

ORDINANCE NO. 2207

AN ORDINANCE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AMENDING VARIOUS SECTIONS OF CHAPTERS 405 AND 410 OF THE MUNICIPAL CODE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI; AND PROVIDING FOR THE ADMINISTRATION AND ENFORCEMENT OF CHAPTERS 405 AND 410 BY THE ZONING ADMINISTRATOR.

WHEREAS, the Planning and Zoning Commission of the City of Dardenne Prairie, Missouri (the “City”), considered amendments to Chapters 405 and 410 of the Municipal Code of the City of Dardenne Prairie, Missouri (the “Zoning and Subdivision Regulations”) and recommended approval of the amendments to the Zoning and Subdivision Regulations; and

WHEREAS, the Board of Aldermen of the City (the “Board of Aldermen”) and the Planning and Zoning Commission held Public Hearings on the proposed amendments to the City’s Zoning and Subdivision Regulations; and

WHEREAS, at such Public Hearings all persons were given an opportunity to be heard on the proposed amendments to the City’s Zoning and Subdivision Regulations; and

WHEREAS, the Board of Aldermen hereby finds and determines that it is to the benefit of the health, safety and general welfare of the residents of the City to provide for certain amendments to the City’s Zoning and Subdivision Regulations to provide for the administration and enforcement of the City’s Zoning and Subdivision Regulations by the Zoning Administrator.

NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF DARDENNE PRAIRIE, MISSOURI, AS FOLLOWS:

SECTION 1. That Section 405.080 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby enacting a new definition thereto, to read as follows:

Section 405.080 Definitions.

ZONING ADMINISTRATOR

The City Administrator of the City of Dardenne Prairie, appointed pursuant to Chapter 115 of the Municipal Code, or such other person or persons designated by the City Administrator.

SECTION 2. That Section 405.080 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting the definitions of “CITY ENGINEER”, “EXISTING STRUCTURE” and “LOT LINE, REAR” in their entirety and enacting, in lieu thereof, new definitions for “CITY ENGINEER”, “EXISTING STRUCTURE”, and “LOT LINE, REAR”, respectively, to read as follows:

CITY ENGINEER

The officially appointed engineer of the City of Dardenne Prairie or his or her designee, or such other person or persons as may be designated by the City Administrator from time to time.

EXISTING STRUCTURE

A structure that exists at the time a request to place wireless facilities on a structure is filed with the Zoning Administrator. The term includes any structure that is capable of supporting the attachment of wireless facilities in compliance with Chapters 500 and 505 of the Municipal Code of the City of Dardenne Prairie and recognized industry standards for structural safety, capacity, reliability, and engineering, including, but not limited to, towers, buildings, and water towers. The term shall not include any utility pole.

LOT LINES

The lines bounding a lot defined herein.

...

LOT LINE, REAR — The boundary line or lines opposite and most distant from the front lot line; except that in the case of uncertainty, the Zoning Administrator shall determine the rear line. Notwithstanding the foregoing, where a lot is wedge-shaped having only two (2) side lot lines which end at a point, the rear lot line shall be considered to be said point of intersection and the rear yard shall be defined by a line parallel to the front lot line and measured the required distance from said point.

SECTION 3. That Subsection (A) of Section 405.100 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (A) in its entirety and enacted, in lieu thereof, is a new Subsection (A) of Section 405.100, to read as follows:

Section 405.100. Changes to Official Zoning Map.

- A.** At least annually, if there has been the adoption of an ordinance by the Board of Aldermen of the City of Dardenne Prairie that changes the zoning of any tract of land in the City limits, the Zoning Administrator shall cause the official map to be changed to reflect the new zoning. This Zoning Map shall also show the ordinance number and date of adoption of any zoning changes since the previous update.

SECTION 4. That Subsection (E) of Section 405.220 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (A) in its entirety and enacted, in lieu thereof, is a new Subsection (E) of Section 405.220, to read as follows:

Section 405.220. Purpose.

...

E. *Processing Procedures For Planned Unit Developments.*

Step 1

Area Plan approval Application and Area Plan submitted to Zoning Administrator – Staff review and comment Planning Commission — public hearing, review and recommendation Board of Aldermen — public hearing and review Board of Aldermen — review and vote

Step 2

Final Plan approval Application and Final Plan submitted to Zoning Administrator – Staff review and comment Planning Commission — review and recommendation Board of Aldermen — review and vote

Step 3

Construction plan approval (See subdivision regulations) Application and construction plan submitted to Zoning Administrator – Staff review and comment

Step 4

Display house plat approval (see subdivision regulations) Application and display house plat submitted to Zoning Administrator – Staff review and comment

Step 5

Record plat approval (see subdivision regulations) Application and record plat submitted to Zoning Administrator – Staff review and comment Planning and Zoning Commission — review and recommendation Board of Aldermen — review and vote

Step 6

Building permit approval Application and building plans submitted to Zoning Administrator – Staff review and comment

SECTION 5. That Subsection (D) of Section 405.240 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (A) in its entirety and enacted, in lieu thereof, is a new Subsection (D) of Section 405.240, to read as follows:

Section 405.240. Application Procedure.

...

- D.** Each application shall be filed with the Zoning Administrator who shall transmit the Area Plan to the Planning and Zoning Commission for consideration. The application should be filed at least thirty (30) days prior to the Commission meeting at which it is to be first considered.

SECTION 6. That Section 405.250 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.250 in its entirety and enacted, in lieu thereof, is a new Section 405.250, to read as follows:

Section 405.250. Information Required — Area Plan.

- A.** *Application.* The application for Area Plan approval shall include the following information:
1. The name of the proposed PUD.
 2. The names, addresses and phone numbers of the owner(s) of record, developer, engineer, surveyor or designer responsible for the planning, engineering survey and design, registration signature and seal of the designer.
 3. The total acreage in the Area Plan.
 4. A legal description of the entire PUD, including one (1) hard printed copy and one (1) electronic copy in a Microsoft Word compatible format.
 5. Signature(s) of all applicant(s) and all owner(s) of the land included in the Area Plan certifying the accuracy of the requested information.
 6. Receipt from the City Clerk showing paid application fee.
 7. The names and addresses of the owners of all properties or portions thereof within an area determined by lines drawn parallel to and one hundred eighty-five (185) feet distant from the boundaries of the property to be affected.
 8. In addition to and separate from the list required pursuant to Subsection (A)(7) above, the names and addresses of the owners of all properties or portions thereof within an area determined by lines

drawn parallel to and three hundred (300) feet distant from the boundaries of the property to be affected.

9. A preliminary stormwater management plan pursuant to the requirements of Chapter 550 of this Code.
10. Any additional information deemed necessary by the City Engineer or Zoning Administrator.

B. *Area Plan.* The application shall be accompanied by two (2) copies of the proposed Area Plan drawn at appropriate scale. Additional copies for distribution to Planning and Zoning Commission and Board of Aldermen members will be requested upon review by the Zoning Administrator and City Engineer. The proposed Area Plan shall contain the following:

1. The name of the proposed PUD project.
2. A scale, date and north arrow.
3. A key map showing the PUD in relation to the surrounding area.
4. Within two hundred (200) feet of the proposed development, names of adjacent subdivisions, layout of streets (with names), right-of-way widths, connections with adjoining platted streets, widths and locations of alleys, easements and public sidewalks adjacent to or connecting with the tract, location and size of all existing sanitary sewer, storm sewer and supply facilities.
5. Existing conditions in the plan area showing all utilities, bridges, streets, drives or alleys and existing structures.
6. Existing topography (at least five (5) foot contour intervals). All topographic data shall directly relate to datum from the United States Geological Survey.
7. The zoning status of the PUD and of all adjacent properties shall be identified on the plan. If the PUD contains more than one (1) zoning district, the zoning district boundary lines shall be clearly indicated.
8. Boundary lines of school districts, fire districts, water districts and municipal limits shall be identified on the plan where applicable.
9. The general plan layout of the entire PUD showing proposed land uses, streets, parking areas, open space areas and sidewalks with significant dimensions indicated, where appropriate, to clarify the plan.

10. All planned use area clearly labeled as to the proposed use and all parcels of lands to be dedicated or reserved for public use or for use in common by property owners in the PUD shall be indicated on the plan for dedication or reservation.
11. The substance of covenants, grants of easements or other restrictions proposed to be imposed upon the use of land, buildings and structures, including proposed easements or grants for public utilities.
12. Proposed stages of development.
13. Data required for a Site Plan pursuant to Section 405.770 of this Chapter shall be indicated on the Area Plan. The Area Plan shall also include the following:
 - a. Total gross area of the PUD Area Plan in acres.
 - b. Breakdown of total gross area by land use type such as town houses, single-family, retail shops, open space, church, school, etc.
 - c. Residential data.
 - (1) Estimated total residential units.
 - (2) Average square feet of residential land per each type of residential unit.
 - (3) Breakdown of non-residential land by type of use.
 - (4) Total parking by land use type and parking ratio per dwelling unit.
 - (5) Two (2) density charts shall be required: one (1) reflecting residential density per acre exclusive of public right-of-way and other non-residential land uses; and the other shall reflect residential density exclusive of public rights-of-way without consideration of other types of land uses.
 - d. Commercial and industrial data.
 - (1) Estimated total building square footage by land use type.

- (2) Percent building coverage by land use type for business and industrial PUDs.
 - (3) Total parking by land use type and parking ratio per floor area.
14. Building elevations of proposed structures.
 15. A landscape plan in conformance with Article IX.
 16. Flood hazard boundaries as shown on current United States Federal Emergency Management Agency (FEMA) maps.
 17. Depiction of areas of common ground and for stormwater detention/retention facilities.
 18. A note describing how street lighting will be provided and maintained.
 19. All deviations from City ordinances and from the standard zoning district regulations for the uses included along with a statement that no deviations other than those listed are included in the PUD. No deviations other than those listed will be allowed during the review and approval of a PUD Final Plan or Construction Plans.
 20. A statement where streets are stubbed for future extension that a clearly legible sign will be posted, prior to final plat approval, stating "FUTURE STREET".
 21. Easements and rights-of-way for future extension of streets and utilities.
 22. Any additional information deemed necessary by the Zoning Administrator, the City Engineer, Planning and Zoning Commission, Board of Aldermen or any other officer of the City to adequately illustrate the proposed development.

SECTION 7. That Subsection (A) of Section 405.260 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (A) in its entirety and enacted, in lieu thereof, is a new Subsection (A) of Section 405.260, to read as follows:

Section 405.260. Procedure for Area Plan Review.

- A. Upon receipt of the Area Plan from the Zoning Administrator, the Planning and Zoning Commission shall undertake a study of the Area Plan. The Zoning Administrator shall advise the applicant in writing of any deficiencies with the Area Plan and may make recommendations to the applicant as to amendments to the Area Plan that may be necessary for it to conform to the standards of this Chapter and other pertinent ordinances of the City.

SECTION 8. That Paragraph (11) of Subsection (A) of Section 405.290 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Paragraph (11) of Subsection (A) in its entirety and enacted, in lieu thereof, is a new Paragraph (11) of Subsection (A) of Section 405.290, to read as follows:

Section 405.290. Information Required — Final Plan.

- A. Only after the Board of Aldermen has approved the Area Plan for the proposed PUD, the owner(s) of record, or any other person(s) acting on behalf of the owner(s) of record, may apply for the review and approval of a Final Plan in accordance with this Article. The application for a Final Plan shall be for the entire PUD, or portion thereof if the proposed development is to occur in phases. Each Final Plan application shall contain the name(s), address(es), telephone number(s) and signature(s) of the owner(s) of record and the name, address and telephone number of the developer and contract purchaser (if applicable). The application shall be accompanied by proposed deed restrictions, protective covenants and homeowners' association article of incorporation and bylaws, and sixteen (16) copies of the proposed Final Plan which shall meet the following requirements:

...

- 11. Any other information deemed necessary by the Zoning Administrator, the City Engineer, the Planning and Zoning Commission, the Board of Aldermen or any other officer of the City.

SECTION 9. That Section 405.360 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.360 in its entirety and enacted, in lieu thereof, is a new Section 405.360, to read as follows:

Section 405.360. Violations.

The approved Area Plan and/or Final Plan shall have the full force of the zoning ordinance. Any violation of either the approved Area Plan or approved Final Plan shall be grounds for the Zoning Administrator and/or the Code Enforcement Officer to issue a stop work order and to withhold building permits or certificates of zoning compliance until the violation is removed and shall cause the owner of the development to be subject to the penalties provided for in this Chapter.

SECTION 10. That Paragraph (11) of Subsection (A) of Section 405.420 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Paragraph (11) of Subsection (A) in its entirety and enacted, in lieu thereof, is a new Paragraph (11) of Subsection (A) of Section 405.420, to read as follows:

Section 405.420. Home Occupations.

