

**INITIATIVE PETITION UNDER K.S.A 12-3013 FOR AN ORDINANCE REGARDING LIMITING REZONING THAT WOULD ALLOW ACCESSORY DWELLING UNITS OR OTHER DWELLINGS FOR MORE THAN ONE FAMILY TO RESIDE ON A LOT IN A SINGLE FAMILY RESIDENTIAL ZONING DISTRICT**

Shall the following be adopted?

**AN ORDINANCE REGARDING LIMITING REZONING THAT WOULD ALLOW ACCESSORY DWELLING UNITS OR OTHER DWELLINGS FOR MORE THAN ONE FAMILY TO RESIDE ON A LOT IN A SINGLE FAMILY RESIDENTIAL ZONING DISTRICT**

WHEREAS, Kansas statutes do not address (a) whether two or more families should be allowed to reside at the same time in a single family residential zone, or (b) whether accessory dwelling units (ADUs) or other dwellings in addition to the single family dwelling house in single family residential zoning districts should be allowed;

WHEREAS, the City Council of the City of Prairie Village, Kansas has been considering these subjects for almost a year, and over 200 people have publicly oppose any legislation or ordinance that would permit them;

WHEREAS, the City Council of the City of Prairie Village, Kansas has indicated it can legislate to allow both (a) and (b) above, it stands to reason that local legislation can also refuse to or limit how;

WHEREAS, the broad and overall public purpose of single family residential zoning districts is (a) to permit one family to reside on a lot at a time, not two or more families on a lot at a time; and, (b) to permit only the single family dwelling house on a lot;

WHEREAS, enacting this Ordinance would provide the ways and means to accomplish that broad and overall public purpose;

WHEREAS, the City of Prairie Village, Kansas has been completely zoned and built out for decades, with over 90% of all of the land being in a single family residential zoning district;

WHEREAS, the local public Purpose and Intent of zoning is set forth in The Code of the City of Prairie Village, Kansas, Chapter 19.01.010;

WHEREAS, the local public Purpose and Intent of the local zoning code is geared to the single family residential zoning district to ensure the quiet enjoyment of the land by preventing congestion and overuse of a residential lot, encourage green space, and prevent increased density further burdening governmental services such as water, sewer, stormwater, electricity, internet, roads, sidewalks, parking, police, fire, parks, and schools;

WHEREAS, the City of Prairie Village, Kansas already is one of the most densely populated cities in Kansas;

WHEREAS, enacting this Ordinance would provide the ways and means to accomplish the local public purpose and intent stated above;

WHEREAS, determining whether to allow a single or multiple families on a lot or allowing one or more dwellings per lot in a single family residential zoning district does not require specialized municipal knowledge or intimate knowledge of the city's finances;

WHEREAS, the City of Prairie Village, Kansas has been for decades and continues to be welcoming to all people to reside within it;

WHEREAS, the City of Prairie Village, Kansas has received state and national awards for livability as is;

WHEREAS, the current residents of the City of Prairie Village, Kansas were aware of and relied on the stability of the zoning rules and the zoning district when buying their residences in single family residential zones;

WHEREAS, it is the public purpose to allow owners of land to have control over the zoning of their land, and those nearby to have notice, opportunity to be heard, and protest if something is done which may impact their quiet enjoyment of their single family dwelling;

WHEREAS, Kansas statutes do not address whether an owner's land can be rezoned by the government without the owner's consent, and this Ordinance would address that issue;

WHEREAS, rezoning is not done statewide;

WHEREAS, Kansas statutes do not delegate rezoning exclusively to the governing body; and,

WHEREAS, this Ordinance provides a simple, general, and permanent solution to all of these unresolved local public issues.

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

**Section 1:** The Code of the City of Prairie Village, Kansas shall have added Section 19.02.422 entitled "Rezoning" stating: *Rezoning* means changing a lot from a more restrictive zone to a less restrictive zone, such as permitting two or more families living or dwelling on a lot in a currently single-family residential zone (R-1), or permitting three or more families living or dwelling on a lot in a currently two-family residential zone (R-2).

**Section 2:** The Code of the City of Prairie Village, Kansas shall have added Section 19.52.006 entitled "Rezoning By Governing Body", stating:

- a. The governing body and/or the planning commission can initiate rezoning in an R-1 zone district only one lot at a time and only with the written consent of all owner(s) of the lot.
- b. Rezoning initiated by the governing body and/or the planning commission for each lot must comply with all notice, opportunity to be heard, and protest rights of surrounding neighbors as set forth in Sections 19.52.015 through 19.52.045.
- c. Rezoning initiated by the governing body and/or the planning commission shall post a rezoning sign on each lot to be rezoned in the same manner as required Section 19.28.025 substituting 'rezoning application' for 'special use permit' on the sign.
- d. Under rezoning initiated by the governing body and/or the planning commission, the planning commission and the governing body shall make findings of fact by clear and convincing evidence of the same factors set forth in Section 19.52.030 as well as for the factors in Section 19.28.035 except that each of the factors shall be addressed in writing to justify rezoning.

**Section 3:** If any provision in this Ordinance is deemed unconstitutional, contrary to law, or not permitted by initiative, that provision shall be read as if not a part of the Ordinance and the rest of the Ordinance shall remain in full force and effect.

**Section 4:** This ordinance shall take effect and be in force from and after its publication in the official city newspaper as provided by law.

**PASSED** by the City Council of the City of Prairie Village, Kansas on \_\_\_\_\_, 2023.

**APPROVED:**

\_\_\_\_\_  
Eric Mikkelson, Mayor

**ATTEST:**

\_\_\_\_\_  
Adam Geffert, City Clerk

**APPROVED AS TO LEGAL FORM:**

\_\_\_\_\_  
David E. Waters, City Attorney

The electors (voters) of Prairie Village, Kansas signed below request that the governing body pass the Ordinance referenced above or submit the same to a vote of the electors.

Petition Signatures

I have personally signed this Petition. I am a registered elector of the state of Kansas and of Prairie Village, Kansas and my residence address is correctly written after my name.

Printed Name/Signature

Residence Address (Street and Number)/PV/Zip Code

Date of Signing

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State of Kansas ss:  
County of Johnson

I am the circulator of this petition, I believe the statements therein, and I am qualified to circulate this petition and I personally witnessed the signing of the petition by each person whose name appears thereon. I am a U.S. citizen, at least 18 years of age, have not been convicted of a felony, and agree to submit to the jurisdiction of the State of Kansas, including its agencies, political subdivisions and election officials, for purposes of subpoena enforcement regarding the integrity and reliability of the petition process.

\_\_\_\_\_  
(Signature of circulator)

\_\_\_\_\_  
(Circulator's residence address)

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, 2023.

\_\_\_\_\_  
[Signature of Notary Public]

My Commission Expires: \_\_\_\_\_

Notary Public

SEAL