constitute ten (10) arrivals and ten (10) 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 (6) 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 (3) of the children cared for in a family day care home shall be less than eighteen (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.
(Ord. 2208, Sec IV, 2009)

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- 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 (1) 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 twenty-four (24) hours in a thirty-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 thirty (30) feet from the front lot line, and not less than ten (10) 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 fifteen (15) feet, whichever is greater. Said fence shall be chain-link fabric, and shall not exceed ten (10) feet in height. The lighting level of any tennis court lighting measured at the property line shall not exceed five (5) 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.

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- H. Garage sales are permitted in District R1a, R1b, R2, R3, and R4. 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" deep. This includes in-ground, above-ground 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 (4) nor more than six (6) 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 thirty (30) feet from the front lot line, and not less than fifteen (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 (10) feet from any such interior side or rear lot line and not less than twenty (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 twelve (12) square feet or less in area; a pad of not more than 2.5 times the area of the utility box footprint, but not larger than thirty-two (32) square feet; and a height of not more than fifty four (54) 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 approval of 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. **Appeal:** Any applicant that is not satisfied with the staff approval may appeal the staff decision to the Planning Commission. (Ord. 2029, Sec. III, 2002; Ord. 2225, Sec. II, 2010; Ord. 2392, Sec. 4, 2018)

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 & 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 sixty (60) feet in height; flagpoles; cooling towers; other similar uses.

19.34.035 Accessory Uses-Districts C-2 & 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 cleaning operations shall not utilize more than two stationery bays in any one station, shall be a part of the main building, and shall not be open for use during hours when the service station is closed. Conveyor or other continuous line washing is not permitted except by Special Use Permit. Such washing and cleaning operations shall use the same entrance drives as the 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

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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; (Ord. 2119, Sec. II, 2006)
- 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 eight hundred (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 two hundred (200) square feet, shall provide additional off-street parking on the premises at the ration of one space for each two hundred (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 (10) 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 thirty (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. (Ord. 2094, Sec. II, 2005)
- 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.

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8. That in order to assure compliance with all municipal building and safety codes and the requirements of this ordinance, a permit must be obtained from the Building Official prior to the installation of the satellite dish antenna. (Ord. 1899, Sec. II, 1996)
- E. The Planning Commission may, upon application by the proponent, issue a short-term use permit for a period longer than thirty (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. (Ord. 1951, Sec. I, 1998)
- 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 (5) 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 twelve (12) square feet; the pad shall not exceed sixteen (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. (Ord. 2049, Sec. III, 2003)
 - 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.

(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 thirty (30%) of the area of the principal dwelling, but shall not exceed eight hundred (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

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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 Ordinance, 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 (1) 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 located.
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 ninety (90) days.

C. Applicability

1. *New Uses, Buildings and Additions:* All proposed new land uses, developments, buildings, structures, or building additions of twenty-five (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 twenty-five (25) percent or more. For all building additions of less than twenty-five (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 (5) feet above grade.
2. *Architectural Lighting of Building Facades:* The lighting of a building façade for security, architectural, aesthetic, or decorative purposes is permitted subject to the following restrictions:
 - (a) All building façade 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 façade 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 3500 lumens. The luminaires 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:
 - (1) Strings of lights may only be used if they are approved by the Planning Commission as part of an outdoor lighting plan or

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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.

- (2) 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 ordinance 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 Ordinance 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)

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CHAPTER 19.36 - RESTRICTED USES

Sections:

19.36.005 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 fifty 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 as identified in the P.V.M.C. 6.04.020, and the keeping or display of farm or other heavy equipment or machinery is prohibited in all districts.

CHAPTER 19.40 - NONCONFORMITIES

Sections:

- 19.40.005 General.
- 19.40.010 Nonconforming Lots of Records.
- 19.40.015 Nonconforming Structures.
- 19.40.020 Nonconforming Uses.
- 19.40.025 Status of Special Use Permits.

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 fifty percent (50%) 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 fifty percent (50%) or less, no repairs or restoration shall be made unless a building permit is obtained within six (6) months, and restoration

Chapter 19.40 – Nonconformities

is actually begun one (1) 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 fifty (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 fifty (50) percent or less, no repairs or restoration shall be made unless a building permit is obtained, and restoration is actually begun within one (1) 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 (6) 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

Sections:

- 19.44.005 Height and Area Exceptions Generally.
- 19.44.010 Lot Width, Depth and Area Exceptions.
- 19.44.015 Height.
- 19.44.020 Yard Exceptions (Ord. 2392, Sec. 5, 2018).
- 19.44.025 Fences and Walls.

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 seventy-five (75) feet; provided that such buildings shall have yards which shall be increased one (1) 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 (6) 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 seventy-five (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 5 lots or lots comprising forty (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. (Ord. 2392, Sec. 5, 2018)
- 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. (Ord. 2392, Sec. 5, 2018)
- 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 (3) feet, provided they are limited to no more than 20% 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 (4) feet;
 3. Window wells may project into required yards up to four (4) feet;
 4. Structures associated with the front entrance to the principal building, such as porches, stoops, canopies or porticos, may encroach up to 12 feet into the front setback, and up to 10 feet into any street side setback, provided:
 - a. Any roof structure shall be single story, establishing an eave line between 7 feet and 9 feet above the top of foundation, and no gable or other part of the structure shall exceed 14 feet.
 - b. The entry feature shall remain unenclosed on all sides encroaching into the setback, except for railings or walls up to 3 feet above the structures surface.
 - c. The entry feature 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; (Ord. 2392, Sec. 5, 2018)
- D.** Open and uncovered porches, decks or patios less than 30 inches high may encroach into the required side or rear yards up to 3 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. (Ord. 2393, Sec, 5, 2018)
- 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.
- G.** 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. (Ord. 2392, Sec. 5, 2018)
- H.** 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. (Ord. 2392, Sec. 5, 2018)
- I.** 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)

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. (Ord. 2117, Sec. 2, 2006)

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 (6) feet in height except tennis court enclosures which may not exceed twelve (12) feet in height and except fences which are located within the building envelope of a lot shall not exceed eight (8) 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 (8) inches. Where the terrain is not level, the average dimension may, at the discretion of the Building Official, be applied to each eight (8) 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% 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. (Ord. 2117, Sec. 2, 2006)

C. Location

1. Decorative fences may be located in the front yard but shall be located no closer than ten (10) 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 (5) 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 fifteen (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. (Ord. 2117, Sec. 2, 2006)

D. Retaining Walls

1. Retaining walls shall be designed and constructed to support lateral loads. Applications for retaining walls exceeding four (4) 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 (2) feet from side and rear

property lines, and retaining walls exceeding six (6) feet in height shall be required to be setback from side and rear property lines an additional one (1) foot for each two (2) feet, or part thereof, in excess of six (6) feet in height, e.g. a ten (10) foot high retaining wall would be required to set back a minimum of four (4) 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. (Ord. 2117, Sec. 2, 2006)

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 storm water.
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. (Ord. 2117, Sec. 2, 2006)