- A.** Restrictions And Limitations. Home occupations shall be permitted as an accessory use to a residential use in any district subject to the requirements of this Section. Home occupations are intended for low intensity occupations operated out of a home which do not impact the residential neighborhood. They are not intended for operations that generate customer traffic or excessive deliveries and shipping. Typical candidate occupations might include web page design, mail order or Internet sales, professional consulting, etc.

...

- 11.** A home occupation permit shall be issued by the Mayor on the recommendation of the Zoning Administrator only to the individual occupying a dwelling as his/her residence. As such, home occupation permits shall not be transferable and shall terminate upon sale or transfer of the property to a new owner. Applications may be obtained from the City Clerk and require a twenty-five dollar (\$25.00) application fee. Home occupations shall require renewal annually on January first (1st) and require a twenty-five dollar (\$25.00) renewal fee.

SECTION 11. That Subdivision (9) of Subparagraph (b) of Paragraph (1) of Subsection (B) of Section 405.430 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subdivision (9) of Subparagraph (b) of Paragraph (1) of Subsection (B) in its entirety and enacted, in lieu thereof, is a new Subdivision (9) of Subparagraph (b) of Paragraph (1) of Subsection (B) of Section 405.430, to read as follows:

Section 405.430. Temporary Uses.

...

- B.** Temporary Uses Permitted.

- 1.** Temporary retail sales use. If not already provided for as a permitted or conditional use by this Chapter, a temporary retail sales use shall be a temporary use in the non-residential zoning districts of the City provided the use meets the criteria set forth in this Section. This Section shall not supersede or substitute for any other Section of this Chapter that requires another type of permit, certification or approval.

...

- b. Application requirements. In conjunction with an application for a temporary use permit required pursuant to Subsection (D) of this Section, an applicant for a temporary retail sales use must submit a concept plan indicating the following:

...

- (9) Other items as deemed necessary by the Zoning Administrator, City Engineer, the Director of Community Development or the Board of Aldermen.

SECTION 12. That Section 405.465 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.470 in its entirety and enacted, in lieu thereof, is a new Section 405.465, to read as follows:

Section 405.465. Application and Fee.

Application for any Conditional Use Permit permissible under the provisions of this Chapter shall be made to the Planning and Zoning Commission and the Board of Aldermen by filling in the official Conditional Use Permit application form; submitting required data, exhibits and information; and depositing the required fee. The application shall be accompanied by a fee as set by the Board of Aldermen. No part of such fee shall be returnable to the applicant. Each completed application should be filed with the Zoning Administrator at least thirty (30) days prior to the Commission meeting at which it is to be first considered.

SECTION 13. That Section 405.470 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.470 in its entirety and enacted, in lieu thereof, is a new Section 405.470, to read as follows:

Section 405.470. Information Required in Conditional Use Procedure.

- A. A petition for a conditional use shall be signed by all the owners of the property to be used or by their agent or agents having authority to sign the petition on their behalf and by the applicant if other than the owner. The petition shall be submitted to the Zoning Administrator and shall contain or be submitted concurrently with the following information:

- 1. A legal description of the property to be affected, including one (1) hard printed copy and one (1) electronic copy in a Microsoft Word compatible format.

2. A scaled map of such property, correlated with the legal description and clearly showing the property's location.
3. The names and addresses of all the owners of the affected property and copies of the deeds on file with the office of the St. Charles County Recorder of Deeds proving such ownership.
4. Date of filing with the Planning and Zoning Commission.
5. The present zoning, proposed change of zoning, if any, and proposed use of such property.
6. The names and mailing addresses of property owners with property within an area determined by lines drawn parallel to and three hundred (300) feet distant from the boundaries of the property(ies) to be affected.
7. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information. If the owner(s) of the property or the petitioner(s) are a trust or business entity, then proof of the authority of the party executing the petition must be provided by way of resolution, minutes, bylaws, articles of incorporation or some other reasonable means.
8. Site Plan — See Article XIII (unless deemed unnecessary by the Zoning Administrator).

SECTION 14. That Paragraph (12) of Subsection (B) of Section 405.475 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Paragraph (12) of Subsection (B) in its entirety and enacted, in lieu thereof, is a new Paragraph (12) of Subsection (B) of Section 405.475, to read as follows:

Section 405.475. Action by the Planning and Zoning Commission/Board of Aldermen.

...

- B.** The decision to recommend approval or denial of the proposed conditional use shall be based on the following criteria:

...

12. A Site Plan submitted as part of a Conditional Use Permit application may be revised or amended consistent with the provisions of Section 405.790(B) of this Code provided that such

revised or amended Site Plan shall also meet the following requirements:

- a. The revision or amendment shall not create excessive additional requirements at public cost for public facilities or services;
- b. The revision or amendment to the Site Plan shall not result in a change in the height of the building or structure by more than five (5) feet;
- c. The revision or amendment to the Site Plan shall not result in a change in distance between a building line and an adjoining residentially zoned property line;
- d. The revision or amendment to the Site Plan shall not result in an increase in water flow onto the adjoining residentially zoned property;
- e. The revision or amendment to the Site Plan shall be designed, constructed, maintained and managed so as to be harmonious and appropriate in appearance with the existing character of other properties in the general vicinity.

Notwithstanding the foregoing, if the Zoning Administrator determines, in his or her sole discretion, that a revised or amended Site Plan is inconsistent with or in violation of an approved Conditional Use Permit, the Zoning Administrator may refer the revised or amended Site Plan to the Planning and Zoning Commission and Board of Aldermen for consideration pursuant to Section 405.475 of this Code.

SECTION 15. That Subdivision (2) of Subparagraph (k) of Paragraph (1) of Subsection (A) of Section 405.480 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subdivision (2) of Subparagraph (k) of Paragraph (1) of Subsection (A) in its entirety and enacted, in lieu thereof, is a new Subdivision (2) of Subparagraph (k) of Paragraph (1) of Subsection (A) of Section 405.480, to read as follows:

Section 405.480. Additional Development Requirements of Certain Uses.

- A. A Conditional Use Permit shall not be issued to certain uses in this Section due to their detrimental effects on public safety, health, welfare and the City's property values unless they comply with the following site development requirements.

1. *Quarries and sand and gravel pits.* The removal of soil, including top soil, sand, gravel, stone and other earth materials shall be subject to the following conditions.

...

- k. The operator or operators shall file with the City a detailed plan for the restoration of the development area which shall include the anticipated future use of the restored land, proposed final topography indicated by the contour lines of not greater interval than five (5) feet, steps which shall be taken to conserve topsoil; the type and number per acre of trees or shrubs to be planted; and the location of future roads, drives, drainage courses and/or other improvements to be made by a definite date.

...

- (2) The operator or operators shall file with the Board of Aldermen a bond or other surety payable to the City and conditioned on the faithful performance of all requirements contained in the approved restoration plan. The rate per acre of property to be used for the required bond shall be submitted to and reviewed by the Zoning Administrator. The bond shall be released upon written certification of the Zoning Administrator that the restoration is complete and in compliance with the restoration plan.

SECTION 16. That Subsections (B), (C), and (F) of Section 405.481 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsections (B), (C), and (F) in their entirety and enacted, in lieu thereof, are new Subsections (B), (C), and (F) of Section 405.481, to read as follows:

Section 405.481. Conditional Use Permits for New Wireless Support Structures or a Substantial Modification of a Wireless Support Structure.

...

B. *Filing Of Application And Fees.*

1. An application for any conditional use permit to construct a new wireless support structure, or for a substantial modification of a wireless support structure, shall be made on an application form provided by the Zoning Administrator. Each application shall be filed with the Zoning Administrator and shall be accompanied by

the data prescribed on the form and any additional information deemed necessary by the Zoning Administrator. The application shall be accompanied by the fee set forth in the fee schedule, as provided by Section 405.965 of the Municipal Code of the City of Dardenne Prairie, payable to the City to cover the costs of advertising, notification, and other administrative expenses associated with the application. No part of such fee shall be returnable to the applicant.

2. An application for a conditional use permit to construct a new wireless support structure, or for a substantial modification of a wireless support structure, shall be submitted to the Zoning Administrator and shall contain or be submitted concurrently with the following information:
 - a. A legal description of the property to be affected, including one (1) hard printed copy and one (1) electronic copy in a Microsoft-Word-compatible format;
 - b. A scaled map of such property, correlated with the legal description and clearly showing the property's location;
 - c. The names, addresses and telephone numbers of the applicant(s), all the fee owners of such property and their agents, if any, and copies of the deeds on file with the office of the St. Charles County Recorder of Deeds evidencing such ownership;
 - d. A copy of a lease, letter of authorization or other agreement from the property owner evidencing the applicant's right to pursue the application;
 - e. Date of filing with the Zoning Administrator;
 - f. The present zoning, proposed change of zoning, if any, and proposed use of such property;
 - g. The names and mailing addresses of property owners with property within an area determined by lines drawn parallel to and three hundred (300) feet distant from the boundaries of the property(ies) to be affected;
 - h. Signature(s) of applicant(s) and owner(s) certifying the accuracy of the required information. If the owner(s) of the property or the applicant(s) are a trust or business entity, then proof of the authority of the party executing the application must be provided by way of resolution, minutes, bylaws, articles of incorporation or some other reasonable means;

- i. Site plan. See Article XIII (unless deemed unnecessary by the Zoning Administrator);
- j. Photographs or other pictorial representations of the new wireless support structure, or the substantial modification of a wireless support structure, as viewed from neighboring properties to demonstrate if the wireless support structure is harmonious with the appearance and character of the neighborhood;
- k. A landscape plan, meeting the requirements of Chapter 405, Article IX, detailing the landscaping around the base of all wireless support structures, wireless facilities, base stations, and equipment compounds;
- l. The type of wireless facilities, infrastructure or technology to be used by the applicant; and
- m. Solely with respect to an application for a new wireless support structure, a statement by the applicant that it conducted an analysis of available collocation opportunities on existing wireless support structures within the same search ring defined by the applicant, solely for the purpose of confirming that an applicant undertook such an analysis.

C. Procedure.

- 1. *Hearing and consideration by the Planning and Zoning Commission.* Within sixty (60) calendar days of receiving an application for a conditional use permit to construct a new wireless support structure, or for a substantial modification of a wireless support structure, or within such additional time as may be mutually agreed to by an applicant and the Zoning Administrator, the Planning and Zoning Commission shall:
 - a. Conduct a hearing and review the application in light of its conformity with this Section:
 - (1) An application is deemed to be complete unless the Zoning Administrator notifies the applicant in writing, within thirty (30) calendar days of submission of the application, of the specific deficiencies in the application which, if cured, would make the application complete.
 - (2) Upon receipt of a timely written notice that an application is deficient, an applicant may take thirty (30) calendar days from receiving such notice to cure

the specific deficiencies. If the applicant cures the deficiencies within said period of thirty (30) calendar days, the application shall be reviewed and processed, by both the Planning and Zoning Commission and the Board of Aldermen, within one hundred twenty (120) calendar days from the initial date the application was received. If the applicant requires a period of time beyond thirty (30) calendar days to cure the specific deficiencies, the one-hundred-twenty-calendar-day deadline for the City to review the application, make the final decision, and advise the applicant in writing of its final decision, shall be extended by the same period of time.

- b. *Determine whether or not the standards described in this Section have been met by the applicant.* The burden of proof shall be on the applicant to prove that such standards have been met by the applicant. Thereafter, the Planning and Zoning Commission shall either:
 - (1) Postpone consideration of the application because the application is incomplete;
 - (2) Recommend approval of the application to the Board of Aldermen;
 - (3) Recommend approval of the application with conditions to the Board of Aldermen; or
 - (4) Recommend denial of the application to the Board of Aldermen.
 - c. If the Planning and Zoning Commission fails to act on an application for a special use permit to construct a new wireless support structure, or for a substantial modification of a wireless support structure, within its sixty-calendar-day review period, or within such additional time as may be mutually agreed to by an applicant and the Zoning Administrator, the Planning and Zoning Commission shall be deemed to have recommended approval of the application to the Board of Aldermen.
2. *Notice of hearings.* Notices for hearings required under this Section shall be handled the same as a zoning amendment as described in Article XV of this Chapter.

3. *Hearing and consideration by the Board of Aldermen.* Upon receipt of a recommendation from the Planning and Zoning Commission, and after providing notice pursuant to this Section, within one hundred twenty (120) calendar days of the Planning and Zoning Commission's receipt of an application for a conditional use permit to construct a new wireless support structure, or for a substantial modification of a wireless support structure, or within such additional time as may be mutually agreed to by an applicant and the Zoning Administrator, the Board of Aldermen shall conduct a hearing, on the record, on the application and it shall:
 - a. Review the application in light of its conformity with this Section;
 - b. Make its final decision to approve or disapprove the application; and
 - c. Advise the applicant in writing of its final decision.
4. The special use permit under consideration by the Board of Aldermen shall be in the form of an ordinance. Such ordinance shall include findings of fact as well as such terms, conditions, safeguards and restrictions upon the special use as deemed necessary by the Board of Aldermen.
5. If the Board of Aldermen fails to act on an application for a conditional use permit to construct a new wireless support structure, or for a substantial modification of a wireless support structure, within the one-hundred-twenty-calendar-day review period, or within such additional time as may be mutually agreed to by an applicant and the Zoning Administrator, the application shall be deemed approved.

