

ORDINANCE NO. 2446

AN ORDINANCE AMENDING THE CITY OF PRAIRIE VILLAGE, KANSAS ZONING REGULATIONS BY ADDING TREE PROTECTION REQUIREMENTS TO CHAPTER 19.47, ENTITLED "LANDSCAPE STANDARDS" AND ADDING ADDITIONAL DEFINITIONS TO CHAPTER 19.02 "DEFINITIONS."

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF PRAIRIE VILLAGE, KANSAS:

Section I.

Chapter 19.02 of the Prairie Village Municipal Code, is hereby amended by adding new Section 19.02.168 "Diameter at Breast Height (DBH)," new Section 19.02.177 "Drip Line," and new Section 19.02.293 "Kansas Champion Tree" all to read as follows:

19.02.168 Diameter at Breast Height (DBH)

"Diameter at Breast Height" or "DBH" means the diameter in inches of a tree as measured through the main trunk at a point four and one-half feet (4.5') above the natural grade level.

19.02.177 Drip Line

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

19.02.293 Kansas Champion Tree

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

Section II.

Chapter 19.47 of the Prairie Village Municipal Code, entitled "Landscape Standards," is hereby amended by amending Sections 19.47.010 "Intent and Applicability," and 19.47.020 "Required Landscape," and adding new Section 19.47.060 "Tree Protection" all to read as follows:

19.47.010 Intent and Applicability

1. **Intent.** The intent of the landscape standards are to:
 - (1) Create an attractive aesthetic environment in the City, and preserve the value of properties as new investment occurs;
 - (2) Improve the relationship of buildings and sites to the streetscape, and coordinate the designs of multiple sites and buildings along a block through consistent frontage designs;
 - (3) Encourage creative and efficient site design where the layout of sites

and buildings can allow open spaces and landscape to serve multiple aesthetic, screening, environmental, and social or recreational functions;

- (4) Enhance the environmental and ecological function of un-built portions of sites;
 - (5) Reduce the exposure and adverse impacts of intense land uses, activities, and site conditions on streets and adjacent areas, and mitigate the effects through landscape designs; and
 - (6) Preserve the tree canopy and streetscape of Prairie Village for the aesthetic, economic, and environmental benefits of tree preservation.
2. **Applicability.** A landscape plan shall be required for any application that requires a site plan approval per Section 19.32. Landscape standards shall specifically apply to:
- (1) All development in the R-3, R-4, C-O, C-1, C-2, and MXD districts.
 - (2) Any permitted non-residential uses in the R-1A, R-1B, and R-2 districts, including any conditional uses, special uses, or accessory uses that have a landscape requirement as part of their conditions.
 - (3) Any single-family development project that requires streetscape or landscape improvements per the Neighborhood Design Standards shall meet the standards in Sections 19.06.025 and 19.08.025.
 - (4) The tree protection provisions apply as specifically stated in Section 19.47.060

19.47.020 Required Landscape

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

Table 19.47 A: Plant Specifications

<i>Site Element</i>	<i>Trees</i>	<i>Evergreen</i>	<i>Shrubs</i>
Streetscape and Frontage: The area between the front building line and the street, including any plantings required in the ROW, used to create a relationship between the site and the public realm.	1 large tree per 40' of lot frontage;		
	2 large trees per 40' if buildings setback more than 30'.	n/a	n/a
Corner lots shall meet this requirement on side lot lines at a rate of 50% of the streetscape and frontage rate.			
Foundation. Areas along the building frontage (within the first 10' – 20 from the building) used to provide accents and soften larger expanses of buildings.	1 ornamental tree per 25' of building frontage.	Evergreens may be substituted for ornamental trees at a rate of 1 for 1 for up to 50% of the requirement.	5 shrubs for 25' of building frontages.
	Side elevations on corner lots shall provide this standard on at least 50% of the building.		
Parking. Areas on the perimeter, or interior of parking where landscape is used to soften the appearance, mitigate heat gain and infiltrate stormwater.	1 large tree per 40' of parking perimeter; and		
	1 large tree per 40 parking spaces in internal islands or added to the perimeter. Ornamental trees may be substituted for large trees at a rate of 2 for 1 for up to 50% of the internal islands requirements.	Evergreens may be substituted for perimeter trees at a rate of 2 for 1, for up to 50% of the perimeter requirement that does not face a front lot line.	5 shrubs for 25' of perimeter. Any parking near the right of way or adjacent to lots may require buffers per section 19.47.040.
Buffers. Areas of a site that require additional landscape to mitigate potential impacts on streetscape or adjacent property.	See Section 19.47.040.		