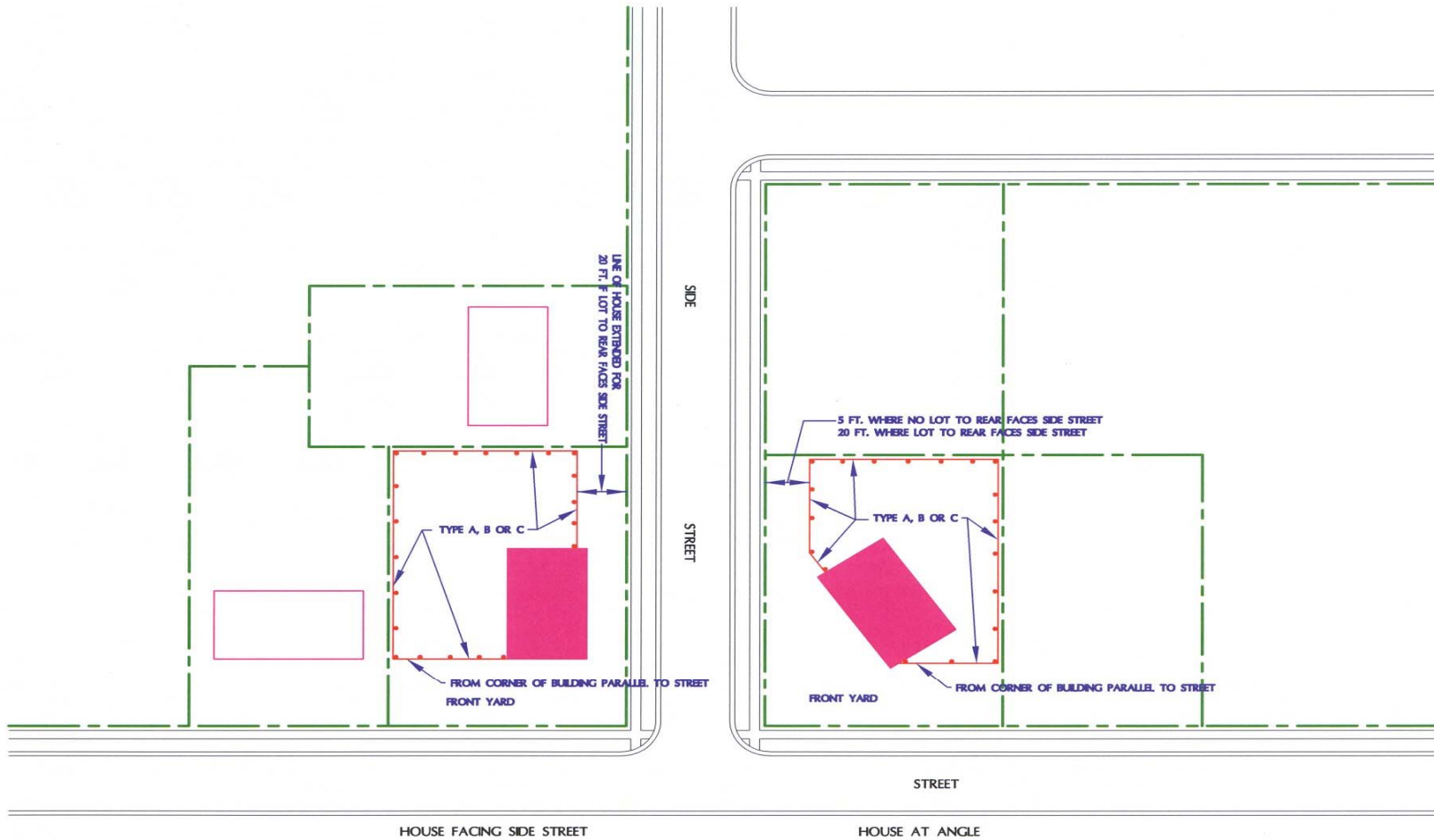
F. Permits Required

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. (Ord. 2117, Sec. 2, 2006)

G. Site Plan Approval

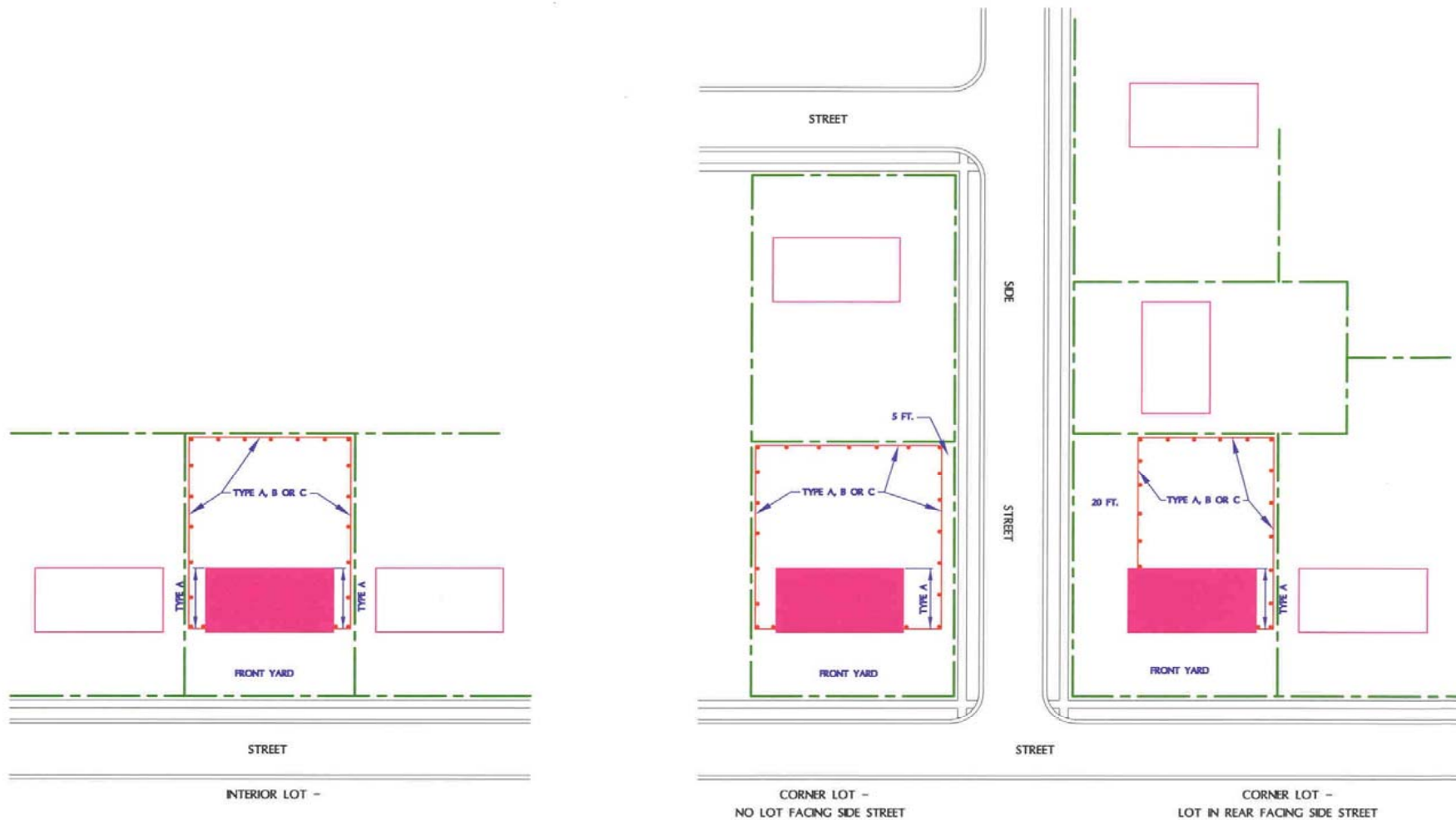
1. As a part of the site plan approval process as set out in Section 19.32 Site Plan Approval, the Planning Commission may approve solid walls or make adjustments to the height and location of fences, solid walls and retaining walls provided that it results in a project that is more compatible, provides 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. (Ord. 2117, Sec. 2, 2006; Ord. 2248, Sec. 2, 2011)