...

- F. The following definitions shall apply in interpretation and enforcement of Sections 405.481, 405.482, and 405.940:

APPLICANT

Any person engaged in the business of providing wireless communications services or the wireless communications infrastructure required for wireless communications services who submits an application.

APPLICATION

A request submitted by an applicant to the City to construct a new wireless support structure, for the substantial

modification of a wireless support structure, or for an eligible facilities request.

BUILDING PERMIT

A permit issued by the City prior to commencement of work on the collocation of wireless facilities on an existing structure, the substantial modification of a wireless support structure, or the commencement of construction of any new wireless support structure, solely to ensure that the work to be performed by the applicant wireless communication services satisfies the applicable building code.

SECTION 17. That Subsections (A) and (B) of Section 405.482 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsections (A) and (B) in their entirety and enacted, in lieu thereof, are new Subsections (A) and (B) of Section 405.482, to read as follows:

Section 405.482. Wireless Facilities Permit.

- A.** *Intent And Purpose.* Any person making an eligible facilities request for a modification of an existing wireless support structure or base station that is not a substantial modification of such wireless support structure or base station must apply to the Zoning Administrator for a wireless facilities permit. An application for a wireless facilities permit shall be made on an application form provided by the Zoning Administrator. The application shall be accompanied by the fee set forth in the fee schedule, as provided by Section 405.965 of the Municipal Code of the City of Dardenne Prairie, payable to the City to cover the costs of advertising, notification, and other administrative expenses associated with the application. No part of such fee shall be returnable to the applicant. The Zoning Administrator may not deny, and shall approve, such Wireless Facilities Permits.
- B.** *Procedure.* All applications for a Wireless Facilities Permit shall comply with the procedures set forth in this Subsection (B).
1. An applicant for a Wireless Facilities Permit shall submit the application and all attachments to the Zoning Administrator.
 2. Each application shall include the following:
 - a. A legal description of the property to be affected, including one (1) hard printed copy and one (1) electronic copy in a Microsoft-Word-compatible format;
 - b. A scaled map of such property, correlated with the legal description and clearly showing the property's location;

- c. The names, addresses and telephone numbers of the applicant(s), all the fee owners of such property and their agents, if any, and copies of the deeds on file with the office of the St. Charles County Recorder of Deeds evidencing such ownership;
 - d. A copy of a lease, letter of authorization or other agreement from the property owner evidencing the applicant's right to pursue the application;
 - e. Date of filing with the Zoning Administrator;
 - f. The present zoning, proposed change of zoning, if any, and proposed use of such property;
 - g. Signature(s) of applicant(s) and owner(s) certifying the accuracy of the required information. If the owner(s) of the property or the applicant(s) are a trust or business entity, then proof of the authority of the party executing the application must be provided by way of resolution, minutes, bylaws, articles of incorporation or some other reasonable means;
 - h. Site plan. See Article XIII (unless deemed unnecessary by the Zoning Administrator); and
 - i. The type of wireless facilities or technology to be used by the applicant.
3. Applications for a Wireless Facilities Permit are not subject to the City's zoning or land use requirements, including design or placement requirements, or public hearing review.
 4. Within forty-five (45) calendar days of receiving an application for a Wireless Facilities Permit, the Zoning Administrator shall:
 - a. Review or cause the review of the application in light of its conformity with Chapters 505 and 510 of the Municipal Code of the City of Dardenne Prairie, recognized industry standards for structural safety, capacity, reliability, and engineering, and consistency with Sections 67.5090 to 67.5103, RSMo., and Sections 405.481 and 405.482 of this Chapter.
 - (1) An application is deemed to be complete unless the Zoning Administrator notifies the applicant in writing, within fifteen (15) calendar days of submission of the application, of the specific

deficiencies in the application which, if cured, would make the application complete.

- (2) Upon receipt of a timely written notice that an application is deficient, an applicant may take fifteen (15) calendar days from receiving such notice to cure the specific deficiencies. If the applicant cures the deficiencies within said period of fifteen (15) calendar days, the application shall be reviewed and processed within forty-five (45) calendar days from the initial date the application was received. If the applicant requires a period of time beyond fifteen (15) calendar days to cure the specific deficiencies, the forty-five-calendar-day deadline for the City to review the application shall be extended by the same period of time.
- (3) The Administrative Officer may impose conditions on the Wireless Facilities Permit to insure that the application conforms with building permit requirements in Title V of the Municipal Code of the City of Dardenne Prairie, Chapter 510 of the Municipal Code of the City of Dardenne Prairie, recognized industry standards for structural safety, capacity, reliability, and engineering, and is consistent with Sections 67.5090 to 67.5103, RSMo.
 - b. Make its final decision to approve or disapprove the application; and
 - c. Advise the applicant in writing of its final decision.
5. If the Zoning Administrator fails to act on an application for a Wireless Facilities Permit within the forty-five-calendar-day review period specified in Subsection (B)(4) of this Section, the application shall be deemed approved.
6. A party aggrieved by the final action of the Zoning Administrator, either by the Zoning Administrator affirmatively denying an application under the provisions of this Section or by the Zoning Administrator's inaction, may bring an action for review in any court of competent jurisdiction within the State of Missouri.

SECTION 18. That Section 405.530 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.530 in its entirety and enacted, in lieu thereof, is a new Section 405.530, to read as follows:

Section 405.530. Regulations.

No temporary or uncompleted building, nor any automotive equipment, trailer, garage or appurtenances incident to a family dwelling, shall be erected, maintained or used for residential purposes, except where the exterior, kitchen, at least one (1) bathroom and more than fifty percent (50%) of the interior of a permanent residence have been completed, this regulation shall not apply. Temporary or outwardly incomplete buildings or structures, open excavation for a basement or foundation and buildings or structures so damaged as to become unfit for use of habitation shall not be permitted, maintained or remain in such condition for more than a time period to be stipulated by the Zoning Administrator as per the current City Building Code. 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 zoning districts as permitted in this Chapter except during actual construction operations upon said premises or related premises.

SECTION 19. That Paragraph (3) of Subsection (B) of Section 405.560 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Paragraph (3) Subsection (B) in its entirety and enacted, in lieu thereof, is a new Paragraph (3) of Subsection (B) of Section 405.560, to read as follows:

Section 405.560. Installation, Maintenance and Enforcement.

...

B. *Maintenance And Enforcement.* The trees, shrubs, fences, walls and other landscaping materials depicted on plans approved by the City shall be considered as elements of the project in the same manner as parking, building materials and other details are elements of the plan.

...

3. Should landscaping not be installed, maintained and replaced as needed to comply with the approved plan, the owner and his/her agent or agents shall be considered in violation of terms of the building or occupancy permit. The Zoning Administrator or his/her designee is empowered to enforce the terms of this Chapter.

SECTION 20. That Section 405.575 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby enacting a new definition thereto, to read as follows:

Section 405.575 Definitions.

The following definitions shall apply in interpretation and enforcement of this Article, unless otherwise specifically stated:

...

ZONING ADMINISTRATOR

Shall have the same meaning as set forth in Section 405.080 of this Code.

SECTION 21. That Subparagraph (c) of Paragraph (9) of Subsection (A) of Section 405.580 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subparagraph (c) of Paragraph (9) of Subsection (A) in its entirety and enacted, in lieu thereof, is a new Subparagraph (c) of Paragraph (9) of Subsection (A) of Section 405.580, to read as follows:

Section 405.580. Signs in Residential and All Other Districts.

- A. *Allowable Signs.* All signs must be located at least five (5) feet from the right-of-way and out of the sight triangle as shown on Figure 2 to this Chapter 405.

...

- 9. *Special displays and other temporary signs.*

...

- c. The following types of special displays and promotional signs are permitted subject to the following guidelines. In all cases they are to be maintained in good condition and if found otherwise, they are subject to immediate removal by order of the Zoning Administrator.
 - (1) *Banners.* Special displays using banners for promotional purposes will be permitted for a thirty (30) day time period per promotion.
 - (2) *Pennants.* Will be permitted for promotional purposes.
 - (3) *Flags in front of display homes.* Will only be permitted until the home is no longer used for display purposes.
 - (4) *Seasonal promotional signs.* One (1) sign no greater than six (6) square feet. These signs shall be displayed only during the hours of operation of the business. The sign shall be placed inside at the close of each business day.

SECTION 22. That Paragraph (3) of Subsection (A) of Section 405.605 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Paragraph (3) of Subsection (A) in its entirety and enacted, in lieu thereof, is a new Paragraph (3) of Subsection (A) of Section 405.605, to read as follows:

Section 405.605. Prohibited Signs.

A. The following types of permanent signs shall be prohibited in the City of Dardenne Prairie:

...

3. Fluttering signs, pinwheels, pennants, streamers and banners except official government flags or street banners approved by the Zoning Administrator at the direction of the Board of Aldermen.

SECTION 23. That Subsections (A), (B), (C), (D), (H), (I), (J), and (M) of Section 405.615 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsections (A), (B), (C), (D), (H), (I), (J), and (M) in their entirety and enacted, in lieu thereof, are new Subsections (A), (B), (C), (D), (H), (I), (J), and (M) of Section 405.615, to read as follows:

Section 405.615. Administration and Enforcement.

A. *Administrator.* Except where herein otherwise stated, the provisions of this Article shall be administered by the Zoning Administrator.

1. The Zoning Administrator (or his/her authorized representative) is hereby empowered in performance of its functions to enter upon any land in the City for the purpose of making inspections, examinations and surveys or to place and maintain thereon markers, notices or signs required to affect provisions of this Article. The above authorized person shall be required to present proper credentials upon demand when entering upon any land or structure for the purpose of this Section.

B. *Duties Of The Zoning Administrator.* The Zoning Administrator shall have the power to grant sign permits and to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of this Article.

1. It shall be improper for the Zoning Administrator to approve plans or issue any permits or certificates for any sign until he/she has inspected such plans in detail and found them to conform with this

Article, nor shall the Zoning Administrator vary or change any terms of this Article.

2. If the Zoning Administrator shall find that any of the provisions of this Article are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and stating the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal signage; discontinuance of any illegal work being done; or shall take any other action authorized by this Article to insure compliance with or to prevent violation of its provisions.

C. *Permit Required And Fees.* For freestanding pole or ground signs exceeding thirty-two (32) square feet of face on a side, it shall be unlawful to commence or to proceed with the erection, construction, reconstruction, conversion, alteration, enlargement, extension, razing or moving of any sign or sign structure or any portion thereof without first having applied in writing to the Zoning Administrator for a sign permit to do so and a sign permit has been granted therefore. Primary responsibility for securing the necessary permits shall be the property owner's. However, if the property owner should contract part or all of the proposed work, it shall become the responsibility of the person or firm hired to ensure that all required permits and approvals have been secured prior to any work being initiated.

1. Blank forms shall be provided by the Zoning Administrator for the use of those applying for permits as provided in this Article. Any permits issued by the Zoning Administrator shall be on standard forms for such purpose and furnished by the Board of Aldermen. There shall be a separate permit for each sign constructed, altered or erected.
2. Permit fees shall be charged for plan review and inspection at the one-time rate of two dollars (\$2.00) per square foot of sign face payable at the time of permit application.
3. Any sign permit under which no construction work has been commenced within six (6) months after the date of issuance of said permit or under which proposed construction has not been completed within one (1) year of the time of issuance shall expire by limitation.

D. *Voiding Of Sign Permit.* A permit may be revoked by the Zoning Administrator at any time prior to the completion of the sign for which the same was issued, when it shall appear to him/her that there is departure from the plans, specifications or conditions as required under terms of the permit, that the same was procured by false representation or that any provisions of

this Article are being violated. Written notice of such revocation shall be served upon the owner, his/her agent or contractor or upon any such person employed on the building or structure for which such permit was issued, via a stop work order, which shall be posted in a prominent location and thereafter no such construction shall proceed.

...

- H. *Safety.* Any existing sign which is or becomes an immediate danger or hazard to persons or property because of being in an unsafe condition or which obstructs any fire escape, window or door is subject to immediate removal by the Zoning Administrator without notice and at the expense of the property and/or sign owner.
- I. *Maintenance.* All signs and sign supports shall be maintained in good repair so as to prevent rust, peeling, flaking or fading. Broken panels, missing letters, flaking or peeling paint and other visual damage to a sign shall be repaired within forty-five (45) days of the occurrence or within thirty (30) days' notification by the Zoning Administrator.
- J. *Abandoned Signs.* Any sign or sign structure which advertises a business no longer conducted or service no longer rendered or a product no longer sold on the premises or lot shall be classified an abandoned sign and shall be removed by the owner, agent or person having beneficial use of the premises or lot upon which the sign is located within ten (10) days following written notice by the Zoning Administrator concerning its removal.

