

## **What's happening with petitions in Prairie Village?**

Three petitions have been submitted to the City and the County for consideration on the ballot this November. One deals with zoning and two deal with the City's form of government. (Details on those below.)

The County previously determined the certain aspects of the petitions did not meet state statutory guidelines. On August 14, the Johnson County Election Commissioner asked the City to determine whether the petitions are valid and should go on the ballot for an election. Outside of verifying signatures, the Commissioner did not make a determination as to whether or not the petitions complied with state law.

The City will continue to update the public on the results of the petition review. Make sure to sign up for e-news alerts on the City [website](#).

### **Is the City suing residents?**

No. The City is not suing residents. The City is asking for an independent judicial opinion to determine if the petitions submitted comply with state law – which is the City's responsibility. Because Kansas courts do not generally issue "advisory" opinions, in order to request such an opinion from the courts, the City is required to name one or more defendants, which includes one not-for-profit corporation and one person (an attorney) that submitted the petitions. However, the City is not seeking monetary damages from this action, nor is it seeking a ruling that any signatories to the petitions acted illegally in signing the petitions. Again:

- Legal counsel for both the County and City have determined the several aspects of the petitions do not meet statutory requirements to be put on the ballot in November.
- The Election Commissioner determined the petitions had enough signatures but did not determine whether they otherwise comply with the law. The Election Commissioner requested the City make that determination.
- Out of fairness to all residents, including those who did not sign the petitions, we are asking for an independent judicial opinion.

## **THE THREE PETITIONS**

### **Mayor-Council Abandonment Petition**

The petition asks whether the city should abandon the current form of government, which is the mayor-council form of government. The petition does not propose an alternative form of government.

## Mayor-Council-Manager Adoption Petition

The petition is seeking to change the form of government that has been in place in Prairie Village since its charter in 1951. Specifically, it wants to:

- Change the number of council members per ward from two to one.
- Immediately remove from the city council all members elected to four-year terms in 2021, undoing the will of the voters in the City's most recent local election.
- Allow only those people elected in the upcoming November 2023 election to serve as councilmembers.

This **petition seeks to reduce representation by half**, with each ward only having one council member, as opposed to the two that currently serve each ward.

The petition also appears to seek to reduce the current mayor's four-year term to a two-year term.

The petition **does not address the numerous other changes to city code** that may be required when a form of government is changed.

## Rezoning Petition

The Rezoning Petition would limit the City's ability to rezone R-1 and R-2 districts (and perhaps others), or to adopt text amendments related to any zoning districts and housing, and establish certain notice and protest requirements, the majority of which already exist in current City code.

Certain "administrative ordinances" are not allowed to be pursued through a petition process under state law. Kansas courts have established a four-part test in determining whether ordinances are administrative or "legislative." This test was established in a 2009 case involving the City of Fairway, where the Kansas Supreme Court determined that a petition seeking to limit rezoning by that city was deemed "administrative" and, therefore, invalid.

Zoning regulations are complex and residents are strongly encouraged to fully understand what the language in the proposed ordinance would do. **General revisions to the zoning code is a process that requires months of research, technical assistance from planning experts and public input.** It is common for municipalities to go through this process periodically to ensure that the rules and regulations are helping the City achieve its vision for housing and development. **No actual revisions to the zoning code have been drafted or considered by the City related to work from the City's ad hoc housing subcommittee.**

The City **is not, at this time, considering initiating rezoning of any parcels.** It would be highly unusual for the City to pursue rezoning without the owner initiating the process.

As part of the zoning code revision process, the City will be considering further limitations of the size of new homes on small lots as well as consideration of restrictions of short-term rentals.

## **THE CITY'S POSITION ON THE PETITIONS**

### **What is the City's position on the petitions?**

City and county attorneys determined that certain aspects of the petitions do not comply with the law, both in substance and with multiple technical requirements.

However, the County Election Commissioner did verify the signatures collected and determined that were enough signatures collected for the petitions.

Since sufficient signatures were gathered, but the City and County attorneys (in different ways) found that the petitions do not comply with the law, the City has decided to seek a judicial opinion on whether or not the petitions can be placed on the ballot.

### **What technical aspects of the submitted petitions don't comply with the law, according to City and County legal teams?**

There are many technical violations, according to City and County attorneys. For example, the wording of the question on the Mayor-Council-Abandonment question does not comply with the law, as specifically stated by the County Legal Department on May 1, 2023. In addition, the City Attorney advised the City (in open session on August 7) that the Mayor-Council-Manager Adoption Petition appears to remove council members before state statute allows and does not properly establish terms of office. For a more detailed list of apparent violations, see the letters from the County attorneys, and the court filings, published on our website.