Figure 19.44 - 1: Prairie Village Fence Regulations



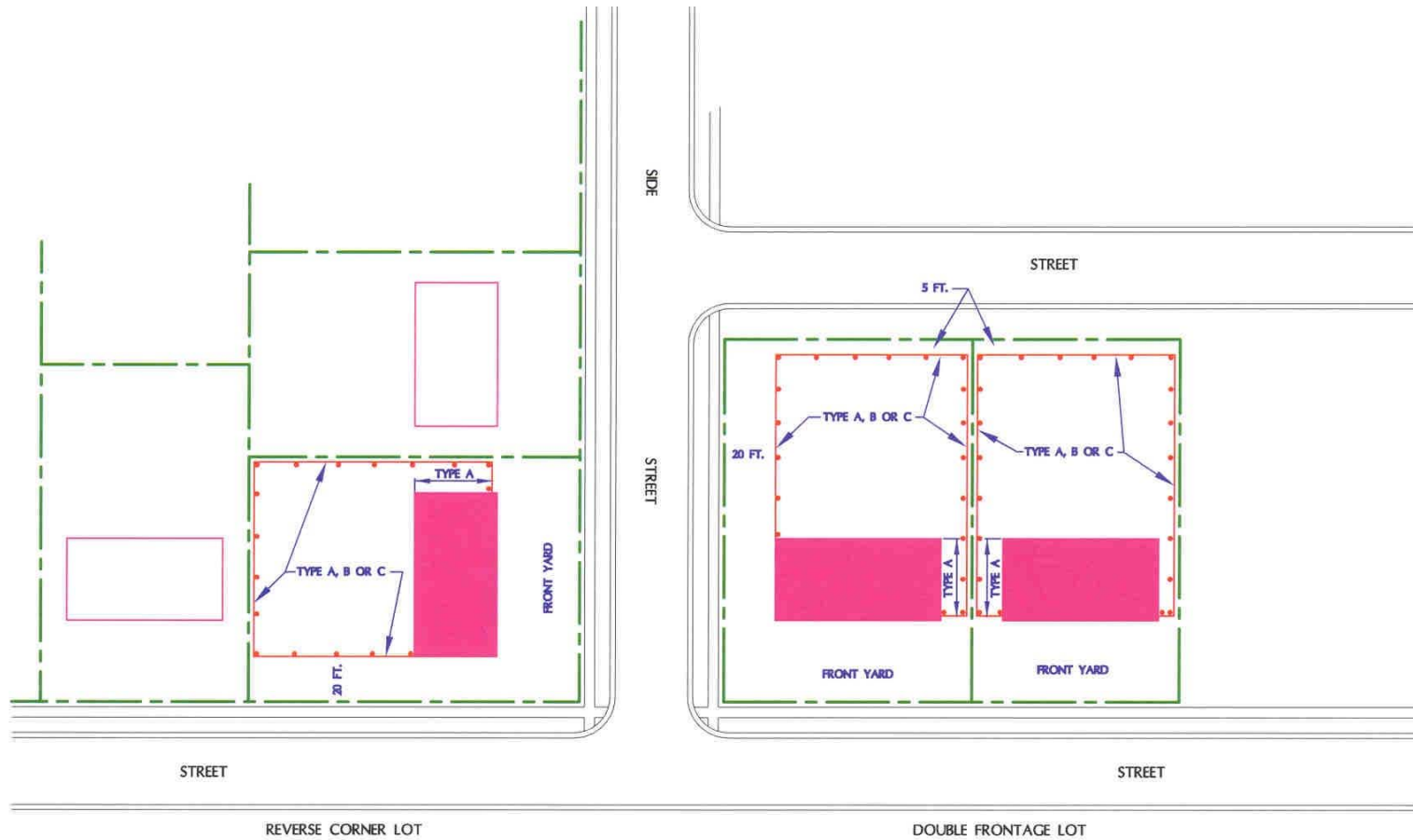
FENCE REGULATIONS
PRAIRIE VILLAGE, KANSAS

Figure 19.44 - 2: Prairie Village Fence Standards 1



FENCE STANDARDS
PRAIRIE VILLAGE, KANSAS

Figure 19.44 - 3: Prairie Village Fence Standards 2



FENCE STANDARDS
PRAIRIE VILLAGE, KANSAS

CHAPTER 19.46 - OFF-STREET PARKING AND LOADING REGULATIONS

Sections:

- 19.46.005 Applicability.
- 19.46.010 General Provisions.
- 19.46.015 Layout and Design Requirements.
- 19.46.020 Parking Design Standards.
- 19.46.025 Accessible Parking.
- 19.46.030 Required Spaces.
- 19.46.035 Plans and Approval Required.
- 19.46.040 Off-Street Loading.
- 19.46.045 Access Streets and Loading Docks.

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 1/2 or less may be disregarded, and a fraction in excess of 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)

Chapter 19.46 – Off-Street Parking and Loading Regulations

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 fifteen (15) feet to a public street, and no closer than eight (8) feet to a property line other than a street line. Parking areas within the building, or within a parking structure extending more than six (6) 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 (1) sign with maximum area of twenty (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 9 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 5 feet in width (with landscaping or sidewalk), an overhang may be permitted which would reduce the length of the parking space by 2 feet.

Chapter 19.46 – Off-Street Parking and Loading Regulations

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 9 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 8 children.

Chapter 19.46 – Off-Street Parking and Loading Regulations

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 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 (Ord. 2089, 2004; Ord. 2317, Sec. 2, 2014)

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.

Chapter 19.46 – Off-Street Parking and Loading Regulations

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. 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.

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CHAPTER 19.48 - SIGNS

Sections:

19.48.005	Regulations Generally.
19.48.010	Purpose.
19.48.011	Definitions.
19.48.012	Prohibited Signs.
19.48.015	Regulations Applicable to all Districts.
19.48.020	Regulations Applicable to Districts R-1a through R-4 Inclusive.
19.48.025	Regulations Applicable to Districts C-0, C-1, C-2, and C-3.
19.48.030	Prohibition of Nonconforming Signs.

19.48.005 Regulations Generally.

Signs shall be permitted in the various districts in accordance with the following regulations, which shall apply to all signs that are visible from beyond the lot line. Signs not authorized by the provisions of this Chapter 19.48 are prohibited. (Ord. 2004, Sec. II, 2001; Ord. 2138, Sec. II, 2006)

19.48.010 Purpose.

It is determined that regulation of the location, size, placement and certain features of signs is necessary to enable the public to locate goods, services, and facilities without difficulty and confusion; to prevent wasteful use of natural resources in competition among businesses for attention; to prevent hazards to life and property; to avoid visual clutter; to assure the continued attractiveness of the community and protect property values. (Ord. 2004, Sec. II, 2001; Ord. 2138, Sec. II, 2006)

19.48.011 Definitions.

- A. **Awning Sign:** A sign that is mounted on, painted on, or attached to an awning.
- B. **Bulletin Board Sign:** A sign that indicates the name of an institution or organization on whose premises it is located and which contains the name of the institution or organization, the name or names of persons connected with it, and announcement of persons, events or activities occurring at the institution. Such sign may also present a greeting or similar message.
- C. **Business Sign:** A sign which directs attention to a business or profession conducted, or to products, services or entertainment sold or offered upon the premises where such sign is located or to which it is affixed.
- D. **Identification Sign:** A sign giving the name and address of a building, business, development or establishment. Such signs may be wholly or partly devoted to a readily recognized symbol.
- E. **Monument Sign:** Any sign placed upon, or supported by, the ground independent of the principal building or structure on the property and is constructed with permanent building materials.
- F. **Name Plate Sign:** A sign giving the name and/or address of the owner or occupant of a building or premises on which it is located, and where applicable, a professional status.
- G. **Off-Site Sign:** A sign which displays any message directing attention to a business, product, service, profession, commodity, activity, event, person, institution or any other commercial

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message, which is generally conducted, sold, manufactured, produced, offered or occurs elsewhere than on the premises where such sign is located.

- H. **On-Site Sign:** A sign that is other than an off-site sign.
- I. **Pole Sign:** Any sign placed upon, or supported by, the ground independent of the principal building or structure on the property where the bottom edge of the sign is more than five (5) above the ground level.
- J. **Portable Sign:** Any sign that is not permanently affixed to a building, structure, or the ground.
- K. **Projecting Sign:** A sign that is wholly or partly dependent upon a building for support and which projects more than 12 inches from such building.
- L. **Real Estate Sign:** A sign pertaining to the sale or lease of a lot or tract of land on which the sign is located, or to the sale or lease of one or more structures, or a portion thereof on which the sign is located.
- M. **Temporary Sign:** A sign that is intended for a temporary period of posting on public or private property, and is typically constructed from nondurable materials, including paper, cardboard, cloth, plastic and/or wall board and does not constitute a structure subject to the City's Building Code and Zoning provisions.
- N. **Wall Sign:** A sign fastened to or painted on a wall of a building or structure in such a manner that the wall becomes merely the supporting structure or forms the background surface, and which does not project more than 12 inches from such building. Wall signs shall not project above the top of the wall on which the sign is attached.

(Ord. 2004, Sec. II, 2001; Ord. 2122, Sec. II, 2006; Ord. 2138, Sec. II, 2006)

19.48.012 Prohibited Signs.

All signs not expressly permitted within this ordinance or exempted herein are prohibited in the city. Such prohibited signs include, but are not limited to:

- A. Animated Signs.
- B. Awning Signs.
- C. Digital Readout or Electronic Graphic Signs.
- D. Flashing or Blinking Signs.
- E. Off-Site Signs.
- F. Pole Signs.
- G. Portable Signs.
- H. Projecting Signs.
- I. Roof Signs.
- J. Rotating Signs.
- K. Signs attached to any tree, fence or utility pole except warning signs issued and properly posted by that utility company.