...

- M. *Violations.* If it is found that a sign is in violation of this Article, the Zoning Administrator or his/her designee shall give notice to the owner of the sign or, if the owner cannot be located, to the owner or property management agent of the premises on which the sign is located or, if the sign erection is not complete, to the sign erector, either personally, by United States Mail or by posting such a notice on the premises, such notice stating:
 - 1. The violations found; and
 - 2. The violations must be brought into compliance with requirements of this and all other City ordinances within ten (10) days from the date of such notice (for temporary signs the date of such notice shall constitute the first (1st) day of the thirty (30) day time period allowed by such signs; and
 - 3. The requirements which must be met; and

4. Any person found to be in violation of any provision of this Article shall be prosecuted to the full extent of the law.

SECTION 24. That Subsection (A) of Section 405.625 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (A) in its entirety and enacted, in lieu thereof, is a new Subsection (A) of Section 405.625, to read as follows:

Section 405.625. Appeals.

- A. Any aggrieved person, firm, corporation or any governmental officer, department, board or bureau may appeal a decision of the Zoning Administrator before the Board of Adjustment.

SECTION 25. That Section 405.627 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.627 in its entirety and enacted, in lieu thereof, is a new Section 405.627, to read as follows:

Section 405.627. Master Sign Plan Submittals.

- A. Notwithstanding any other provision of this Code to the contrary, a master sign plan may be submitted for approval by the Board of Aldermen for any proposed or existing property within a commercial or industrial zoning district within the High-Tech Corridor District.
 1. Upon the submission of a master sign plan to the Zoning Administrator, the criteria for signs provided for in this Article are no longer applicable. The reasons for the variation is because the purpose of a master sign plan is to provide for flexible sign criteria that promote superior design and are tailored to a specific development which may vary from general ordinance provisions, if it can be demonstrated that the proposed terms would encourage, promote and reward good architecture and urban planning.
 2. When a master sign plan is submitted to the Zoning Administrator, a completed master sign plan shall include the following:
 - a. Location, size, height, construction, material and placement of signs.
 - b. Illumination level, color and type. Illumination shall conform to the City of Dardenne Prairie lighting ordinance.
 - c. The number of proposed signs.
 - d. Elevations of all detached signs.

- e. Dimensions, height, square footage of all existing signs or note that none exist for both freestanding and attached signs (submit picture of all existing signage).
- f. Description of advertising copy or wording to be displayed on signs.
- g. Material specifications for proposed signs including sign materials and colors.
- h. Landscaping of detached signs.
- i. A review fee as per the fee schedule for services, permit applications, plan reviews, inspections, rezonings and conditional uses, which is on file in the office of the City Clerk.
- j. A list of all deviations from the location, size, height, construction, material and placement requirements otherwise provided for in this Article.

SECTION 26. That Section 405.630 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.630 in its entirety and enacted, in lieu thereof, is a new Section 405.630, to read as follows:

Section 405.630. Applicability.

Off-street parking and loading shall be provided as required in accordance with the regulations of this Article. Off-street parking and loading shall be adequate to meet demand in all cases and spaces shall be made available for use before the final inspection is completed by the Zoning Administrator. Existing off-street parking and loading spaces shall not be reduced below the minimums required in this Article. Any change in use of a building or lot which increases the off-street parking as required under this Article shall be unlawful and a violation of this Article until such time as the off-street parking and loading complies with the provisions of this Article.

SECTION 27. That Subsection (E) of Section 405.640 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (E) in its entirety and enacted, in lieu thereof, is a new Subsection (E) of Section 405.640, to read as follows:

Section 405.640. Computing Off-Street Parking and Loading Requirements.

...

- E. *Unlisted Uses.* Upon receiving a development application for a use not specifically listed in the off-street parking schedule, the Zoning Administrator shall apply the parking and loading requirements specified for the listed use that is deemed most similar to the use proposed in the application.

SECTION 28. That Paragraph (3) of Subsection (A) of Section 405.645 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Paragraph (3) of Subsection (A) in its entirety and enacted, in lieu thereof, is a new Paragraph (3) of Subsection (A) of Section 405.645, to read as follows:

Section 405.645. Off-Street Parking for Persons With Disabilities.

- A. A portion of the total number of required parking spaces in each off-street parking area shall be specifically designated, located and reserved for use by persons with disabilities.

...

- 3. *Location of spaces.* Required spaces for persons with disabilities shall be located in close proximity to building entrances and shall be designed to permit occupants of vehicles to reach the building entrance on an unobstructed path with a minimum width of three (3) feet. The Zoning Administrator may require that off-street parking spaces provided for persons with disabilities be dispersed throughout the project if deemed necessary to ensure safe, convenient and accessible parking spaces for all users of the project.

SECTION 29. That Section 405.655 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.655 in its entirety and enacted, in lieu thereof, is a new Section 405.655, to read as follows:

Section 405.655. Shared Parking.

- A. The Zoning Administrator may authorize a reduction in the number of required parking spaces for multiple use developments and for uses that are located near one another that have different peak parking demands and operating hours.

- 1. Up to fifty percent (50%) of the parking spaces required for:
 - a. Theaters, public auditoriums, bowling centers, dance halls and nightclubs and up to one hundred percent (100%) of the parking spaces required for a church auditorium may be provided and used jointly by:

- b. Banks, offices, retail stores, repair shops, service establishments and similar uses not normally open, used or operated during the same hours as those listed in (a) and up to one hundred percent (100%) of parking spaces required for schools may be provided and used jointly by a church auditorium.
- 2. Shared parking shall be subject to the following standards:
 - a. *Location.* Shared off-street parking spaces shall be located no further than three hundred (300) feet from the buildings and uses they are intended to serve.
 - b. *Study.* A parking study acceptable to the Zoning Administrator shall be submitted which clearly establishes that users will make use of the shared spaces at different times of the day, week, month or year.
- 3. *Agreement.* A shared parking plan shall be enforced through written agreement. Proof of recordation of the agreement shall be presented to the Zoning Administrator prior to issuance of a building permit.
- 4. *Revocation of permit.* Failure to comply with the shared parking provisions of this Article shall constitute a violation of this Article and shall specifically be cause for revocation of a building permit.

SECTION 30. That Section 405.665 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.665 in its entirety and enacted, in lieu thereof, is a new Section 405.665, to read as follows:

Section 405.665. Parking Plans.

An off-street parking plan, prepared in a form established by the Zoning Administrator and made available to the public, shall be submitted with each building permit application.

SECTION 31. That Subsection (F) of Section 405.670 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (F) in its entirety and enacted, in lieu thereof, is a new Subsection (F) of Section 405.670, to read as follows:

Section 405.670. Off-Street Parking Area Design Standards.

...

- F. *Parking Space Dimensions.* Required parking spaces shall be designed in accordance with the following minimum standards. In the event that

proposed parking angles are not shown in the table, the Zoning Administrator shall interpolate required dimensions from the table.

Parking Angle	Stall Width (feet)	Stall Depth (feet)	Aisle Width (feet)
90 degrees (2-way aisle)	9	20	24
60 degrees (2-way aisle)	9	20	24
75 degrees (2-way aisle)	9	18.5	22
60 degrees (1-way aisle)	9	18	18
45 degrees (1-way aisle)	9	16.5	15
Parallel (1-way aisle)	22 (curb length)	8	12
Parallel (2-way aisle)	22 (curb length)	8	24

SECTION 31. That Section 405.685 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.685 in its entirety and enacted, in lieu thereof, is a new Section 405.685, to read as follows:

Section 405.685. Off-Street Loading Plans.

An off-street plan, prepared in a form established by the Zoning Administrator and made available to the public, shall be submitted with each building permit application. The off-street loading plan shall serve as the basis for the Zoning Administrator's determination of the adequacy of proposed off-street loading areas.

SECTION 32. That Section 405.765 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.765 in its entirety and enacted, in lieu thereof, is a new Section 405.765, to read as follows:

Section 405.765. Application and Fee.

- A. Any persons may file a request for a Site Plan review by the Planning and Zoning Commission and Board of Aldermen by filing with the Zoning Administrator the completed application upon the forms provided and payment of the review fee in accordance with Section 405.965. The applicant shall submit two (2) copies of the proposed Site Plan and a

completed Site Plan application form to the Zoning Administrator. Additional copies of the Site Plan shall be requested upon review by the Zoning Administrator. The Site Plan shall be prepared on sheets not to exceed twenty-four (24) inches by thirty-six (36) inches.

- B. The Zoning Administrator, upon receipt of such Site Plan, other necessary data and payment of the required fee, shall forthwith transmit the copies to the Planning and Zoning Commission and Board of Aldermen for their consideration per the current City of Dardenne Prairie submittal and meeting calendar which is on file at the office of the City Clerk. The Planning and Zoning Commission and Board of Aldermen shall undertake a study of same and shall approve, deny or set conditions on the Site Plan. Written notice will be sent to the applicant stating the time and place of review of the Site Plan by the Planning and Zoning Commission.

SECTION 33. That Section 405.770 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.770 in its entirety and enacted, in lieu thereof, is a new Section 405.770, to read as follows:

Section 405.770. Required Data for Site Plan.

- A. Every Site Plan submitted to the Planning and Zoning Commission and Board of Aldermen shall be in accordance with the requirements of this Section.
 - 1. The Site Plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet and of such accuracy that the Planning and Zoning Commission and Board of Aldermen can readily interpret the plan and shall include more than one (1) drawing where required for clarity.
 - 2. The property shall be identified by lot lines and location, including dimensions, bearings, angles and size, correlated with the legal description of said property. The Site Plan shall be designed and prepared by a qualified land planner, registered professional architect, engineer or land surveyor. It shall also include the name and address of the property owner(s), developer(s) and designer(s) and their registration seal and signature.
 - 3. It shall show the scale, north point, boundary dimension, natural features such as woodlot, streams, rivers, lakes, drains, topography at least five (5) foot contour intervals (when terrain is irregular or drainage critical, contour interval shall be two (2) feet) and similar features.

4. It shall show existing manmade features such as buildings, structures, easements, required setback, transition strip, high tension towers, pipelines, existing utilities such as water and sewer lines, etc., excavations, bridges, culverts and drains and shall identify adjacent properties within three hundred (300) feet and their existing uses.
5. It shall show the location, proposed finished floor and proposed grade line elevations, size of proposed main and accessory buildings, their relation one to another and to any existing structures to remain on the site and the height of all buildings and structures as well as building elevations and materials proposed for the structures under consideration.
6. It shall show the proposed design and layout of streets, driveways, sidewalks and other vehicular and pedestrian circulation features within and adjacent to the site; also the location, size and number of parking spaces in the off-street parking areas and the identification of service lands, service parking and loading zones in conformance with the requirements set forth in Article XI.
7. It shall show the location and size of all existing utilities (public and private) serving the property as well as the location and size of all proposed utilities to serve the property. A note guaranteeing that all necessary utilities (public and private) will be available, functioning and usable at the time any stage of the project or the total project is ready for occupancy.
8. A landscape plan that meets the requirements of Article IX "Landscaping and Screening" shall be included as part of the Site Plans submitted.
9. Any proposed alterations to the topography and other natural features shall be indicated including required stormwater detention facilities.
10. The location, height and intensity of all exterior lighting.
11. The location and screening proposed for all trash collection areas.
12. Depict flood hazard boundaries as shown on FEMA maps.
13. An erosion/silt control plan.
14. Any other information deemed necessary by the Zoning Administrator, City Engineer, Planning and Zoning Commission and/or Board of Aldermen.

15. Provide a preliminary stormwater management plan pursuant to the requirements of Chapter 550 of this Code.

Note: All plans, architectural drawings, renderings or other materials or visual aids either submitted to the Commission and/or Board of Aldermen or presented at their meeting shall become the property of the City and part of the permanent record of any approval.

SECTION 34. That Section 405.790 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.790 in its entirety and enacted, in lieu thereof, is a new Section 405.790, to read as follows:

Section 405.790. Revision of Site Plan.

- A. A Site Plan may be amended or revised by the Planning and Zoning Commission or Board of Aldermen so far as the Planning and Zoning Commission or Board of Aldermen approved Site Plan is concerned for which the City has not issued a building permit or the work authorized under an issued building permit has not been completed. Such amendment shall be made upon application and in accordance with the procedure provided under Section 405.765 of this Chapter.
- B. Notwithstanding any other provision of this Section to the contrary, a Site Plan may be amended or revised by the Zoning Administrator provided that, in the determination of the Zoning Administrator, such amendment or revision would not result in the following:
 1. A five percent (5%) change in floor area;
 2. An increase in traffic congestion;
 3. A change in the type or intensity of screening;
 4. A change in traffic or pedestrian access to the property(s) depicted on the Site Plan.