(b) **Credits for Existing Vegetation.** Preservation of existing landscape material that is healthy and of a desirable species may count towards these requirements provided protection measures in Section 19.47.060 are taken to ensure the survival of the vegetation through construction and all other location and design standards are met. Credits shall be on a 1 for 1 basis provided existing trees shall be at least 3" caliper to count. Landscape material that is of exceptional quality due to size, maturity and health may be credited on a 2 for 1 basis.

(c) **Design.** The required landscape material shall be arranged and designed on a particular site in a way that best achieves the intent expressed in 19.47.010, with regard to the specific context, street frontage, property adjacencies and other elements proposed on the site. Specifically, designs shall:

1. Create an attractive site.
2. Improve the relationships of buildings and sites to the streetscape and block.
3. Promote efficient layouts of the site and landscape areas.
4. Enhance environmental and ecological functions of the site.
5. Screen and buffer any potential adverse impacts of site elements.

19.47.060 Tree Protection

- (a) **Applicability.** The provisions of this section shall specifically apply to:
1. Any removal of a tree in the public right-of-way, except for those authorized by an official City project.
 2. All applications that are subject to the landscape standards in Section 19.47.010 (B);
 3. The following situations in R-1A and R-1B zoning where:
 - a. Any new residential structure is built on a vacant lot;
 - b. An existing residential structure is torn down, whether it is just a demolition or a demolition and rebuild of a new residential structure;
 - c. Any remodel of an existing residential structure that adds more than 600 square feet to the existing building footprint; and
 - d. Any remodel of an existing residential structure that tears down more than 10% of the existing structure associated with the new construction.

- (b) **Tree Protection and Removal Plan.** A tree protection and removal plan shall be provided for all applicable projects where:
1. The property has a tree protected by Section 19.47.060 (C);
 2. As part of a landscape plan associated with development, where existing trees will be retained and protected to meet landscape requirements;
 3. Any trees are proposed to be removed as part of a building permit associated with situations listed in 19.47.060 (A) above.

The tree protections and removal plan shall:

1. Show all existing trees, including size and species;
 2. Identify trees proposed for removal and those to be retained;
 3. Include locations of protection fences and other protection measures required by this Section.
- (c) **Protected Trees.** Trees are protected based on their size and location, as specified in Table 19-57-D and Figure 19-47-1. Protected trees require mitigation if removed; trees prohibited from removal require special circumstances and approval to remove the tree, and require additional mitigation if authorized to be removed.

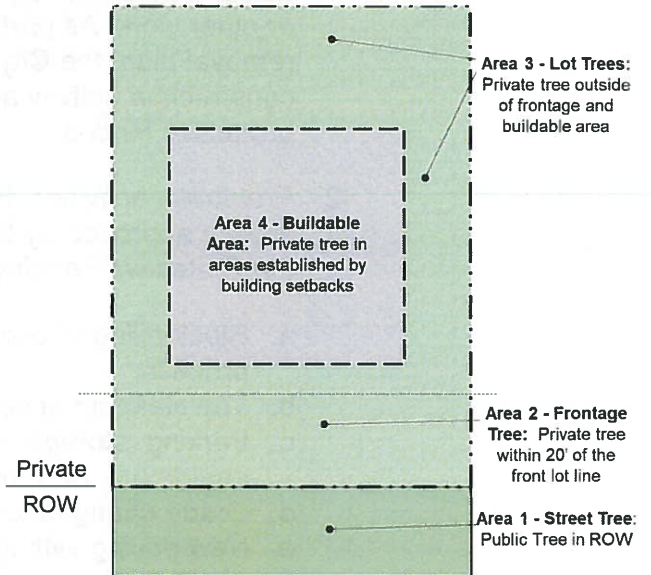
Table 19-47-D Protected Trees				
Location	Protected Tree (caliper)	Mitigation if removed [2]	Prohibited from Removal [1] (caliper)	Mitigation if removed [2]
Area 1: Street Trees	--	--	All trees	1 tree for each 6" caliper removed (maximum 3)
Area 2: Frontage Trees	3" – 6"	1 for 1 tree replacement	6" +	1 tree for each 6" caliper removed (maximum 3)
Area 3: Lot Trees	6" – 20"	1 for 1 tree replacement	20" +	1 tree for each 12" caliper removed
Area 4: Buildable Area Trees	6" – 30"	1 for 1 tree replacement	30" +	1 tree for each 15" caliper removed
All Areas	--	--	Any Kansas State Champion Tree	1 tree for each 6" caliper removed (maximum 3)