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

19.48.015 Regulations Applicable to All Districts.**A. Sign Permit.**

1. Except as provided herein, or as may be provided by other ordinances or resolutions of the city, it shall be unlawful for any person to erect, install, alter, move or replace any new or existing sign or signage without first obtaining a permit and making payment of the sign permit fee as established in the city fee schedule on file in the City Clerk's Office. A permit is not required for ordinary maintenance and repair of a sign nor is a permit or fee required to post temporary signs.
2. Any person desiring to erect a sign for which a permit is required shall submit to the Building Official an application upon a form to be provided by the City which shall contain the following information:
 - a. Name, address and telephone number of the applicant;
 - b. Location of building, structure, or lot to which or upon which the sign is to be attached or erected;
 - c. Position of the sign in relation to nearby building or structures, streets and sidewalks;
 - d. Drawing of sign and specifications describing the sign;
 - e. Length of time that sign will be displayed;
 - f. Written consent of the owner of the building, structure or land to which or on which the sign is to be erected; and
 - g. Such other information as the Building Official shall require to show full compliance with this and all other laws and ordinances of the City.
3. It shall be the duty of the Building Official upon filing of an application for a sign permit, to review the application and to conduct such other investigation as is necessary to determine the accuracy of the application. If it shall appear that the applicant has provided the information requested in the application and that said information is accurate and that the proposed sign when placed will comply with the ordinance of the City, (s)he shall issue a sign permit.
4. If the Building Official determines that the proposed sign is not in compliance with all requirements of this chapter or any other laws and ordinances of the city, (s)he shall not issue the requested permit and shall advise the applicant of the right to appeal as set out in Section 19.54.025.
5. All rights and privileges acquired under the provisions of this chapter or any amendments thereto, are revocable at any time by the city for cause, and all such permits shall contain this provision.

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

B. Exceptions. A permit as provided for in Section 19.48.015(A) of this chapter shall not be required to erect, install, alter, move or replace the following signs:

1. Street markers, traffic sign and other appropriate signs displayed by the City or other governmental subdivision;
2. Temporary signs;
3. Name plate signs for single-family dwellings; and
4. Any sign required by the City's Building or Fire Codes for purposes of premises identification.

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

C. Aesthetic Considerations. All permanent signs shall be well constructed of permanent materials and shall be constructed with similar materials as used in other buildings on the site.

(Ord. 2138, Sec. II, 2006)

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- D. Obstruction of Exits. No sign shall be erected, relocated or maintained so as to prevent free ingress to or egress from any door, window or fire escape.
(Ord. 2138, Sec. II, 2006)
- E. Traffic Hazards. No sign shall be constructed at the intersection of any street in such a manner as to obstruct the free and clear vision of motorists, or any location where, by reason of the position, shape or color, said sign may interfere with, obstruct the view or be confused with any authorized traffic sign, signal or device.
(Ord. 2138, Sec. II, 2006)
- F. Certain Devices and Displays
1. Movement or the illusion of movement, flashing of lights or reflectors, likeness of human or animal forms, or searchlights are prohibited.
 2. Permanent banners may be allowed as an architectural or decorative accessory in shopping centers and other developments provided they are generally uniform throughout the project, and are in harmony with the architectural theme of the development. No such banners shall be installed unless their location and design have first been approved by the Planning Commission.
(Ord. 2004, Sec. II, 2001; Ord. 2138, Sec. II, 2006)
- G. Unsafe and Unlawful Signs. If the Building Official or his/her representative find that any sign regulated herein is unsafe or insecure, or is a menace to the public, or, has been constructed or erected, or is being maintained in violation of the provisions of this chapter, (s)he shall give written notice to the owner of the structure, lot or parcel upon which the sign is installed. If the permittee fails to remove or alter the sign so as to comply with the standards herein set forth within forty-eight (48) hours after such notice, such sign may be removed or altered to comply by the Building Official at the expense of the permittee or owner of the property upon which it is located, and the permit shall be revoked. The Building Official shall refuse to issue a permit to any permittee or owner who refuses to pay costs so assessed. The Building Official may cause any sign, which is an immediate peril to persons or property to be removed summarily and without notice.
(Ord. 2138, Sec. II, 2006)
- H. Public Property. Unless otherwise permitted in this Chapter, no sign shall be placed within a public street right-of-way, public park or other public property, or on a utility pole, except that wall-mounted signs may protrude not more than eight (8) inches into a public street right-of-way if the sign is nine (9) feet or more above the sidewalk or the grade abutting said wall. A permanent identification sign for a subdivision or other residential project may be located on street right-of-way if approved as required in Section 19.48.020, Paragraph E.
(Ord. 2004, Sec. II, 2001; Ord. 2138, Sec. II, 2006)
- I. “For Sale Signs.” Only one “For Sale” sign shall be permitted for each project that is being offered for sale in a non-residential area. For purposes of this Ordinance, a Project shall mean a parcel of property which is uniformly owned or controlled by one person or legal entity, regardless of the size of the parcel and regardless of how many lots or improvements exist on the parcel and whether or not the parcel is divided by one or more public streets. Said sign shall not exceed sixteen (16) square feet in area per face, shall not have more than two faces, and shall not exceed a height of five (5) feet. Such sign shall be located so as to relate to and complement permanent monument signs and be integrated into the landscape features of the site. Such a sign may be posted for a period of up to ninety (90) days, at which time the sign shall be removed or replaced. Any such sign and any supporting or supplemental structures shall be maintained in good condition, adjacent land areas shall be kept free of weeds and debris, and a neat appearance

shall be maintained at all times. The responsibility for such maintenance shall be with the project owner served by said sign.

(Ord. 1955, Sec. I, 1998, Ord. 2138, Sec. II, 2006)

J. Type of Lettering and General Design Allowed.

1. The lettering and general design of all signs or signage shall be simple and straightforward. "General design" shall include the background panel, case or cabinet upon which the sign text is located.
2. Exceptions to the above restrictions are all internationally recognized health and safety symbols. Other exceptions are medical, religious, and fraternal organization identifications and governmental seals and logos.
3. Logos may be incorporated into a sign and will be subject to all regulations governing signs and be included within the square footage allotments.
4. All existing signs affected by the above restrictions shall conform to these restrictions whenever the existing signs are modified, altered, moved or replaced.

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

K. Service stations shall be permitted the following signs:

1. One illuminated or non-illuminated detached post-supported or monument sign may be permitted. Such sign shall not be closer than fifty (50) feet to any boundary of a district, R-1a to C-0 inclusive, and shall not be located in the street right-of-way. Such sign shall not exceed ten (10) feet in height above the average grade of the lot, and further, shall not exceed seventy (70) square feet in area per face. If not sitting within the landscaped setback, the sign base shall be located within a curbed landscaped area, extending a minimum of three (3) feet on all sides of the sign base. If illuminated, the lighting shall be arranged so that no glare extends to land within Districts R-1a to C-0 inclusive.
2. No more than two illuminated or non-illuminated signs that display fuel prices shall be permitted. Such signs may be detached or wall-mounted but shall not exceed fifteen (15) square feet each.
3. Each fuel pump island may have a sign on each end identifying if that island is "full service" or "self-service." If the service station is completely self-service, a maximum of two (2) "self-service" signs shall be permitted. These signs shall not exceed four (4) square feet in area each.
4. A maximum of two (2) non-illuminated signs displaying credit card information shall be permitted. Such signs shall not exceed one (1) square foot each.
5. Fuel pumps may display signs indicating only the type and brand name of fuel, in addition to signs required by law, which shall be of minimum size and quantity.
6. An additional non-illuminated sign not to exceed six (6) square feet in area shall be allowed and may be placed on each side of the pump island canopy.

(Ord. 2138, Sec. II, 2006)

L. Temporary Signs.

1. Purpose and Findings.

The City of Prairie Village is enacting this Ordinance to establish reasonable regulations for the posting of informational signs on public and private property.

Temporary Signs left completely unregulated, can become a threat to public safety as a traffic hazard, a detriment to property values as an aesthetic nuisance.