SECTION 35. That Section 405.800 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.800 in its entirety and enacted, in lieu thereof, is a new Section 405.800, to read as follows:

Section 405.800. Violations.

The filing of a Site Plan shall constitute an agreement by the owner and applicant, their heirs, successors and assigns that if the Site Plan is approved by the Board of Aldermen, permits issued for the improvement of such property and activities subsequent thereto shall be in conformance with the approved Site Plan for the

property in question. The approved Site Plan shall have the full force and effect of the zoning ordinance. Any violations shall be grounds for the Zoning Administrator to issue stop work orders, withhold further permits and take all actions necessary for the assessment of all penalties and fines as permitted by law.

SECTION 36. That Section 405.810 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.810 in its entirety and enacted, in lieu thereof, is a new Section 405.810, to read as follows:

Section 405.810. Administration.

- A. Except where herein otherwise stated, the provisions of this Chapter shall be administered by the Zoning Administrator.
- B. The Zoning Administrator is hereby empowered in performance of its functions to enter upon any land in the City for the purpose of making inspections, examinations and surveys or to place and maintain thereon markers, notices or signs required to effect provisions of this Chapter. The above-authorized person shall be required to present proper credentials upon demand when entering upon any land or structure for the purpose of this Section.

SECTION 37. That Section 405.815 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.815 in its entirety and enacted, in lieu thereof, is a new Section 405.815, to read as follows:

Section 405.815. Duties of the Zoning Administrator.

- A. The Zoning Administrator shall have the power to grant certificates of zoning compliance, building permits and to make inspections of buildings or premises necessary to carry out his/her duties in the enforcement of this Chapter.
- B. It shall be improper for the Zoning Administrator to approve plans or issue any permits or certificates for any excavation or construction until he/she has inspected such plans in detail and found them to conform with this Chapter, nor shall the Zoning Administrator vary or change any terms of this Chapter.
- C. If the Zoning Administrator shall find that any of the provisions of this Chapter are being violated, he/she shall notify in writing the person responsible for such violations, indicating the nature of the violation and stating the action necessary to correct it. He/she shall order discontinuance of illegal use of land, buildings or structures; removal of illegal buildings, structural changes; discontinuance of any illegal work being done; or shall

take any other action authorized by this Chapter to insure compliance with or to prevent violation of its provisions.

SECTION 38. That Section 405.820 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.820 in its entirety and enacted, in lieu thereof, is a new Section 405.820, to read as follows:

Section 405.820. Certificates of Zoning Compliance.

- A. The Zoning Administrator shall require that all applications for certificates of zoning compliance shall be accompanied by plans and specifications including a plot plan for the site in duplicate drawn to scale. The City Engineer shall retain the original copy for his/her files.
- B. The certificate of zoning compliance signifies that, in the opinion of the Zoning Administrator, the existing or intended use, building or structure complies with all provisions of this Chapter.
- C. It shall be unlawful to change a type of use of land, to change the type of use or occupancy of any building or structure or to extend any use on any lot on which there is a non-conforming use of structure until a certificate of zoning compliance has been issued. Where a building permit is required, application for a certificate of zoning compliance shall accompany or precede the application for a building permit. (In all other cases in which a building permit is not required, the application for a certificate of zoning compliance shall be made prior to the date when a new or enlarged use of a building or lot or part thereof is intended to begin.)
- D. Applications for certificates of zoning compliance shall be made to the Zoning Administrator.

SECTION 39. That Subsection (A) of Section 405.845 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (A) in its entirety and enacted, in lieu thereof, is a new Subsection (A) of Section 405.845, to read as follows:

Section 405.845. Violation and Penalty.

- A. In case any building or structure is erected, constructed, reconstructed, altered, converted or maintained, or any building, structure or land is used in violation of Sections 89.010 to 89.140, RSMo., or this Chapter or other regulation made under authority conferred hereby, the Board of Aldermen, in addition to other remedies, may institute any appropriate action or proceedings to prevent such unlawful erection, construction, reconstruction, alteration, conversion, maintenance, or use, to restrain, correct or abate such violation, to prevent the occupancy of such building, structure or land, or to

prevent any illegal act, conduct, business or use in or about such premises. Such regulations shall be enforced by the Zoning Administrator who is hereby empowered to cause any building, structure, place or premises to be inspected and examined and to order in writing the remedying of any condition found to exist therein or thereat in violation of any provision of this Chapter or regulations made under authority of Sections 89.010 to 89.140, RSMo.

SECTION 40. That Section 405.865 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.865 in its entirety and enacted, in lieu thereof, is a new Section 405.865, to read as follows:

Section 405.865. Information Required in Amendment Procedure.

- A. A petition for change of zoning shall be signed by all the owners of the property to be affected or by their agent or agents having authority to sign the petition on their behalf. The petition shall be submitted to the Zoning Administrator at least thirty (30) days prior to the Commission meeting at which it may be first considered and shall contain or be submitted concurrently with the following information:
1. A legal description of the property to be affected, including one (1) hard printed copy and one (1) electronic copy in a Microsoft Word compatible format;
 2. A scaled map of such property correlated with the legal description and clearly showing the property's location;
 3. The names and addresses of all the owners of such property and copies of the deeds on file with the office of the St. Charles County Recorder of Deeds proving such ownership;
 4. The date of filing with the Planning and Zoning Commission;
 5. The present zoning, proposed change of zoning and proposed use of such property;
 6. The names and addresses of all the owners of all the parcels of property within one hundred eighty-five (185) feet of such property. In addition, and as a separate document, the names and mailing addresses of property owner(s) of the property(ies) included in the proposed zoning amendment or property within an area determined by lines drawn parallel to and three hundred (300) feet distant from the boundaries of the property(ies) to be affected; and
 7. Signature(s) of petitioner(s) and owner(s) certifying the accuracy of the required information. If the owner(s) of the property or the

petitioner(s) are a trust or business entity, then proof of the authority of the party executing the petition must be provided by way of resolution, minutes, bylaws, articles of incorporation or some other reasonable means.

SECTION 41. That Section 405.905 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 405.905 in its entirety and enacted, in lieu thereof, is a new Section 405.905, to read as follows:

Section 405.905. Meetings.

Meetings shall be held at the call of the Chairman and at such other times as the Board of Adjustment may determine. Such Chairman, or in his/her absence the Acting Chairman, may administer oaths and compel the attendance of witnesses. All meetings of the Board of Adjustment shall be open to the public. The Board of Adjustment shall keep minutes of its proceedings, showing the vote of each member upon each question or if absent or failing to vote, indicating such fact and shall keep records of its examinations and other official actions, all of which shall be immediately filed with the City Clerk and shall be a public record. All testimony, objections thereto and rulings thereon shall be taken down by a court reporter utilized by the Board of Adjustment for that purpose.

SECTION 42. That Subsection (B) of Section 410.070 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (B) in its entirety and enacted, in lieu thereof, is a new Subsection (B) of Section 410.070, to read as follows:

Section 410.070. Display House Plat.

...

- B.** The developer may, after receiving approval of a preliminary plat of a proposed subdivision from the Planning and Zoning Commission, submit a display house plat to the Zoning Administrator for review for every ten (10) houses proposed, not to exceed ten (10) display houses. The display house plat shall be on sheets not greater than twenty-four (24) by thirty-six (36) inches and include a complete outboundary survey of the proposed subdivision and the location of each display house in relation to proposed lots. The script of said display house plat shall contain terms and conditions as required by the Planning Department including, but not limited, to the following:
 - 1.** The display house plat shall be filed with the City of Dardenne Prairie prior to issuance of a building permit for any display house;

2. The display house plat shall become null and void upon the recording of a record plat which establishes that each display house is on an approved lot;
3. No part of the proposed subdivision may be conveyed for any structure therein until the display house or houses have been located in an approved and recorded lot;
4. If initial construction of a display house has not commenced within ninety (90) days, the Zoning Administrator's approval shall lapse and the display house plat shall be null and void;
5. The filing fee shall be per the fee schedule for services, permit applications, plan reviews, inspections, rezonings and conditional uses, which is on file in the office of the City Clerk.
6. All permanent structures shall be located on an approved subdivided lot by means of a record plat within one (1) year of the display house plat approval or such longer period as may be permitted by the Zoning Administrator. If the record plat is not approved and recorded at the St. Charles County Recorder of Deeds office within the one (1) year period referred to above, the then owner shall remove or cause to be removed all structures from the property. Failure of the then owner to remove all structures from the property with ten (10) days of the end of the one (1) year period referred to above shall constitute a violation of this Chapter.

SECTION 43. That Section 410.080 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 410.080 in its entirety and enacted, in lieu thereof, is a new Section 410.080, to read as follows:

Section 410.080. Grading Permit Process.

- A. Any development greater than ten thousand (10,000) square feet or requiring the preparation of complete improvement plans in accordance with this Chapter as determined by the Zoning Administrator shall be required to obtain a grading permit from the City of Dardenne Prairie. Once the preliminary plat or PUD Area Plan has been approved by the Planning and Zoning Commission, the grading permit process shall be as described herein. Grading plans may be submitted to the Zoning Administrator as part of the improvement plans or separately prior to the submission of improvement plans; however, a grading permit shall be submitted and processed in either case.
- B. *Filing Procedures.* The applicant shall submit two (2) copies of the proposed grading plan and a completed application form to the Zoning Administrator. Additional copies shall be requested upon review by the

Zoning Administrator. The grading plan shall be on sheets not greater than twenty-four (24) by thirty-six (36) inches.

C. *Information Required.* The following information is required for all grading plan submittals for approval. The required information may be combined for presentation on one (1) or more drawings or maps. In the interests of clarity, speed and efficiency in the review process, the Zoning Administrator may request that information in addition to the grading plan be presented on drawings or maps. In all cases, the grading plan submission must minimally include the following:

1. The grading plan shall be of a scale not to be greater than one (1) inch equals twenty (20) feet nor less than one (1) inch equals two hundred (200) feet and of such accuracy that the City Engineer can readily interpret the plan and shall include more than one (1) drawing where required for clarity.
2. The property is identified by lot lines and location, including dimensions, angles and size, correlated with the legal description of said property. The grading plan shall be designed and prepared by a qualified land planner, registered professional architect and engineer or land surveyor. It shall also include the name and address of the property owner(s), developer(s) and designer(s).
3. It shall show the scale, north point, boundary dimensions, natural features such as woodlots, streams, rivers, lakes, drains, topography (at least five (5) foot contours intervals; when terrain is irregular or drainage critical, contour interval shall be at least two (2) foot) and similar features. All topographic data shall directly relate to U.S.G.S. datum.
4. It shall show existing manmade features such as buildings, structures, easements, high tension towers, pipelines, existing utilities such as water and sewer lines, etc., excavations, bridges, culverts and drains and shall identify adjacent properties within three hundred (300) feet and their existing uses.
5. Any proposed alterations to the topography or other natural features are indicated.
6. All filled places under proposed storm and sanitary sewer lines, building areas and/or paved areas and stormwater detention basin berms shall be compacted to ninety percent (90%) of maximum density as determined by the Modified AASHTO T-180 Compaction Test or ninety-five percent (95%) of maximum density as determined by the Standard Proctor Test AASHTO T-99.

7. All fill placed in proposed roads areas shall be compacted from the bottom of the fill up to ninety percent (90%) of maximum density as determined by the Modified AASHTO T-180 Compaction Test or ninety-five percent (95%) of maximum density as determined by the Standard Proctor Test AASHTO T-99. All tests shall be verified by a soils engineer concurrent with grading and backfilling operations.
 8. A sediment and erosion control plan. The sediment control plan must be implemented in accordance with the land disturbance permit issued for the proposed grading activities pursuant to Chapter 412.
 9. Development along natural watercourses shall have residential lot lines, commercial or industrial improvements, parking areas or driveways set back a minimum of twenty-five (25) feet from the top of existing stream bank or fifteen-year, twenty-minute water surface elevation, where no defined bank exists. The watercourse and twenty-five-foot setback area shall be maintained and made the responsibility of the subdivision trustees. Residential lots having an area of one (1) acre or greater shall be exempt from this regulation if the stream bank is not erosive. In the case of a site plan, commercial or industrial site, the watercourse and twenty-five-foot setback area shall be maintained and made the responsibility of the property owner. Permanent native vegetation and existing ground elevation and grades within the twenty-five-foot setback shall be left intact and undisturbed. Variances will include designed stream bank erosion control measures and shall be approved by the appropriate government agency, which has jurisdiction over the land and/or development in question. FEMA and United States Army Corps of Engineers' guidelines shall be followed where applicable regarding site development areas designated as floodplains and wetlands.
 10. Retaining walls that exceed a height of thirty (30) inches shall require the construction of permanent safety guards at the top of the wall. Safety guards shall be constructed as identified in the appropriate Section(s) of the adopted building codes pertaining to open-sided walking surfaces or created by installing and maintaining a barrier comprised of dense vegetation that is at least forty-two (42) inches tall and approved by the Code Enforcement Officer of the City.
- D. The Zoning Administrator is authorized to promulgate rules and regulations for erosion and sediment management practices not inconsistent with the grading standards herein contained.