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

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

1. **Area 1:** Area 1, "street trees" includes any tree that is in the public right-of-way.
2. **Area 2:** Area 2, "frontage trees" includes any tree that is 3" caliper or more, on private property and within 20 feet of the front lot line.
3. **Area 3:** Area 3, "lot trees," includes any tree that is 6" caliper or more, on private property, but outside of the frontage or buildable area.
4. **Area 4:** Area 4, "buildable area trees" includes any tree that is 6" caliper or more, and in the buildable area determined by the zoning setbacks applicable to the principal building.

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



(d) **Protection Measures.** All trees that are prohibited from removal and any other tree that will remain on site according to the Tree Protection and Removal plan shall be protected by the following measures:

1. **Fences.** Protective/temporary fences shall be required for all trees noted to remain on the tree protection and removal plan, or otherwise not authorized for removal. Fences shall be a snow fence, chain-link fence, orange vinyl construction fence, or other similar fencing with a minimum four feet (4') height. The protective fence shall prevent infringement on the root system from any construction-related activities and be installed

according to Table 19-47 (E).

Table 19-47-E: Protective Fencing		
Tree Size	Fenced Area (lessor of); 5' minimum in all cases	
> 28" DBH	20' from center of tree	Fencing protecting at least 75% of the drip line
20" DBH – 28" DBH	15' from center of tree	
< 20" DBH	10' from center of tree	
All required protective/temporary fences shall be at least 4' high		
On lots less than 10,000 square feet, the Director may approve fences 15' from the center of tree for trees > 28" DBH and 10' from the center of tree for trees up to 28" DBH.		

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

2. *Prohibited activities.* Except for utility work or in association with other activity approved by the City, the following activities are not allowed within the Protective Fencing area:

- a. Stock piling of construction materials or waste from the construction process;
- b. The cleaning of construction equipment;
- c. Parking, storage, or placement of any vehicles, construction equipment, or temporary structures;
- d. Grade changes, cut of fill, in excess of 2 inches;
- e. New paving with asphalt, concrete, or other materials; and
- f. No signs, wires, or other attachments other than those of a protective nature shall be attached to any tree.

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

1. The tree is dead;
2. The tree is diseased or dying, and constitutes a threat to healthy trees,

- property, or public safety; or
3. Removal of the tree is necessary for construction, development, or redevelopment under the following criteria:
 - a. All reasonable efforts have been made to avoid removing the tree through comparable alternative designs;
 - b. The presence of the tree places an undue financial burden on the applicant; and
 - c. No other reasonable accommodations, including adjustments to the otherwise allowable building footprint or site design can be made to preserve the tree.

The Building Official may seek advice from the Prairie Village Tree Board, other staff, or departments or a third party consultant. Written authorization by the Building Official shall be valid for the duration of any permit associated with the authorization. Except for applications associated with a Site Plan approved by the Planning Commission, the Building Official's decision may be appealed as provided in Section 19.54.025.

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

Section III. Repeal of Prior Ordinances.

Sections 19.47.010 and 19.47.020 of Chapter XIX of the Prairie Village Municipal Code, in existence as of and prior to the adoption of this Ordinance, and all other ordinances and parts thereof that are inconsistent with any provision of this Ordinance, are hereby repealed.

Section IV. Effective Date.

This ordinance shall take effect and be in force beginning June 1, 2021 upon and after its passage, approval, and publication as provided by law.

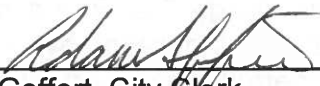
PASSED by the Governing Body of the City of Prairie Village, Kansas on March 15, 2021.

CITY OF PRAIRIE VILLAGE, KANSAS



Eric Mikkelson, Mayor

ATTEST:



Adam Geffert, City Clerk

APPROVED AS TO LEGAL FORM:



David E. Waters, City Attorney