By implementing these regulations, the City intends to:

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- a. balance the rights of individuals to convey their messages through temporary signs and the right of the public to be protected against the unrestricted proliferation of signs;
 - b. further the objectives of the City’s comprehensive plan;
 - c. protect the public health, safety and welfare;
 - d. reduce traffic and pedestrian hazards;
 - e. protect property values by minimizing the possible adverse effects and visual blight caused by signs;
 - f. promote economic development; and
 - g. ensure the fair and consistent enforcement of the temporary sign regulations specified in the following.
2. Regulations:
- Temporary signs may be posted on property in all Zoning Districts of the City, subject to the following requirements:
- a. The total square footage for temporary signs in any district, in the aggregate, shall not exceed forty-eight (48) square feet, with no individual sign exceeding sixteen (16) square feet. The total square footage of a sign is measured to include all of the visible display area of only one side of the sign and only the area of one side of a double sided sign is included in the aggregate calculation.
 - b. Signs shall not exceed five (5) feet in height measured from the average grade at the base of the sign.
 - c. No sign shall obstruct or impair access to a public sidewalk, public or private street or driveway, traffic control sign, bus stop, fire hydrant, or any other type of street furniture, or otherwise create a hazard, including a tripping hazard.
 - d. No sign shall be illuminated or painted with light-reflecting paint.
 - e. A sign shall only be posted with the consent of the property owner or occupant. Signs posted in the public right-of-way may only be posted with the permission of the abutting property owner.
 - f. A temporary sign may be posted for a period of up to ninety (90) days, at which time the sign shall be removed or replaced.
 - g. Signs shall not be posted on trees, utility poles, and other similar structures within the rights-of-way.
3. Removal or Replacement of Informational Signs:
- a. The person who has posted or directed the posting of the sign is responsible for the removal or replacement of that sign.
 - b. If that person does not remove or replace the sign in accordance with these regulations, then the property owner or occupant of the building or lot where the sign is posted is responsible for the sign’s removal or replacement.
 - c. “If the Building Official finds that any sign is posted in violation of these regulations on public property, the Building Official is authorized to remove any such signs. If the Building Official finds that any sign posted in violation of these regulations on private property, (s)he shall give written notice to the person who has posted or directed the posting of the sign. If that person fails to remove or replace the sign so as to comply with the standards herein set forth within seventy-two (72) hours after such notice, such sign may be removed by the Building Official.”

(Ord. 2138, Sec. II, 2006)

- M. Monument Signs: Monument signs shall not exceed five (5) feet in height above the average grade of the base; shall not exceed twenty (20) square feet in area per face; shall be placed on private property, not closer than three feet to the property line or 12 feet from the back of curb of the street and shall be landscaped at the base. All monument signs shall be constructed with

permanent building materials that are similar to or complement existing building materials and colors used on the buildings located on the site. If the sign is not located within the landscape setback area, the sign base shall be located with a landscaped area extending a minimum of three (3) feet on all sides of the sign base and a landscape plan shall be submitted for approval. All monument signs including the landscape plan shall be reviewed and approved by the Planning Commission based on the above requirements prior to obtaining a permit and being installed. (Ord. 2004, Sec. II, 2001; Ord. 2068, Sec. II, 2004; Ord. 2138, Sec. II, 2006)

N. Sign Area Calculations.

1. Monument Signs: The area shall include the sign panel but not the sign base on which it is mounted or the structural elements or frames that form the perimeter of the panel.
 2. Wall Signs: If the wall sign is contained within a panel, the sign area calculation shall be the area of the panel. If the sign consists of individual letter, symbols or words, either painted or mounted on the wall, the area shall be the smallest rectangular figure that can encompass all of the letters, words, logos or symbols.
 3. Band Signs: The area of a band sign shall be the width of the band times the outside extremities of the letters, words, logos or symbols contained within the band.
- (Ord. 2004, Sec. II, 2001; Ord. 2138, Sec. II, 2006)

O. Setback: All signs shall setback a minimum of twelve (12) feet from the back of curb and five (5) feet from any adjacent side or rear property line. (Ord. 2138, Sec. II, 2006)

P. Obscene Materials: Obscene signs, flags, banners, or any sign of any type are prohibited. “Obscene” is defined as any material that (a) whether the average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest; (b) whether the work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and (c) whether the work, taken as a whole, lacks serious literary, artistic, political, or scientific value. (Ord. 2138, Sec. II, 2006)

Q. Substitution of Messages: Subject to the landowner’s consent, a noncommercial message of any type may be substituted for any duly permitted or allowed commercial message or any duly permitted or allowed noncommercial message, provided that the Sign or Sign Structure is legal without consideration of message content. This substitution of message may be made without any additional approval or permitting. The purpose of this provision is to prevent any inadvertent favoring of commercial speech over noncommercial speech, or favoring of any particular noncommercial message over any other noncommercial message. This provision does not create a right to increase the total amount of signage on a parcel or land use, nor does it affect the requirement that a sign structure or mounting device be properly permitted. This provision does not allow for the substitution of an offsite commercial message in place of an onsite commercial message. (Ord. 2138, Sec. II, 2006)

19.48.020 Regulations Applicable to Districts R-1a through R-4 Inclusive.

No sign may be constructed, erected, or displayed in districts zoned R-1a through R-4 inclusive, except as provided in the Section 19.48.020.

A. Public Churches, Synagogues, Schools, and Community Buildings.

1. Churches, synagogues, private or public schools, community center buildings, libraries, art galleries, and museums shall be allowed not more than two (2) signs identifying the premises and activities provided therein. Such signs may either be wall mounted or

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monument signs and may be illuminated provided the source of illumination shall not be visible from off the premises. Wall signs shall not exceed five (5) percent of the total area of the facade of the building, on which it is attached and in no event shall exceed fifty (50) square feet in area. Such signs shall be of a design, location and size as to be in harmony with the neighborhood and the building served as determined by the Building Official. No such monument sign shall be constructed, installed or replaced until plans have been reviewed and approved by the Planning Commission and a building permit issued therefore. The copy on the sign may be changed from time to time provided that the design of the sign is not changed from that approved by the Planning Commission.

2. In addition to the signs permitted in paragraph 1 above, schools are permitted to install a sign to display a National School of Excellence or equivalent award. The award sign may be either a monument sign or wall mounted sign; however, the sign face for wall mounted signs shall not exceed five percent of the total area of the façade of the building on which it is attached, but in no event shall exceed 50 square feet in area and for monument signs, the sign face shall not exceed 20 square feet in area. Said monument sign shall not exceed five feet in height and shall not be constructed, installed or replaced until plans have been reviewed and approved by the Planning Commission and a building permit issued. There shall be no more than two wall signs or two monument signs with no more than a total of three signs.

(Ord. 2004, Sec. II, 2001; Ord. 2044, Sec. II, 2003; Ord. 2138, Sec. II, 2006)

- B. One or more signs which are for the sole purpose of identifying a subdivision or a residential project may be permitted under the following standards and procedures:

1. Detailed plans of the sign and any supporting or supplemental structure shall be submitted for Planning Commission review. If approved, a construction permit may be procured from the Building Official and all details of the approved plans and any conditions included by the Commission shall be met. Subdivision signs are encouraged to be designed in accordance with the guidelines adopted by the Planning Commission;
2. Only the proper name of the subdivision or residential project shall be on the sign; provided, however, that the Planning Commission may approve further language or information it deems appropriate;
3. The sign and any supporting or other supplemental structure may be on private property or on public right-of-way provided the Planning Commission shall first determine that a location on public right-of-way will not create a traffic hazard, maintenance problem, nuisance or other condition adverse to the public interest;
4. Walls, fences and other architectural features may be used to supplement said signs provided that traffic hazards, maintenance problems or other conditions which may be adverse to the public interest are not present;
5. Any such sign and any supporting or supplemental structures shall be maintained in good condition, adjacent land areas kept free of weeds and debris, and a neat appearance displayed at all times. The responsibility for such maintenance shall be with the homeowner's association or the project owner served by said sign, the name, address and phone number of the responsible officer being kept on file in the Building Official's Office. The Planning Commission may, if long-term maintenance responsibilities are a concern, require that surety, acceptable to the City Council, be deposited with the City. The surety amount is to be equal to not less than the cost of one year's maintenance plus the cost of demolition and removal if such action is deemed by the City Council to be in the public interest.
6. Signs and supporting structure may be illuminated provided the source of illumination shall not be visible from a public street or from any dwelling that is part of said subdivision or project.

7. The design, shape, sizes and location of such signs and accompanying structure shall be in harmony with the neighborhood and the project that is served. Materials, lettering style, colors and size shall present a dignified appearance and be such that long-term maintenance can be readily and economically accomplished.
(Ord. 1952, Sec. I, 1998; Ord. 2138, Sec. II, 2006)

19.48.25 Regulations Applicable to Districts C-0, C-1, C-2, and C-3.

No sign may be constructed, erected, or displayed in districts zoned C-0, C-1, C-2, and C-3 inclusive, except as provided in this Section 19.48.025.