### **What policy changes called for in the submitted petitions don't comply with the law, according to City and County attorneys?**

There are many substantive violations, according to the City attorney. For example, because the Mayor-Council-Abandon and the Mayor-Council-Manager petition were submitted separately, there is a possibility that, if placed on the ballot, one could be approved and the other one rejected. If this happens, it would produce contradictory results: either leaving the City without an active form of government or with competing forms of governments. For a more detailed list of apparent substantive violations, see the letters from the County attorneys, and the court filings, published on our website.

## **OVERVIEW OF TYPES OF GOVERNMENT**

### **What is the City's current form of government?**

It is a mayor-council form of government. This is the **oldest and most common form** of government in the state – and the structure Prairie Village has operated under **since receiving its charter in 1951**. Currently, 554 of the 625 cities in Kansas operate under a mayor-council form of government.

### **How does the mayor-council form of government function?**

Under this form, the **mayor presides at all meetings of the council** and has general supervisory responsibility over the employees and business of the City. In Prairie Village, there is a city administrator. The **city administrator oversees the day-to-day functioning** and supervision of all employees and departments, from parks and recreation to public works.

## **How does city council function?**

The Prairie Village city council is currently made up of 12 members with two representatives from each of the city's six wards. They are elected to four-year terms with elections staggered every two years.

## **What is a Mayor-Council-Manager Form of Government that the petition seeks to adopt?**

There isn't a clear consensus on the type of government that the petition seeks to adopt. The key difference between a mayor-council and mayor-council-manager form of government is that the latter has a "manager" who oversees the day-to-day operations of the city, which reduces the administrative and appointment power of the mayor.

It's important to note that **Prairie Village already functions this way in many respects.** Wes Jordan serves as the City Administrator, overseeing all operations within the City. The City also has a deputy city administrator, Nickie Lee, a director of public works, Keith Bredehoeft, and a chief of police, Bryon Roberson. While the mayor appoints these positions, they must be confirmed by the City Council.

Another key difference: Under a "manager" form of government, the governing body would likely appoint the city manager only, with the city manager then having the authority—without city council approval—to appoint other leadership positions.

The City will need to review the language detailed in the Mayor-Council-Manager Adoption Petition to understand if potentially conflicting code updates would be required to adopt a new form of government.

## **What Would Happen if the Mayor-Council Abandonment Petition is Approved, but the Mayor-Council-Manager Petition is Not Approved?**

It is unclear what would happen if only one of the Mayor-Council Abandonment Petition and the Mayor-Council-Manager Adoption Petition was ultimately approved. That situation would seem to produce contradictory results, leaving it unclear as to how the government of the City is to be organized, and calling into question who would be qualified to serve as the City's elected officials.

## **ABOUT THE ZONING ORDINANCE**

### **What are the potential implications of passing the proposed rezoning ordinance?**

The proposed rezoning ordinance would limit the City's ability to adjust zoning regulations within specific land uses - R- 1 and R - 2 (but perhaps others as well)- moving forward. This could impact the City's ability to engage in development opportunities that arise in the future. Additionally, the proposed rezoning ordinance offers a precise interpretation for the extensive concept of "rezoning", mentioning only residential districts in its wording. Given that rezoning is also an option in commercial and industrial districts, changing the definition solely for one land use category could lead to confusion. See the memo from our City Planner, attached to the court filings posted on our website, for a more detailed discussion of the adverse impacts throughout our complex City Zoning Code if this ordinance were to be enacted as is.

## **ABOUT STATE LAW**

### **What does state law allow regarding petitions?**

Various state laws allow citizens to circulate petitions for signature in order to create legislative action. However, in order for a petition to be placed on the ballot, it must meet legal and statutory requirements. The City must comply with state law in all its actions. If a Council action does not comply with state law, state law generally supersedes the Council action.

Generally, state law allows proposed certain types of ordinances to be placed on the ballot via petition if the petition is signed by at least 25% of the number of residents who voted in the most recent regular City election. However, even if the number of signatures meets or exceeds that requirement, state law also specifies the petition process cannot be used to initiate administrative ordinances, ordinances related to public improvements that would utilize special assessments (additional taxes paid by residents in certain locations to fund public improvements in those locations), or any other ordinances that already require an election under another state law.

Generally, state law allows a city to abandon its current form of government and adopt a different form of government via a ballot measure placed through a petition process. Assuming all other statutory and legal requirements are met, and petitions do not otherwise conflict with law, petitions on these matters must be signed by at least ten percent (10%) of the qualified electors of the entire City. There are numerous other statutes governing the form of petitions, the validity of signatures, and other procedural requirements.