- E. A grading permit shall be issued and shall remain in force only upon compliance with the following requirements:
1. *Surface waters — damage.* Adequate provision shall be made to prevent surface waters from damaging the cut face of an excavation or the sloping surface of a hill.
 2. *Retaining walls — cribbing.* Retaining walls or cribbing shall be required whenever necessary to prevent the surface of any excavation or fill from exceeding at any point the maximum allowable slopes as set forth herein.
 3. *Drainage.* All drainage provisions shall be of such design to carry surface waters to the nearest practical storm drain, natural watercourse or street as approved by the City Engineer or his/her designee as a suitable place to deposit and receive such waters.
 4. *Protection of streets/property.* No excavation shall be made so close to the property line to endanger any adjoining public or private street without supporting and protecting such public or private street or property from settling, cracking or other damage.
 5. *Fill/location.* No fill shall be made so as to cause or to allow the same to be deposited upon or to roll, flow or wash upon or over the premises so affected; or upon or over any public street, walk, place or way; nor so close to the top of a bank of a channel as to create the possibility of bank failure and sliding. At a minimum, a setback of twenty-five (25) feet shall be provided as a buffer to sensitive areas.
 6. *Materials.* Materials for fills shall consist of material obtained from excavation of cut areas, borrow pits or other approved source. Material shall be free of vegetative matter and deleterious material and shall not contain rocks in excess of six (6) inches in diameter, where compacted by rollers or other mechanical equipment.
 7. *Minimum standards.* Minimum standards of excavations and fills shall be as follows; however, more stringent standards may be required based on site conditions:
 - a. The adjoining ground to development sites (lots) shall be provided with protection from accelerated and increased surface water, silt from erosion, and any other consequences of erosion. Runoff water from developed areas (parking lots, paved sites and buildings) above the area to be developed shall be directed to diversions, detention basins, concrete gutters and/or underground outlet systems.

- b. Federal Emergency Management Agency (FEMA) and U.S. Army Corps of Engineers guidelines shall be followed where applicable regarding site development areas designated as floodplains and wetlands.
 - c. All lots shall be seeded and mulched or sodded before an occupancy permit shall be issued, except that a temporary occupancy permit may be issued by the Building Department in cases of undue hardship because of unfavorable ground conditions.
8. *Compaction.* All fills intended to support buildings or structures or sewers and conduits shall be compacted to a minimum of ninety percent (90%) compaction as determined by Modified Proctor, ASTM D-1557, unless a lesser percent is recommended to and approved by the City Engineer or his/her designee. Compaction of greater than ninety percent (90%) may be required where special conditions dictate (i.e., large structures, dams). Compaction of fills for buildings or structures must be certified by a registered professional engineer. Compaction of other fills shall be required where necessary as a safety measure to aid in preventing the saturation, slipping or erosion of the fill. The requirements of the City Engineer or his/her designee for the compaction of fills shall include, but shall not be limited to, the following:
- a. Areas to be graded by cutting or filling shall be rough graded to within two-tenths (2/10) of a foot of accepted elevation after allowance has been made for thickness of topsoil, paved areas and other installations.
 - b. The natural ground surface shall be prepared by removing topsoil and vegetation and by compacting the fill upon a series of terraces. Hillside or slope fills shall require plowing or scarification of original ground.
 - c. Grading on slopes will require silt control at intermediate levels to slow surface water, prevent rutting and decrease erosion.
 - d. Grading sites will require silting basins pursuant to erosion and sediment control practices to prevent mud from washing onto adjacent properties.
 - e. If fill material moisture content is below the requirement for compacting to maximum practical density, water in the proper amount shall be added. If moisture content is too

great, fill material shall be aerated by blading or other satisfactory methods to reduce moisture content.

- f. Frozen materials or soft, mucky, friable, easily compressible materials shall not be incorporated in fills intended to support buildings, structures, sewers or conduits, or in the embanked ends of fills. Fill material shall not be placed, spread or rolled while the ground is frozen or thawing.
 - g. The maximum uncompacted thickness of layers of the fill to be compacted shall not exceed eight (8) inches.
 - h. Compaction shall be by tamping, sheeps foot rollers, multiple wheel pneumatic or other approved methods. Rolling shall be continuous until the desired maximum density is obtained.
 - i. Density of the proposed fill(s) shall be submitted with the grading permit application for approval by the Zoning Administrator or his/her designee.
 - j. Topsoil disturbed by grading or building operations if stripped and piled for storage shall be stored only in an amount necessary to complete finished grading.
9. Removal of timber, rubbish, logs, trees, brush, vegetative matter and rubbish of any description shall be removed and disposed of so as to leave the disturbed area with a neat and finished appearance. Timber, rubbish, logs, trees, brush, vegetative matter and rubbish of any description shall be removed to the following depths:

Paved areas	2 feet below subgrade
Non-paved areas	2 feet below finished grade

Solid rock, shale or similar materials shall be removed to a depth of fifteen (15) inches below subgrade for paved area and two (2) feet below finish grade for lawn area except where it is impractical because of rock outcropping. Burning of material shall fall under compliance of State Department of Natural Resources and local fire protection district regulations.

- F.** *Review Procedures.* The City Engineer shall review the grading plan for its conformance to standards and specifications set forth in this Chapter and other applicable ordinances. The City Engineer may request modifications in the grading plan. The Zoning Administrator shall then confer approval, conditional approval or disapproval of the grading plan within forty-five

(45) days of filing and shall notify the applicant with written reasons for its action.

- G. *Effect Of Grading Plan Approval.* Grading plan approval shall confer upon the developer, for a period of one (1) year from date of approval, the conditional right that the general terms and conditions under which the approval was granted will not be changed by the Zoning Administrator. This one (1) year period may be extended by the Zoning Administrator if the developer has applied in writing for such an extension and the Zoning Administrator determines a longer period should be granted due to unusual circumstances. If an extension is not granted, the grading plan approval is null and void. After approval of the grading plan, the developer may proceed with the grading operations upon the final direction of the Zoning Administrator.

- H. Inspections shall be made by the Zoning Administrator or his/her designate during each stage of fill operations and final approval shall be required upon completion of operations. Applicant shall notify the City of the following:
 - 1. Commencement of grading.
 - 2. Completion of rough grading.
 - 3. Completion of finish grading.
 - 4. Completion of all re-establishment of ground cover and construction work, which disturb ground cover.

SECTION 44. That Subsection (B) of Section 410.090 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Subsection (B) in its entirety and enacted, in lieu thereof, is a new Subsection (B) of Section 410.090, to read as follows:

Section 410.090. As-Built Plans.

...

- B. Two (2) paper sets and one (1) digital copy in AutoCAD format of the "as-built" plans on sheets not greater than twenty-four (24) by thirty-six (36) inches shall be submitted to the Zoning Administrator before the City shall release the escrow established insuring or guaranteeing the stabilization and revegetation of the site as described in Section 410.100 below.

SECTION 45. That Section 410.120 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 410.120 in its entirety and enacted, in lieu thereof, is a new Section 410.120, to read as follows:

Section 410.120. Improvement Plans and Installation.

- A. After the preliminary plat is approved by the Planning and Zoning Commission, improvement plans prepared by an engineer for the subdivision of all or any part of the tract shall be submitted to the Zoning Administrator for review and approval. If significant changes are to be made after the improvement plans have been approved, the Planning and Zoning Commission shall require that revised improvement plans be submitted. The applicant shall submit two (2) copies of the proposed improvement plans and a completed construction permit application form to the Zoning Administrator. Additional copies shall be requested upon review by the Zoning Administrator. Improvement plans shall be prepared on an exhibit not to exceed twenty-four (24) inches by thirty-six (36) inches and shall contain the following information:
1. Title page, which shall include key map showing the relationship of the area to be subdivided to the tract and which shall reflect areas of the tract previously subdivided plus adjacent streets.
 2. North arrow and graphic scale.
 3. Title block showing name and address of developer and engineering firm, as well as the engineer's seal.
 4. One (1) or more bench marks, U.S.G.S. or M.H.T.D. or others in or near the subdivision to which the subdivision is referenced. No assumed elevations will be accepted.
 5. List of standards and specifications followed, citing volume, section, page or other references.
 6. Paving details conforming to St. Charles County Standard Specifications.
 7. Details of streets, existing and proposed sanitary sewers, storm sewers and water mains, drainage channels and swales.
 8. Plans and profiles of streets and sewers scaled not less than one (1) inch equals fifty (50) feet horizontal and one (1) inch equals ten (10) feet vertical.
 9. Plans for sediment control will be submitted to and approved by the City Engineer. A dollar amount equal to the proposed cost will be included in the performance guarantee.
 10. Actual construction of such facilities and improvements may commence prior to final plat approval if the detailed improvement plans have been approved by the City Engineer, provided that such

facilities and improvements will be inspected throughout their construction. Final plat approval will be contingent, in part, upon acceptable compliance to County improvement and facility standards.

11. After approval of the construction plans, a breakdown of quantities and either estimated costs or actual prices on all public improvements shall be submitted for review and approval if any escrow agreements are required.
12. Approvals need to be received by the Zoning Administrator for water and sanitary sewer plans and for proposed crossing of pipelines.

SECTION 46. That Section 410.130 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 410.130 in its entirety and enacted, in lieu thereof, is a new Section 410.130, to read as follows:

Section 410.130. Public Improvements Installed or Guaranteed.

- A. *Improvement Guarantee Required.* After the improvement plans have been approved and all inspection fees paid, but before approval of the record subdivision plat, the developer shall guarantee the completion of improvements required by the approved improvement plans ("required improvements") and guarantee maintenance of such improvements as required herein. Except as provided in Subsection (B), the developer shall either:
 1. Complete the improvements in accordance with the approved improvement plans under the observation and inspection of the appropriate public agency and establish a maintenance agreement and provide a deposit to guarantee maintenance of such improvements as required herein; or
 2. Establish a deposit under a deposit agreement with the City of Dardenne Prairie guaranteeing the construction, completion and installation ("construction deposit") and a separate deposit amount for maintenance obligations ("maintenance deposit") as required herein and for the improvements shown on the approved improvement plans within the improvement completion period approved by the Zoning Administrator, which shall not exceed two (2) years.
- B. *Exceptions.*
 1. No guarantee or deposit is required with the City for sanitary sewers, waterlines or other public improvements required by another

political subdivision of this State if such political subdivision confirms that its requirements for assurance of completion are satisfied. This provision shall not affect the intent or enforcement of any existing guarantee, escrow or renewal, extension or replacement thereof.

2. The Zoning Administrator may require any specific improvement to be installed prior to approval of the record plat where failure to install such improvement prior to further development could result in damage to the site or surrounding properties.

C. *Deposit Options.* Deposits required by this Section shall be in conjunction with a deposit agreement and may be in the form of cash or letter of credit as follows:

1. Cash deposited with the City Clerk to be held in an interest-bearing account dedicated for that purpose, with all interest accruing to the City to offset administrative and other costs of maintaining the cash deposits;
2. An irrevocable letter of credit drawn on a local financial institution meeting the requirements of this Subsection (C)(2), and acceptable to and in a form approved by the City Attorney.
 - a. The instrument may not be drawn on any financial institution with whom the developer or a related entity has any ownership interest or with whom there is any joint financial connection that creates any actual or potential lack of independence between the institution and the developer.
 - b. As a condition to the acceptance of the irrevocable letter of credit by the City, the financial institution must certify to the City, in writing, that it was assigned a composite rating of either "1" or "2" under the Uniform Financial Institutions Rating System ("UFIRS"), as set forth in 62 FR 752-01, as amended, in the most recent examination of such financial institution's financial condition and operations by an appropriate agency of the United States Government. The financial institution need not explicitly disclose its composite rating; it need only disclose that it was assigned a composite rating meeting the requirements of this Subsection (C)(2)(b).
 - c. Subsequent to issuing an irrevocable letter of credit and during the entire term thereof, any financial institution issuing an irrevocable letter of credit to the benefit of the City pursuant to this Section 410.130 shall maintain a

composite rating of "1" or "2." If prior to release of such letter of credit such financial institution is assigned a composite rating of "3," "4" or "5" under the UFIRS by an appropriate agency of the United States Government, the financial institution must notify the developer and the City, in writing, that it no longer complies with this Subsection (C). Upon receipt of such notice, or written notice from the City to the financial institution and the developer upon the City's discovery that the financial institution no longer complies with the requirements of this Subsection (C), the developer must establish a replacement guarantee or deposit with the City, guaranteeing improvements pursuant to the provisions of this Section 410.130. If the developer fails to establish a replacement guarantee or deposit within thirty (30) days from the developer's receipt of notice required herein, the Zoning Administrator shall declare the developer to be in default, and the City shall be entitled to any remedies available to it under this Section 410.130.