- A. Signs shall be permitted for uses permitted in Districts R-1a through R-4 inclusive in accordance with the regulations established therefore in Section 19.48.020.
(Ord. 2138, Sec. II, 2006)
- B. One illuminated or non-illuminated wall-mounted sign shall be permitted on each principal facade of each building or each shop or office therein provided that said shop or office has an exterior door and that the total area of such sign shall not exceed five (5) percent of the total area of the facade of each building or each shop upon which it is mounted and in no event shall such area exceed fifty (50) square feet. Facade shall mean that portion of the building's wall, which is contiguous with the tenant's gross leasable floor area.
(Ord. 2004, Sec. II, 2001; Ord. 2068, Sec. II, 2004; Ord. 2138, Sec. II, 2006)
- C. Monument signs; where allowed.
1. In the case of a stand alone building, which is not a part of a "shopping center, office park or multi-tenant building" as defined in Paragraph J below, and which is occupied by a single tenant, one monument sign may be permitted in lieu of one of the wall signs permitted in B above. Said sign shall depict only the name and address of the building or business and may include an additional line of text that describes services.
 2. In the case of a "shopping center, office park or multi-tenant building" as defined in Paragraph J below, and which is occupied by more than one tenant, one detached monument sign may be permitted for each street frontage in addition to the wall-mounted signs permitted in B above. The location of said signs will be approved by the Planning Commission. Said sign shall depict only the name and address of the center or grouping of shops or offices and may include an additional line of text that describes services.
 3. A tenant and/or property owners within a "shopping center, office park or other grouping" as defined in Paragraph J, occupying a stand alone single-tenant building of at least 5,000 square feet may, in lieu of the wall sign permitted in Paragraph B above, have one detached monument sign depicting his business or product. The design and location of this sign shall be in accordance with Sections 19.48.015 and 19.48.025 and shall be subject to approval of the Planning Commission.
All of the above detached signs shall also conform to the following:
Such sign shall not be closer than fifty (50) feet to any boundary of a Residential District. If flood lighted, the lighting shall be shielded so that the source is not visible.
(Ord. 2004, Sec. II, 2001; Ord. 2068, Sec. II, 2004; Ord. 2138, Sec. II, 2006)
- D. Where canopies are permitted, one sign not to exceed three (3) square feet in area and allowing at least seven (7) feet six (6) inches clearance above the sidewalk shall be securely attached to the canopy and an additional sign not to exceed three (3) square feet may be mounted on the facade beneath the canopy.
(Ord. 2138, Sec. II, 2006)

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- E. Buildings Under Construction. One non-illuminated sign of not more than eighty (80) square feet in area, inclusive, shall be permitted for each building during its construction, provided, that said sign shall be removed upon completion of the building.
(Ord. 2138, Sec. II, 2006)
- F. New Subdivisions or Developments. One non-illuminated sign of not more than eighty (80) square feet in area shall be permitted for each new subdivision or development project; provided, that the permit shall be issued for a period of not more than one (1) year.
(Ord. 2138, Sec. II, 2006)
- G. Off-Street Parking or Loading Facilities. One illuminated or non-illuminated sign with a maximum area of ten (10) square feet shall be permitted at each entrance to off-street parking or loading facility to identify such facility and present any regulations governing the use thereof.
(Ord. 2004, Sec. II, 2001; Ord. 2138, Sec. II, 2006)
- H. Non-illuminated Signs Mounted Against Face of Building. In cases where non-illuminated signs are to be mounted flat against the face of the building, such signs shall not protrude more than three (3) inches from the face of the building and shall not extend above the height of the wall on which it is mounted.
(Ord. 2138, Sec. II, 2006)
- I. Regulations Pertaining to Illuminated Signs.
1. There shall be no exposed incandescent or neon or other tube-type lights; provided, that indirect flood lighting shall be permissible.
 2. There shall be no flasher-type lighting.
 3. If required to be mounted flat against the face of the building, such sign shall not protrude more than eight (8) inches from the face of the building and shall not extend above the height of the wall upon which it is mounted.
 4. Signs conveying the impression of movement through flashing lights or signs that fluctuate in light intensity shall be prohibited.
(Ord. 2138, Sec. II, 2006)
- J. Private Sign Standards Applicable to Office Parks, Shopping Centers, Multi Tenant Buildings and Planned Business Districts. In the case of an office park, shopping or multi-tenant building (new or remodeled), the developer or owner shall prepare and submit to the Planning Commission a set of sign standards for all permanent exterior signs. The purpose of the sign standards is to create uniform signage design throughout the development. Such standards shall run with all leases or sales of portions of the development. A full and accurate description of all signs shall be included indicating location, placement, materials, graphic design styles, type of illumination, etc. Sign permits shall not be issued until the Planning Commission has approved the sign standards. For purposes of this section the terms "shopping center, office park, or multi-tenant buildings" shall mean a project that has been planned as an integrated development on property under unified control or ownership at the time of development. The sale, subdivision, or other partition of the site does not exempt the project or portions thereof from complying with these regulations.

If multiple monument signs are proposed as part of the design standards, they shall be of uniform design regarding the sign base, frame, materials and proportions, but the Planning Commission may require that the monument signs located at stand alone buildings be smaller than the maximum area allowed per face by the ordinance.

(Ord. 2004, Sec. II, 2001; Ord. 2068, Sec. II, 2004; Ord. 2138, Sec. II, 2006)

- K. A time and temperature device, mounted on a building, may be allowed in lieu of one of the above permitted wall or detached signs. The design, size, materials and illumination of such device shall be compatible and in harmony with the building and the degree and type of illumination shall be at such levels as to not unduly detract from traffic safety devices or have adverse effects on nearby residences or places of business. All such time and temperature devices hereafter installed shall be reviewed by the Planning Commission and approved prior to a permit being issued.
(Ord. 2138, Sec. II, 2006)
- L. Certain Devices and Displays.
1. Exposed neon tubing shall meet the following conditions:
 - a. Exposed neon tubing may not be placed on any exterior facade of a building.
 - b. Exposed neon tubing may be placed on the interior of any windows, doors, or on any interior wall.
 - c. Existing exposed neon tube signs declared to be nonconforming shall be removed within two years of the effective date of this ordinance.
 2. Unless otherwise prohibited, signs may be displayed inside windows or doors and the area of such signage shall be in addition to that permitted on the exterior facade, but the aggregate area of all signs within 48 inches of a window or door shall not exceed 20% of the window and door area.
(Ord. 2004, Sec. II, 2001; Ord. 2138, Sec. II, 2006)
- M. “Semi-Permanent Leasing Signs.” Only one semi-permanent “For Lease” sign shall be permitted for the purpose of advertising the on-going leasing activities of each Project that is being offered for lease in a non-residential area. For purposes of this Ordinance, a “Project” shall mean a parcel of property which is uniformly owned or controlled by one person or legal entity, regardless of the size of the parcel and regardless of how many lots or improvements exist on the parcel and whether or not the parcel is divided by one or more public streets. The sign area shall not exceed twenty (20) square feet per face, shall not have more than two faces, shall not exceed a maximum height of five (5) feet; and shall not be placed closer than twenty (20) feet to the back of curb or be placed in a public right-of-way. Said sign shall be constructed of durable materials using vertical supports no larger than 4” x 4” and shall not be illuminated either internally or externally. The maximum dimensions of the sign shall be 4’ x 5’ and sign dimensions shall be reduced proportionally when the sign is reduced in area. The sign shall be located so as to relate to and complement permanent monument signs and be integrated into the landscape features of the site. Any such sign and any supporting or supplemental structures shall be maintained in good condition, adjacent land areas shall be kept free of weeds and debris, and a neat appearance shall be maintained at all times. The responsibility for such maintenance shall be with the project owner served by said sign. In lieu of a separate leasing sign, said leasing sign may be combined with the project monument sign and the monument sign may be increased to thirty (30) square feet per face.
(Ord. 1955, Sec. II, 1998; Ord. 2004, Sec. II, 2001; Ord. 2068, Sec. II, 2004; Ord. 2138, Sec. II, 2006)
- N. If the property is both for lease and for sale, the information shall be combined so that in addition to the permanent monument sign, only one additional sign which complies with all requirements as set forth in Sections 19.48.015 I. and 19.48.025 M. shall be placed on the project site.
(Ord. 1955, Sec. III, 1998; Ord. 2138, Sec. II, 2006)
- O. Where one retail establishment (the “sub-tenant”) leases space and conducts business within another retail establishment (the “primary tenant”) but does not have an exterior business façade and an exterior door leading directly to the sub-tenant space, one exterior wall sign may be permitted for the sub-tenant if the following conditions are met:

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1. The sub-tenant’s business establishment occupies at least 100 square feet of floor area, and is staffed and open for business during predetermined hours.
2. The primary tenant’s business establishment occupies at least 25,000 square feet of floor area.
3. The sub-tenant’s business is a separate legal entity from the primary tenant’s business, as opposed to a department, division or subsidiary of the primary tenant’s business.
4. A sign criteria for the building or shopping center has been submitted to and approved by the Planning Commission which specifically provides for sub-tenant signage, including standards for the sign location, size, style, color and content. Such sign criteria shall include scale drawings of the facades of all primary tenants where sub-tenant signs are authorized showing the permitted locations for sub-tenant signs.
5. The total area for all signs on the same façade does not exceed the allowable signage area for that district.
6. The provisions of this section for sub-tenant signs shall not apply to businesses within an enclosed shopping mall or to businesses that are conducted primarily by automated machines.

