

SHARP LAW

RECEIVED

APR 25 2023

JO CO. LEGAL DEPT
→ Recd. 4-25-23, hand delivered
late p.m.

April 25, 2023

Rex A. Sharp*
Manager, Sharp Law, LLP
4820 W. 75th Street
Prairie Village, KS 66208
(913) 901-0500
rsharp@midwest-law.com

Peggy Trent
Johnson County Counselor
111 S. Cherry Street, Suite 3200
Olathe, KS 66061

Dear Ms. Trent,

Thanks for your prompt response to my April 6 submission. I have considered your response, and provide the revised versions for your further consideration and County Counselor approval of the enclosed Petitions:

1. Initiative Regarding Rezoning
2. Initiative Regarding Rental Safety
3. Initiative Regarding Term Limits
4. For Abandonment of the Mayor-Council Form of Government
5. For Adoption of the Mayor-Council Manager Form of Government

If you have any questions, please email me.

Sincerely,



Rex A. Sharp

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

1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		

20. _____
21. _____
22. _____
23. _____
24. _____
25. _____
26. _____
27. _____
28. _____
29. _____
30. _____
31. _____
32. _____
33. _____
34. _____
35. _____
36. _____
37. _____
38. _____

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

INITIATIVE PETITION UNDER 12-3013 REGARDING RENTAL SAFETY

Shall the following be adopted?

AN ORDINANCE REGARDING RENTAL SAFETY

WHEREAS, approximately 19% of all residential fires take place in multi-family dwellings;

WHEREAS, owners looking to commercialize their homes should build those homes to commercial grade for the protection of tenants;

WHEREAS, owners of rental properties which do not comply with commercial building, safety, and life safety codes, zoning codes, and property restrictions should not be allowed to unfairly compete against local businesses which do; and,

WHEREAS, commercial properties should be annually inspected for compliance with ever changing and up-to-date codes by the City Inspector;

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

Section 1: All rental rooms, structures, houses, dwellings, or lots shall be deemed commercial, and shall comply with all commercial codes then adopted in the City of Prairie Village, including at a minimum currently 2018 IBC, 2018 IFC, 2017 NEC, 2018 IPC, 2018 IMC, 2018 IECC, 2018 NFPA 101 (Life Safety Code) Chapters 26 and 28, ANSI A117.1-2009, ADAAG 2010, IRC 2018, ISPS 2018, NEC 2017, and Parking under Prairie Village Municipal Code under Chapter 19.46, and treated for required spaces under 19.46.030(a)(2).

Section 2: All rental rooms, structures, houses, dwellings, or lots must be licensed with the City and pay the following annual inspection fees, whichever is less: \$500/room; \$1000/structure, dwelling, or house; or \$5000/lot.

Section 3: All rental rooms, structures, houses, dwellings, or lots which do not pass the annual inspection shall not be rented, and if they are, each day of rent will be deemed a separate violation.

Section 4: Existing and licenses rentals shall have to comply with Section 2, Section 3, and K.A.R. 28-36-70 through K.A.R. 28-36-89, if applicable, but shall be initially grandfathered from Section 1 Code compliance as long as they are not repaired or materially upgraded. However, all rentals in the City of Prairie Village must comply with Section 1 within 5 years of the effective date.

Section 5: 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 6: 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

1.		
2.		
3.		
4.		
5.		
6.		
7.		
8.		
9.		
10.		
11.		
12.		
13.		
14.		
15.		
16.		
17.		
18.		
19.		

20. _____
21. _____
22. _____
23. _____
24. _____
25. _____
26. _____
27. _____
28. _____
29. _____
30. _____
31. _____
32. _____
33. _____
34. _____
35. _____
36. _____
37. _____
38. _____

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

INITIATIVE PETITION UNDER K.S.A 12-3013 FOR TERM LIMITS FOR THE GOVERNNING BODY

Shall the following be adopted?

ORDINANCE NO. _____

AN ORDINANCE REGARDING TERM LIMITS FOR THE GOVERNING BODY

WHEREAS, leading a City should not be a career;

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, Chapter 1-213, entitled, “Term Limits”, shall be added which states: Notwithstanding any other provisions of the law to the contrary, no person shall be eligible to be elected to or serve as a member of the governing body for more than eight years (whether as Mayor, Council member, or member of the governing body, or any combination thereof). Current governing body members can serve out their existing terms, however, even if it would be more than eight years.

Section 2: 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/PV/Zip Code

Date of Signing

- 1. _____
- 2. _____
- 3. _____
- 4. _____
- 5. _____
- 6. _____
- 7. _____
- 8. _____
- 9. _____
- 10. _____
- 11. _____

12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____
22. _____
23. _____
24. _____
25. _____
26. _____
27. _____
28. _____
29. _____
30. _____
31. _____
32. _____

- 33. _____
- 34. _____
- 35. _____
- 36. _____
- 37. _____
- 38. _____

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

PETITION FOR AN ELECTION OF THE CITY OF PRAIRIE VILLAGE, KANSAS TO VOTE ON THE ABANDONMENT OF THE MAYOR-COUNCIL FORM OF GOVERNMENT

TO THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS:

The City of Prairie Village shall submit the following question for ballot:

Shall the City of Prairie Village, Kansas abandon the mayor-council form of government?

Yes No

The electors (voters) of Prairie Village, Kansas signed below request that the governing body submit the question above to a vote of the Prairie Village electorate pursuant to K.S.A. 12-184 to abandon the mayor-council (strong mayor) form of government.

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

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____

9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____
22. _____
23. _____
24. _____
25. _____
26. _____
27. _____
28. _____
29. _____

- 30. _____
- 31. _____
- 32. _____
- 33. _____
- 34. _____
- 35. _____
- 36. _____
- 37. _____
- 38. _____

State of Kansas ss:
County of Johnson

I am the circulator of this petition 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

PETITION FOR AN ELECTION OF THE CITY OF PRAIRIE VILLAGE, KANSAS TO VOTE ON THE ADOPTION OF THE MAYOR-COUNCIL MANAGER FORM OF GOVERNMENT

TO THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS:

The City of Prairie Village shall submit the following question for ballot:

Shall the City of Prairie Village, Kansas adopt the mayor-council manager form of government and become a city operating under such form of government?

Yes No

Pursuant to K.S.A. 12-1039(b), the membership of the Prairie Village City Council under the new mayor-council manager form of government shall be one member from each of the six wards plus an at large Mayor, all with staggered terms as follows: Only the 2023 elected City Council member from each ward shall continue to serve in the new City Council along with the currently elected at large Mayor. Those 2023 elected City Council members from Wards 1, 2, and 3 shall serve four year terms, while those 2023 elected City Council members from Wards 4, 5, and 6 as well as the current at large Mayor shall serve two year terms. Thereafter, all wards will elect just one member to the City Council to serve four year terms.

The electors (voters) of Prairie Village, Kansas signed below request that the governing body submit the above question, and terms of office, to the Prairie Village electorate pursuant to K.S.A. 12-1039 to adopt the mayor-council manager form of government.

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

1. _____
2. _____
3. _____
4. _____

5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____
22. _____
23. _____
24. _____
25. _____

- 26. _____
- 27. _____
- 28. _____
- 29. _____
- 30. _____
- 31. _____
- 32. _____
- 33. _____
- 34. _____
- 35. _____
- 36. _____
- 37. _____
- 38. _____

State of Kansas ss:
County of Johnson

I am the circulator of this petition 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