- d. The letter of credit shall provide that the issuing institution will pay on demand to the City such amounts as the City may require to fulfill the obligations herein and may be reduced from time to time by a writing of the Zoning Administrator. The letter of credit shall be irrevocable for at least one (1) year and shall state that any balance remaining at the expiration shall automatically be deposited in cash with the City Clerk, unless a new letter of credit is issued and agreed to by the City or the City issues to the institution a written release of the obligations for which the letter of credit was deposited. The developer shall pay a non-refundable fee of two hundred dollars (\$200.00) to the City with submission of a letter of credit and one hundred dollars (\$100.00) for any amendment or extension thereto to partially reimburse the City's administration and review costs in accepting and maintaining such letter of credit.
3. Due to the costs of administering deposit guarantees/escrows and the compliance with changing State regulations relating thereto, any developer that elects to use a construction escrow in lieu of completing the improvements, as otherwise provided for in this Chapter and Section 89.410, RSMo., shall deposit an additional fee of five hundred dollars (\$500.00) that shall be used by the City to defray costs of administration, legal costs, procedural changes, and other costs not otherwise reimbursed to the City resulting from the City's acceptance of such deposit guarantees. The developer shall be obligated to reimburse the City for any additional costs, including, but not limited to, reasonable attorneys' fees, above such deposit

amount arising in any way from the City's acceptance of a deposit/escrow in lieu of completion of improvements. The developer may request a refund of any principal amounts, if any, of any initial or supplemented deposit above the costs attributable to the development during the period of the escrow by written request made within thirty (30) days after the developer has received a City approval of all categories of improvements subject to such escrow.

D. *Amount Of Deposit.* The amount of the deposit required shall be calculated as follows:

1. *Construction deposit.* The deposit required of a developer establishing a deposit agreement pursuant to Subsection (A)(2) shall be, in addition to the separate maintenance deposit sum, in the amount of one hundred ten percent (110%) of the Zoning Administrator's estimate of the cost of the construction, completion and installation of the required improvements. The Zoning Administrator shall adopt, to the extent practical, schedules reflecting current cost estimates of typically required improvements.
2. *Maintenance deposit.* The deposit required of a developer pursuant to Subsections (A)(1) and (A)(2) for maintenance obligations shall be in the amount of ten percent (10%) of the Zoning Administrator's estimate of the cost of the construction, completion and installation of the required improvements. The maintenance deposit shall be established by cash sum or submission of a separate letter of credit meeting the requirements of Subsection (C)(2).
3. Where certain improvements are required to be installed prior to approval of the record plat pursuant to Subsection (B)(2), the gross deposit amount for the construction deposits shall be reduced by the estimated cost of such improvements.

E. *Deposit Agreement — Releases.* The deposit agreement shall be entered into with the City of Dardenne Prairie, shall require the developer to agree to fulfill the obligations imposed by this Section and shall have such other terms as the City Attorney may require consistent with this Section. The agreement shall authorize the Zoning Administrator to release the cash or reduce the obligation secured under the letter of credit as permitted herein. Such releases or reductions may occur upon completion, inspection and approval by the Zoning Administrator of all required improvements within a category of improvements or may occur from time to time as work on specific improvements is completed, inspected and approved, provided, however, that:

1. *Releases — general.* The developer shall submit a written request for approval of release of the cash or the letter of credit as to all or

any part of the developer's obligation only after construction, completion and installation of some phase of work on the improvements indicated on the approved improvement plans, receipt of requisite written notification from the appropriate inspecting public authority and approval by the Zoning Administrator and only in the amounts permitted herein.

2. *Extension of completion period.* If, at the end of the improvement completion period, all the improvements shown on the approved improvement plans have not been completed, the developer may request and the Zoning Administrator may grant an extension to the improvement completion period for a period of up to two (2) years if after review by the Zoning Administrator such longer period is deemed necessary to facilitate adequate and coordinated provisions for transportation, water, sewerage, schools, parks, playgrounds or other public improvements, facilities or requirements, so long as all guarantees are extended and approved by the City Attorney; provided, that the Zoning Administrator may require as a condition of the extension execution of a new agreement, recalculation of deposit amounts or satisfaction of new code requirements or other reasonable conditions as may be needed to ensure that the extended agreement fully complies with the terms of this Section.

3. *Construction deposit releases.* After an inspection of any specific improvements, the Board of Aldermen may, upon a recommendation from the Zoning Administrator, release up to ninety-five percent (95%) of the original sum deposited for the construction of such specific required improvements. Irrespective of any discretionary prior releases that may be authorized after completion of any component of the guaranteed improvements (i.e., less than all of the improvements in a given category), the remaining amount held for any category of improvements for the entire subdivision shall be released within thirty (30) days of completion of all of the improvements in such category of improvement, minus a retention of five percent (5%) which shall be released only upon completion of all improvements for the subdivision. The Zoning Administrator shall establish the improvement categories, which may consist of improvement components or line items, to be utilized for calculation of deposit amounts, but such categories, components and line items shall in no way modify or reduce the developer's guarantee as to all required improvements, irrespective of any release or completion of any category or underlying component or line item. All improvements in a category shall be deemed complete only when:

- a. Each and every component and line item within a category for the entire subdivision has been constructed and completed as required;
 - b. The developer has notified the Zoning Administrator in writing of the completion of all components of the category, provided all necessary or requested documentation and requests an inspection;
 - c. The developer is not in default or in breach of any obligation to the City under this Section, including, but not limited to, the Zoning Administrator's demand for maintenance or for deposit of additional sums for the subdivision;
 - d. The inspection has been completed and the results of the inspection have been approved in writing by the Zoning Administrator.
4. Releases of the maintenance deposit amounts shall be as provided elsewhere in this Section for maintenance deposits.
5. *Effect of release — continuing obligations.* The developer shall continue to be responsible for defects, deficiencies and damage to public streets and other required improvements during development of the subdivision. No inspection approval or release of funds from the construction deposit as to any component or category shall be deemed to be City approval of improvement or otherwise release the developer of its obligation relating to the completion of the improvements until the final subdivision release on all improvements and maintenance is issued declaring that all improvements have in fact been constructed as required. Inspection and approval of any or all required improvements shall not constitute acceptance of the improvement by the City as a public improvement for which the City shall bear any responsibility.
6. *Deficient improvements.* No approval of required improvements shall be granted for improvements that fail to meet the specifications established herein or otherwise adopted by the Zoning Administrator.
7. *Final construction deposit release.* Upon final inspection and approval of all required improvements, the remaining amount of the construction deposit shall be released; provided, that no such funds shall be released on a final inspection until the development of the subdivision is complete as determined by the Zoning Administrator.
8. *Appeals.* If the developer believes that a release or certificate of completion has been improperly denied, including, but not limited

to, under Subsection (E) or (F), an appeal shall be filed with the City Administrator, and no such denial shall be deemed final until the City Administrator has ruled on the appeal, which ruling shall be no later than thirty (30) days after the date of receipt of the appeal by the City Administrator.

9. *Inspection Requests.*

a. The Zoning Administrator shall inspect each category of improvement or utility work within twenty (20) business days after a request for such inspection has been filed with the Zoning Administrator by the developer, and no inspection shall be required until such an inspection request is received by the Zoning Administrator. For purposes of this Section, an "inspection request" shall constitute and occur only on a completed written request on a form that shall include:

(1) The category of improvement or utility work reflected in the deposit agreement that is requested to be inspected;

(2) A certification from a professional engineer registered in the State of Missouri that the category of improvement or utility work has been installed, and, on the date of inspection request, is maintained, and is in conformance with the final approved improvement plans and all applicable requirements thereto and is therefore ready for inspection;

(3) A verified statement from the representative officer of the developer attesting that the information in the inspection request is true and accurate; and

(4) **If an additional inspection, the fee required in subsection (E)(9)(c) of this section.**

b. Nothing herein shall preclude the Zoning Administrator from completing additional inspections at its discretion or as a courtesy to the developer.

c. If upon an inspection required to be made by this Section the Zoning Administrator finds that the category of improvement or utility work requested to be inspected pursuant to an inspection request has not been installed, or, on the date of the inspection request, was not maintained, or is not in conformance with the final approved improvement

plans and all applicable requirements thereto, then the Zoning Administrator shall transmit or cause to be transmitted to the developer a written notice which shall specify the defect(s) or violation(s), or both, as the case may be, and shall identify the action required to remedy such defect(s) or violation(s), or both, in order for the developer to complete such category of improvement or utility work and to bring such category of improvement or utility work into conformance with the final approved improvement plans and all applicable requirements thereto. If a defect or violation is found, the developer shall be given a reasonable length of time to remedy such defect(s) or violation(s), or both, as the case may be, to complete such category of improvement or utility work and to bring the same into conformance with the final approved improvement plans and all applicable requirements thereto prior to reinspection.

- (1)** One (1) free reinspection shall be provided for each initial reinspection of a category of improvement or utility work subject to an initial inspection request that resulted in a finding that such category of improvement or utility work had not been installed, or, on the date of such initial inspection request, was not maintained, or was not in conformance with the final approved improvement plans and all applicable requirements thereto. Such initial reinspection shall be made by the Zoning Administrator within twenty (20) business days after an inspection request for such initial reinspection has been filed with the Zoning Administrator by the developer; provided, however, that no reinspection of such category of improvement or utility work shall be required to be made until an inspection request for such initial reinspection has been received by the Zoning Administrator. Thereafter, the developer shall be charged, and there shall be paid and collected by the City, a reinspection fee of fifty dollars (\$50.00) for each additional reinspection performed by the Zoning Administrator, subsequent to an inspection and initial reinspection, of a category of improvement or utility work required because such category of improvement or utility work was not installed, or, on the date of the inspection request(s) for inspection or initial reinspection, or both, was not maintained, or was not in conformance with the final approved improvement plans and all applicable

requirements thereto; and each such additional reinspection shall be made by the Zoning Administrator within twenty (20) business days after an inspection request for such additional reinspection has been filed with the Zoning Administrator by the developer; provided, however, that no such additional reinspection of such category of improvement or utility work shall be required to be made until an inspection request for such additional reinspection has been filed with the Zoning Administrator by the developer.

F. *Maintenance Guarantee.*

1. *Scope and duration.* Upon commencement of installation of the required improvements within the subject subdivision, the developer shall be responsible for maintenance of the improvements, including undeveloped lots, streets, sidewalks, common areas and storm and drainage facilities, until the sooner of the (1) expiration of eighteen (18) months after acceptance for public dedication of the specific improvement by the City; or (2) expiration of eighteen (18) months after occupancy permits have been issued on ninety-five percent (95%) of all of the lots in the subdivision plat(s) subject to the deposit agreement. Maintenance shall include repair or replacement of all defects, deficiencies and damage to the improvements that may exist or arise, abatement of nuisances caused by such improvements, removal of mud and debris from construction, erosion control, grass cutting, removal of construction materials (except materials to be used for construction on the lot or as permitted by site plan) and street deicing and snow removal. All repairs and replacement shall comply with City specifications and standards. Any maintenance on improvements accepted by the City for public dedication shall be completed under the supervision of and with the prior written approval of the Zoning Administrator. The maintenance obligation for required improvements to existing public roads or other existing public infrastructure already maintained by a public governmental entity shall terminate on and after the date such improvements have been inspected, deposit released and accepted by the Governing Body of the governmental entity for dedication. Irrespective of other continuing obligations, the developer's street deicing and snow removal obligations shall terminate on the date a street is accepted by the City for public maintenance.
2. *Maintenance deposit — amount — use.*

- a.** The maintenance deposit shall be retained by the City to guarantee maintenance of the required improvements and, in addition to being subject to the remedies of Subsection (G) and other remedies of this Code, shall be subject to the immediate order of the Zoning Administrator to defray or reimburse any cost to the City of maintenance or repair of improvements related to the subdivision which the developer fails or refuses to perform. Such costs shall include off-site damage caused by deficiencies in the improvements or failure of maintenance. Except in emergency circumstances or where action is otherwise required before written notice can be provided, the Zoning Administrator shall provide the developer with a written demand and opportunity to perform the maintenance before having such maintenance performed by the City. The Zoning Administrator shall have the authority to require the maintenance deposit to be placed or replenished by the developer in any form permitted for an original deposit where the amount remaining is determined to be insufficient or where the maintenance deposit was drawn upon by the City for maintenance.
 - b.** In determining the amount of maintenance deposit that shall continue to be held, portions of the deposit amount that were attributable to improvements that have been accepted by any third-party governmental entity or utility legally responsible for the maintenance of the improvement may be released upon such acceptance of the improvement by the entity. The Zoning Administrator may approve such further releases if it is determined in his/her discretion, after inspection of the improvements, that the total maintenance amount retained is clearly in excess of the amount necessary for completion of the maintenance obligation, after all reasonable contingencies are considered.
- 3.** *Final maintenance deposit release.* Upon expiration of the maintenance obligations established herein, the Zoning Administrator shall cause a final inspection to be made of the required improvements. Funds shall then be released if there are no defects or deficiencies found and all other obligations are shown to be satisfied on inspection thereof or at such time thereafter as any defects or deficiencies are cured with the permission of and within the time allowed by the Zoning Administrator. This release shall in no way be construed to indemnify or release any person from any civil liability that may exist for defects or damages caused by any construction, improvement or development for which any deposit has been released.