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

19.48.030 Prohibition of Nonconforming Signs.

All existing nonconforming signs which exist at the time of adoption of this amendment may remain and further provided that no changes in the basic structure, source of illumination, location of appearance shall be made in such signs and further provided that if the business to which the sign is related should move to another site, which move, in the opinion of the Building Official, creates in effect an off-site advertising sign, then such device shall be removed or otherwise brought into full conformance with this title.

(Ord. 2138, Sec. II, 2006)

CHAPTER 19.50 - ALTERNATIVE ENERGY SYSTEMS**Sections:**

19.50.005	Purpose.
19.50.010	Solar Energy.
19.50.015	Wind Energy.
19.50.020	Geothermal Energy.
19.50.025	Hybrid Energy.

19.50.005 Purpose.

The purpose of this chapter is to establish for the residents of the City of Prairie Village a provision for using an alternate sources of energy apart from the prevailing energy sources of natural gas and electricity—in this case, solar, wind and geothermal energy. The City, by this chapter, establishes that the use of alternative energy systems is in the general welfare of its residents in that its use will help alleviate the use of depreciating energy resources and thereby will lessen the city's reliance on increasingly uncertain power resources. The use of alternative energy systems is, therefore, valid public purpose. (Ord. 2250, Sec. II, 2012)

19.50.010 Solar Energy – The following regulations shall apply to solar energy installations:

A. Related Ordinances

All other ordinances of the municipal code are applicable to this section, including, but not limited to building setbacks, yard requirements, and height restrictions. (Ord. 2250, Sec. II, 2012)

B. Definitions

1. "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.
2. "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 twenty-two (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.
3. "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.
4. "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. (Ord. 2250, Sec. II, 2012)

C. Solar Easements.

In order to preserve and protect the solar access across contiguous or nearby property, "solar annotated easements" may be formulated. Such easements shall establish the solar air space envelope within which building and vegetation obstructions are prohibited.

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Solar easements are allowed by Kansas Statutes Annotated 58-3801 - "Creation of Solar Easements; Recordation" and 58-3802 - "Same; Content." A property owner who wishes to construct a solar energy system may enter into a solar easement agreement with another property owner whose property contains an obstruction to solar access. Under this agreement the latter property owner may agree to remove existing vegetation or structures which block solar access to the solar energy system. The City of Prairie Village shall also be included as a property owner wherein property owned by the City may be located in a solar air space envelope and the city, therefore, may be a party to such an easement. All easements shall be recorded by the Johnson County Register of Deeds and shall transfer from one owner to another if the property is sold. All such easements shall also be filed with the Building Official for coordinating issuance of future building permits, which might be affected by the easement. (Ord. 2250, Sec. II, 2012)

D. Compatibility.

The design of any solar system, active or passive, shall generally be compatible with the architectural design of the surrounding neighborhood as follows, whether or not the solar energy system is the subject of a solar easement.

1. Any solar energy system incorporated into residential facility shall be integrated into the basic form and main structure of the residence. All active systems shall be roof mounted with the collector panels integrated into the roof either directly mounted against the roof or integrated into the roof so that they form a part of the roof itself. Mounting arrangements, which allow the collectors to project above the roof line, such as "standoff" or "rack" mounting arrangements are not allowed.
2. Any system incorporated into a commercial building or a nonresidential building or structure in a residentially zoned district shall be integrated into the basic form and main body of the building. If roof mounted, all collector panels shall fit into the form of the roof; if the building's roof is sloped or if "rack" mounting is used on a flat roof, the mounting must be concealed from view at street level. Exposed rack supports and ground mounted installations apart from the main building are not permitted.
3. Roof mounted solar energy systems mounted on "accessory or detached buildings" are allowed on detached garages, carports, swimming pool equipment buildings and other similar structures. Detached "greenhouses" are also acceptable. All such energy systems mounted on accessory or detached buildings shall conform to the requirements outlined in Paragraphs 1 and 2 above. No ground mounted installations or panel racks shall be allowed except as set out in Section 19.50.030.E.
4. In an active or photovoltaic system, all components servicing the collector panels shall be concealed including mechanical piping, electrical conduits, etc.
5. All exposed metal, including the frame work of active collector panels or exposed mullions and framework of passive systems shall be of finished warm earth tones, or black, in color. Clear unpainted aluminum shall not be allowed. (Ord. 2250, Sec. II, 2012)

E. Ground-mounted installation:

1. Ground-mounted solar collectors for utilities and public entities shall not exceed eight (8) feet in total height and shall be located within an easement or public right-of-way.
2. All lines serving a ground-mounted solar collector shall be located underground.

3. Parking lot light pole installation: The mounting height for parking lot light fixtures shall not exceed 25 feet as measured from the bottom of the fixture to grade. Twenty (20) percent of the height of the light pole may be added above the light fixture for the purpose of installing a solar collector panel. The overall height of the parking lot light pole and solar collector shall not exceed 30 feet. Any necessary solar collector appurtenances shall be painted to match the light pole and fixture.
4. Utility Pole Installation: Solar collector panels may be mounted on utility poles by utilities and public agencies.
5. Solar panels shall not exceed two square feet in area.
6. Staff shall review and approve the size, design and location of all ground-mounted installations prior to their installation. (Ord. 2250, Sec. II, 2012)

F. Site Plan Approval.

1. As a part of the site plan approval process as set out in Chapter 19.32 Site Plan Approval, the Planning Commission may make adjustments to the height and location of solar panels provided that it results in a project that will not be detrimental to the public welfare or be injurious to or will substantially adversely affect adjacent property or other property in the vicinity.
2. An application may be made to the Planning Commission for site plan approval of a solar panel installation that is unique and does not have the locational or design characteristics set out in these regulations. (Ord. 2250, Sec. II, 2012)

G. Permits.

A building permit is required for the construction and/or installation of any solar system. If the solar system construction is a part of other construction, it may be incorporated with that permit. (Ord. 2250, Sec. II, 2012)

19.50.015 – WIND ENERGY – The following regulations shall apply to wind energy installations:**A. Definitions.**

1. “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.
2. “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.
3. “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.
4. “Roof-mounted wind turbine” means a turbine system mounted to the roof of a building.
5. “Vertical-axis wind turbine” means the main rotor shaft of the turbine is arranged vertically and does not have to be pointed into the wind.

(Ord. 2250, Sec. II, 2012)

B. Site Plan Approval – The following wind energy installations shall be subject to site plan approval as set out in Chapter 19.32:

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1. Wind turbines may be installed on any non-single-family structure (such as a building, water tower, etc.) three stories in height or greater but no less than 35 feet provided that the wind turbines shall add no more than 20 feet to the height of said existing structure. Wind turbines which are architecturally compatible to the building architecture may locate on non-residential buildings less than three stories or 35 feet in height. The maximum height which may be approved for a roof-mounted wind turbine on a non-residential building less than three stories or 35 feet in height shall be equal to one-half the height of the building, measured from the surface of roof on which the turbine is mounted to the highest point of the wind turbine structure, including blades, if applicable. Associated equipment may be permitted on the roof so long as it is screened from view.
2. Wind turbines may be installed on parking lot light poles. The mounting height for parking lot light fixtures shall not exceed 25 feet as measured from the bottom of the fixture to grade. Twenty (20) percent of the height of the light pole may be added above the light fixture for the purpose of installing a wind turbine. The overall height of the parking lot light pole and wind turbine shall not exceed 30 feet, measured to the highest point of the wind turbine structure, including blades, if applicable. The wind turbine and any required appurtenances shall be painted to match the light pole and fixture. (Ord. 2250, Sec. II, 2012)

C. Special Use Permit – The following wind energy installation shall be subject to Special Use Permit as set out in Chapter 19.28:

1. In office and business districts, a ground-mounted wind turbine not to exceed a maximum height of 150 feet, measured from average grade at the tower base to the highest point of the wind turbine structure, including blades, if applicable. A lightning rod, not to exceed 10 feet, shall not be included within the height limitations. (Ord. 2250, Sec. II, 2012)

D. Application Requirements.

Each application for site plan approval or a special use permit for a wind turbine or wind turbines shall be accompanied by the following information:

1. Preliminary site plan (see Chapter 19.32).
2. Turbine information, including type, model, size, height, rotor material, rated power output, performance, safety, and noise characteristics of each wind turbine being proposed, tower and electrical transmission equipment.
3. Meteorological tower information, if applicable, including location, height, and appearance.
4. Digital pictorial representations of “before and after” (photo simulation) views from key viewpoints as may be appropriate.
5. The Staff, Planning Commission, or Governing Body may require additional technical studies deemed necessary to fully evaluate the application, such as a shadow/flicker model, noise study, geotechnical report, or wildlife impact study. (Ord. 2250, Sec. II, 2012)

E. Conditions of Approval.

The Planning Commission and City Council may require any or all of the following conditions and may add additional conditions if deemed necessary for a specific location:

1. A request for a special use permit for a wind turbine(s) may be approved for an indefinite period of time.

2. Height - The maximum height which may be approved for a wind turbine is 150 feet. Height shall be measured from average grade at the tower base to the highest point of the wind turbine structure, including blades, if applicable. A lightning rod, not to exceed 10 feet, shall not be included within the height limitations. The maximum height which may be approved for a roof-mounted wind turbine shall be equal to one-half the height of the building, not to exceed 20 feet. Height shall be measured from the surface of roof on which the turbine is mounted to the highest point of the wind turbine structure, including blades, if applicable.
3. Minimum lot size – Ground-mounted wind turbines shall be located on property a minimum of one acre in size.
4. Setbacks – All wind turbines, other than roof-mounted wind turbines, shall be setback a distance equal to the height of the wind turbine, including blades, if applicable, from all property lines.
5. Separation requirements – When two or more ground-mounted wind turbines are located on one lot, they shall be separated by a distance equal to the overall height of one wind turbine system, including blades, if applicable.
6. The Planning Commission or Governing Body shall have the ability to grant a deviation from these standards. In support of a deviation request from these requirements, the applicant shall submit detailed information illustrating the need for the deviation.
7. Color/Finish – Wind turbines, including the towers, shall be painted a non-reflective, non-obtrusive color or a color that conforms to the environment and architecture of the community.
8. Tower design – All tower structures shall be of self-supporting, monopole construction unless attached to a structurally reinforced roof where such support is not warranted. No lattice structures shall be permitted.
9. Blade size – The diameter of the blades for a ground-mounted horizontal-axis, propeller-style wind turbine system shall be limited to one-third the height of the tower.
10. Lighting – Wind turbines shall not be artificially lit unless such lighting is required by the Federal Aviation Administration (FAA) or other applicable authority.
11. Signage – 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. Commercial advertising is strictly prohibited.
12. Federal and State regulations – All wind turbines shall meet or exceed current State and federal standards and regulations.
13. Building code compliance – All wind turbines shall meet or exceed the current standards expressed in the adopted building codes. A building permit is required prior to the installation of any wind turbine.
14. Utility connections – Reasonable efforts shall be made to locate utility connections from the wind turbine(s) underground, depending on appropriate soil conditions, shape, and topography of the site and any requirements of the utility provider. Electrical transformers for utility interconnections may be above ground if required by the utility provider. For electrical transformers with a footprint greater than two (2) square feet in area, landscaping shall be provided where necessary to substantially screen the structure from public view and/or view of adjacent homeowners. Maintenance of all landscaping shall be the responsibility of the property owner.
15. Electrical wires – All electrical wires associated with a wind turbine shall be located underground or inside the monopole except for those wires necessary to connect the

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wind generator to the tower wiring, the tower wiring to the disconnect junction box, and the grounding wires.

16. Safety shutdown – 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 wind 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.
17. Minimum blade clearance – The blade tip clearance for a ground-mounted, horizontal-axis, propeller-style wind turbine shall, at its lowest point, have a ground clearance of not less than 30 feet.
18. Noise – The noise emitted from any wind turbine shall not exceed 55dbA as measured at the nearest property line, except during short-term events such as utility outages and severe windstorms.
19. Utility notification – 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 shall be exempt.
20. Removal of abandoned wind turbines – Any wind turbine that is not operated for energy production for a continuous period of twelve (12) months shall be considered abandoned, and the owner of such wind turbine shall remove the same within ninety (90) days of a receipt of notice from the governing authority notifying the owner of such abandonment. If such wind turbine is not removed within said ninety (90) days, the governing authority may remove such wind turbine at the owner’s expense.

(Ord. 2250, Sec. II, 2012)

19.50.020 Geothermal Energy.

A. Definitions

1. Geothermal Energy – Energy that is stored in the Earth. (Ord. 2250, Sec. II, 2012)

B. Application Requirements

Each application for a geothermal energy installation shall be accompanied by the following:

1. A site plan or scaled drawing showing all buildings, property lines and the location for the pipe system.
2. A description of the system being installed including the type, model, brand and contractor installing the system.
3. Staff may require additional information if it is necessary to fully evaluate the application. (Ord. 2250, Sec. II, 2012)

C. Approval

1. Staff shall review and approve all geothermal installations.
2. A building permit will be required for the installation, but if it is part of other construction, it may be incorporated with that permit. (Ord. 2250, Sec. II, 2012)

19.50.025 Hybrid Energy Installations.

It has become a common practice to use a combination of energy sources rather than just one. An applicant may submit an application to include more than one energy source and it will be considered as one application.

(Ord. 2250, Sec. II, 2012)

CHAPTER 19.52 - PROCEDURAL PROVISIONS

Sections:

19.52.000	Governing Body.
19.52.005	Application.
19.52.010	Filing Fee.
19.52.015	Public Hearing.
19.52.020	Traffic Study Requirement.
19.52.025	Posting of Property.
19.52.030	Factors.
19.52.035	Planning Commission Action.
19.52.040	Governing Body Action.
19.52.045	Protest.
19.52.050	Lesser Districts.
19.52.055	Reapplication Waiting Period

19.52.000 Governing Body.

Governing Body means the twelve (12) members of the City Council plus the Mayor for a total of thirteen (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.

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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 twenty (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 two hundred (200) feet, except public streets and ways, of the area proposed to be rezoned at least twenty (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 (6) 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 forty-eight (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 (5) 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 (5) 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 one hundred dollars (\$100), or imprisoned in jail for not more than thirty (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 (7 votes) and if it is to approve a change, adopt an ordinance to that effect;
2. Override such recommendation by a 2/3 majority vote of the membership of the Governing Body (9 votes) and if it is to approve a change, adopt an ordinance to that effect; or

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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 (7 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% or more of any real property proposed to be rezoned or by the owners of record of 20% 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 3/4 vote of all members of the Governing Body (10 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 & RP-1a Most restrictive
2. R-1b & RP-1b
3. R-2 & RP-2
4. R-3 & RP-3
5. R-4 & RP-4
6. C-3
7. C-0 & CP-0
8. C-1 & CP-1
9. C-2 & 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 (6) 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)

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CHAPTER 19.54 - BOARD OF ZONING APPEALS

Sections:

19.54.005	Appointment-Terms-Compensation-Qualification-Offices.
19.54.010	Rules-Meetings-Minutes-Records.
19.54.015	Deposit-Refund.
19.54.020	Public Hearing.
19.54.025	Appeals.
19.54.030	Variances.
19.54.035	Exceptions.
19.54.040	Performance.
19.54.045	Board of Zoning Appeals Action.
19.54.050	Appeals from the Board.

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 twenty (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

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notice of such proposed application to all the owners of lands located within two hundred (200) feet, except public streets and ways, of the application area at least twenty (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 (6) 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 thirty (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.

19.54.045 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 thirty (30) days of the final decision of the Board.

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