G. *Failure To Complete Improvements.*

1. The obligation and rights of the developer to construct, complete, install and maintain the improvements indicated on the approved improvement plans and provide for street maintenance shall not cease until the developer shall be finally released by the Zoning Administrator, nor shall any deposit agreements or obligations hereunder be assignable or transferable by the developer. Furthermore, in the event of default, abandonment, or failure of the developer to complete the improvements, no other person, firm or entity shall acquire (whether by contract, judicial foreclosure or other means) any rights to the remaining escrow funds as a developer without entering into a separate deposit agreement with the City. If, after the initial improvement completion period or after a later period as extended pursuant to this Section, the improvements indicated on the approved improvement plans are not constructed, completed, installed, accepted and maintained as required or if the developer shall violate any provision of the deposit agreement, the Zoning Administrator may notify the developer to show cause within not less than ten (10) days why the developer should not be declared in default. Unless good cause is shown, no building or other permit shall be issued to the developer in the subdivision during any period in which the developer is in violation of the deposit agreement or this Chapter relating to the subdivision. If the developer fails to cure any default or present compelling reason why no default should be declared, the Zoning Administrator shall declare the developer in default and may take any one (1) or more of the following acts:
 - a. Deem the balance under the deposit agreement not theretofore released as forfeited to the City, to be then placed in an appropriate trust and agency account subject to the order of the Zoning Administrator for such purposes as letting contracts to bring about the completion or maintenance of the improvements indicated on the approved improvement plans or other appropriate purposes in the interest of the public safety, health and welfare; or
 - b. Require the developer or surety to pay to the City the balance of the surety not theretofore released; or
 - c. Require the developer to submit an additional cash sum sufficient to guarantee the completion or maintenance of the improvements indicated on the approved improvement plans after recalculation in order to allow for any inflated or increased costs of constructing or maintaining the improvements.

2. The failure of a developer to complete the improvement obligations within the time provided by the agreement (or any extension granted by the City), and including the payment of funds to the City due to such failure or an expiration of a letter of credit, shall be deemed an automatic act of default entitling the City to all remedies provided in this Section without further or prior notice. It shall be the sole responsibility of the developer to timely request an extension of any deposit agreement if the improvements are not completed in the original time period provided by the deposit agreement, and no right to any extension shall exist or be assumed.

H. *Other Remedies For Default.* If the developer or surety fails to comply with the Zoning Administrator's requirements for payment as described above or fails to complete the improvements as required or otherwise violates the deposit agreement provisions and there is a risk that development will continue in the subdivision without the timely prior completion of improvements or compliance with deposit agreement provisions, the Zoning Administrator may in addition or alternatively to other remedies:

1. Suspend the right of anyone to build or construct on the undeveloped portion of the subdivision. For the purpose of this Subsection, the "undeveloped portion" of the subdivision means all lots other than lots which have been sold for personal use and occupancy or are under bona fide contract for sale to any person for personal use or occupancy. The Zoning Administrator shall give the developer ten (10) days' written notice of an order under this Subsection with copies to all sureties, as appropriate, who have outstanding obligations for any undeveloped portion of the subdivision and shall record an affidavit of such notice with the Recorder of Deeds. If, within the ten-day period after notice is given, the Zoning Administrator is not convinced by compelling evidence that completion of the improvements is adequately assured and maintenance of streets assured as provided herein, the Zoning Administrator shall order construction suspended on the undeveloped portion of the subdivision. The order shall be served upon the developer with a copy to the issuer of the surety, as appropriate, and a copy recorded with the Recorder of Deeds. Public notice of said order shall be conspicuously and prominently posted by the Zoning Administrator at the subdivisions or lots subject to said order. The notice shall contain the following minimum language which may be supplemented at the discretion of the Zoning Administrator.

a. *Public notice of order.*

- (1) If said notice is for a subdivision:

THIS SUBDIVISION, (name of subdivision), HAS BEEN DECLARED IN DEFAULT BY THE CITY OF DARDENNE PRAIRIE ZONING ADMINISTRATOR. NO DEVELOPMENT, CONSTRUCTION, BUILDING OR DEMOLITION IN ANY MANNER SHALL TAKE PLACE WITHIN THE LIMITS OF THIS SUBDIVISION UNTIL SUCH TIME AS THE CITY OF DARDENNE PRAIRIE ZONING ADMINISTRATOR REMOVES THIS PROHIBITION. ANY DEVELOPMENT, CONSTRUCTION, BUILDING OR DEMOLITION IN ANY MANNER WHILE THIS PROHIBITION IS IN EFFECT IS ILLEGAL AND SHALL BE ENFORCED PURSUANT TO CHAPTER 410 OF THE MUNICIPAL CODE OF THE CITY OF DARDENNE PRAIRIE.

(2) If said notice is for a lot:

THIS LOT, (lot number), HAS BEEN DECLARED IN DEFAULT BY THE CITY OF DARDENNE PRAIRIE ZONING ADMINISTRATOR. NO DEVELOPMENT, CONSTRUCTION, BUILDING OR DEMOLITION IN ANY MANNER SHALL TAKE PLACE WITHIN THE LIMITS OF THIS LOT UNTIL SUCH TIME AS THE CITY OF DARDENNE PRAIRIE ZONING ADMINISTRATOR REMOVES THIS PROHIBITION. ANY DEVELOPMENT, CONSTRUCTION, BUILDING OR DEMOLITION IN ANY MANNER WHILE THIS PROHIBITION IS IN EFFECT IS ILLEGAL AND SHALL BE ENFORCED PURSUANT TO CHAPTER 410 OF THE MUNICIPAL CODE OF THE CITY OF DARDENNE PRAIRIE, MISSOURI.

- b. The Zoning Administrator shall not thereafter authorize construction to take place contrary to the order. The suspension shall be rescinded in whole or in part only when the Zoning Administrator is convinced that completion of the improvements is adequately assured in all or an appropriate part of the subdivision and a guarantee of public street maintenance has been provided; or

2. Suspend the rights of the developer or any related entity to construct structures in any development platted after the effective date of such suspension throughout the City of Dardenne Prairie and such incorporated areas as are under the City of Dardenne Prairie's jurisdiction. The Zoning Administrator shall give the developer ten (10) days' written notice of an order under this clause with a copy to sureties known to the Zoning Administrator to have obligations outstanding on behalf of the developer or related entities and shall record an affidavit of such notice with the Recorder of Deeds. If, within the ten-day period after notice is given, the Zoning Administrator is not convinced by compelling evidence that completion of the improvements is adequately assured and maintenance of streets assured as provided herein, the Zoning Administrator shall order construction suspended. The order shall be served upon the developer with a copy to the surety, as appropriate, and a copy recorded with the Recorder of Deeds. The Zoning Administrator shall not thereafter authorize construction to take place contrary to the Zoning Administrator's order. The suspension shall be rescinded only when the Zoning Administrator is convinced that completion of the improvements is adequately assured and public street maintenance is assured.
- I. *Suspension Of Development Rights.* From and after the effective date of this Section, if a developer or any related entity has a subdivision development improvement guarantee that is in default, as determined by the Zoning Administrator, including any escrow or bond under any prior version of this Section:
 1. The Zoning Administrator shall be authorized, but not be limited, to thereafter pursue the remedies of Subsection (H) of this Section; and
 2. The rights of the developer or any related entity to receive development approval, which approval shall include, but not be limited to, approval of any plat or deposit agreement for new or further development in the City, shall be suspended. The suspension shall be rescinded only when the Zoning Administrator is convinced that completion and maintenance of the improvements is adequately assured.
- J. *Additional Remedies.* If any party fails to comply with any obligation of this Section, the Zoning Administrator may recommend that the City Attorney take appropriate legal action and may also withhold any building or occupancy permits to this developer or related entities until such compliance is cured. The City shall also have the right to partially or wholly remedy a developer's deficiencies or breached obligations under this Chapter by set-off of any funds or assets otherwise held by the City of the developer to the maximum extent permitted by law. Such set-off shall occur

upon written notice of such event by the Zoning Administrator to the developer after the developer has failed to timely cure the deficiencies. It shall be deemed a provision of every deposit agreement authorized under this Section that the developer shall pay the City's costs, including reasonable attorneys' fees, of enforcing such agreement in the event that the developer is judicially determined to have violated any provision herein or in such agreement. The developer may appeal any decision taken pursuant to this Section by filing an appeal to the City Administrator whose decision shall be final.

K. *Related Entities.*

1. For purposes of this Section, "related entity" has the following meaning:
 - a. A developer is a related entity of another person:
 - (1) If either has a principal or controlling interest in the other; or
 - (2) If any person, firm, corporation, association, partnership or other entity with a controlling interest in one has a principal or controlling interest in the other.
2. The identification of related entities shall be supported by documentation from the Secretary of State's office, Jefferson City, Missouri.

SECTION 47. That Section 410.135 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 410.135 in its entirety and enacted, in lieu thereof, is a new Section 410.135, to read as follows:

Section 410.135. Acceptance and Final Approval.

Before the developer's obligation to the City of Dardenne Prairie is terminated, all required improvements shall be constructed under the observation and inspection of the inspecting agency and accepted for maintenance or given final approval by the City of Dardenne Prairie. Approval of any preliminary or final plat or plan shall not create a vested right in all or any portion thereof. Where a change in circumstances or law or discovery of new facts occurs, the Zoning Administrator may initiate changes that would not cause an undue hardship in any such plat or plan or portion thereof for which building construction has not substantially commenced.

SECTION 48. That Section 410.140 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 410.140 in its entirety and enacted, in lieu thereof, is a new Section 410.140, to read as follows:

Section 410.140. Recording — Approval of Clerk.

No subdivision plat or replat shall be filed for record or recorded in the office of the Recorder of Deeds for St. Charles County, Missouri, unless and until the approval of the City Clerk is endorsed thereon. No lot shall be sold for such subdivision plat or replat until it has been approved by the above and approved by the Zoning Administrator and filed for record in the office of the Recorder of Deeds of St. Charles County, Missouri.

SECTION 49. That Section 410.160 of the Municipal Code of the City of Dardenne Prairie, Missouri, shall be and it is hereby amended by deleting said Section 410.160 in its entirety and enacted, in lieu thereof, is a new Section 410.160, to read as follows:

Section 410.160. Recording Requirements.

No subdivision plat or replat shall be filed for record or recorded in the office of the Recorder of Deeds for St. Charles County, Missouri, unless and until the approval of the Planning and Zoning Commission, the Zoning Administrator and the Chairman of the Board of Aldermen and are endorsed thereon. No lot shall be sold for such subdivision plat or replat until it has been approved by the above and filed for record in the office of the Recorder of Deeds of St. Charles County, Missouri. No building permit will be issued until the final plat is recorded. Further, no dwelling unit may be occupied until the public or private improvements are completed, unless money is in escrow for the completion of said improvements.

SECTION 50. Savings Clause: Nothing contained in this Ordinance shall in any manner be deemed or construed to alter, modify, supersede, supplant or otherwise nullify any other Ordinance of the City or the requirements thereof whether or not relating to or in any manner connected with the subject matter hereof, unless expressly set forth herein.

SECTION 51. Severability Clause: If any term, condition, or provision of this Ordinance shall, to any extent, be held to be invalid or unenforceable, the remainder hereof shall be valid in all other respects and continue to be effective and each and every remaining provision hereof shall be valid and shall be enforced to the fullest extent permitted by law, it being the intent of the Board of Aldermen that it would have enacted this Ordinance without the invalid or unenforceable provisions. In the event of a subsequent change in applicable law so that the provision which had been held invalid is no longer invalid, said provision shall thereupon return to full force and effect without further action by the City and shall thereafter be binding.

SECTION 52. Effective Date: This Ordinance shall take effect and be in force from and after its passage by the Board of Aldermen and its approval by the Mayor of the City of Dardenne Prairie, Missouri.

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FOLLOWS.]

Read two (2) times, passed, and approved this 21st day of September, 2022.

John W. Botway
As Presiding Officer and as Mayor

Attest:

Kim Clark
City Clerk

Approved this 21st day of September, 2022.

John W. Botway
Mayor

Attest: Kim Clark
City Clerk