



Tuesday, July 11, 2023
Civic Center, Memorial Hall 5:30 PM

Independence Planning Commission/Board of Zoning Appeals

To join by Conference Call dial:1-785-289-4727 Conference ID: 652-632-373#

- I. CALL TO ORDER
- II. MINUTES
 - a. Consider approving minutes of the June 6, 2023 Planning Commission/Board of Zoning Appeals Meeting.
- III. BOARD OF ZONING APPEALS (DOES NOT INCLUDE OUTSIDE CITY APPOINTMENTS)
 - a. Public Hearing to receive comments on a variance request to reduce setbacks in an R-2 single-family dwelling district at 1013 North 10th Street.
- IV. PLANNING COMMISSION
 - a. Public Hearing to receive comments on a request for a conditional use permit for "utility substations not elsewhere listed" in an R-4, medium density multifamily dwelling district at 401 North 10th Street.
 - b. Public hearing to consider a text amendment to the zoning code regarding cargo shipping containers, also known as "Conex containers" or "portable steel storage containers."
 - c. Public Hearing to consider a text amendment to off-street parking in residential areas.
- V. DISCUSSION
- VI. ADJOURNMENT



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
July 11, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Consider approving minutes of the June 6, 2023 Planning Commission/Board of Zoning Appeals Meeting.

SUMMARY RECOMMENDATION Approve minutes.

Suggested Motion: I move to approve the minutes of the June 6, 2023 Planning Commission/Board of Zoning Appeals.

SUPPORTING DOCUMENTS

1. June 6, 2023 Planning CommissionBoard of Zoning Appeals Meeting Minutes

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's June 6, 2023 Meeting

I. Call to Order

Present: Scott Smith, Anthony (Tony) Royse, Tim Haynes, Michelle Anderson, Lisa Richard (By phone)

Absent: Rachel Lyon, Brent Littleton, Mary Jo Meier, Andy McLenon

Guest: Wayne R. Gudmonson

Tim Haynes, Chairperson, called the meeting to order.

II. Minutes

- a. Consider approving minutes of the May 9, 2023 Planning Commission/Board of Zoning Appeals Meeting.

Motion:

On the motion of Scott Smith, seconded by Anthony (Tony) Royse the Commission approved the minutes of the May 9, 2023 meeting.

Aye: Michelle Anderson, Tim Haynes, Lisa Richard, Anthony (Tony) Royse, Scott Smith

Nay: None

III. Board of Zoning Appeals (Does not include outside City appointments)

IV. Planning Commission

- a. Public Hearing to consider a request for a conditional use permit for a "Daycare Center" in an R-3, low density multifamily dwelling district at 301 South 11th Street.

Wayne R Gudmonson appeared for the Zion Lutheran Church who is wanting to put in a daycare. He stated that there is a pre-school but Independence needs another daycare.

Motion:

On the motion of Scott Smith, seconded by Anthony (Tony) Royse the Commission authorized a conditional use permit for "Daycare Center" at 301 South 11th Street, Zion Lutheran School, with the conditions as recommended by City Staff.

Aye: Michelle Anderson, Tim Haynes, Lisa Richard, Anthony (Tony) Royse, Scott Smith

Nay: None

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's June 6, 2023
Meeting**

- b. Public hearing to consider a text amendment to the zoning code regarding cargo shipping containers, also known as "Conex containers" or "portable steel storage containers."

Kelly Passauer explained to the Commission about steel storage containers becoming popular for accessory storage uses and creating dwellings or commercial structures. She asked whether the Commission wanted to consider a text amendment regulating these structures.

Several questions were put before the board and after discussion board members directed City staff to prepare the text amendment relating to steel storage containers, both as accessory storage in commercial and industrial districts and dwellings in residential districts according to the City Codes and examples shown.

- 1. Do you want to regulate the location of cargo containers within the City? *Yes***
- 2. Do you want to differentiate cargo containers when used for storage from other accessory storage buildings? *Yes***
- 3. Do you want different regulations for cargo containers used for storage verses housing? *Yes, accessory storage in commercial and industrial districts and as dwellings in residential districts.***
- 4. Do you wish to restrict the location of cargo containers to certain zones? *Yes***

a. If so, which zones and what level of restriction: i.e. permitted, not permitted, permitted with a conditional use permit?

- i. Residential – *as housing – with a conditional use permit***
- ii. Commercial – *as storage - with a conditional use permit***
- iii. Office and Professional – *as storage - with a conditional use permit***
- iv. Industrial – *permitted as storage***
- v. Agricultural – *housing and storage - with a conditional use permit***

5. If you wish to require a conditional use permit in any of the above zones, do you want to include any additional conditions that would apply to all conditional use permits for cargo containers? For example, in St. Charles, Missouri shipping containers are allowed in residential zones with a conditional use permit which must meet the following:

- a. It complies with the building code.**
- b. The structure will be completely enclosed with siding.**
- c. It will have a pitched wood or metal roof.**

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's June 6, 2023 Meeting

Yes, there need to be conditions that fit with building codes, interior and exterior. Not for use as storage units in residential districts and not for use as housing in commercial and industrial districts.

Kelly Passauer suggested that the public hearing be adjourned to the July 11, 2023 meeting, 5:30 pm in order to give City staff time to write the text amendment.

Motion:

On the motion of Tim Haynes, seconded by Scott Smith the Commission adjourned the public hearing to consider a text amendment to Article B. -- Zoning regarding cargo shipping containers to July 11, 2023 at 5:30 pm.

Aye: Michelle Anderson, Tim Haynes, Lisa Richard, Anthony (Tony) Royse, Scott Smith

Nay: None

- c. **Consider initiating a public hearing before the Planning Commission regarding off-street parking in residential areas.**

Kelly Passauer explained that the Beautification Committee, at their last meeting, had suggested the Planning Commission review the off-street parking regulations in residential zones and consider allowing gravel parking in the rear of residences to provide an affordable option to address the issue of vehicles parking in the grass.

Motion:

On the motion of Anthony (Tony) Royse, seconded by Scott Smith the Commission initiated a public hearing for July 11, 2023 at 5:30 pm to consider a text amendment to off-street parking in residential areas.

Aye: Michelle Anderson, Tim Haynes, Lisa Richard, Anthony (Tony) Royse, Scott Smith

Nay: None

V. Discussion

- a. **A reminder of meeting date changes for July and August.**

At the January 3, 2023 meeting, the Planning Commission/Board of Zoning Appeals board moved the August 1, 2023 meeting to August 8, 2023 due to the primary election. City staff had learned this week that there will not be a primary election based on the number of candidates that filed.

The Planning Commission/Board of Zoning Appeals board decided to keep

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's June 6, 2023
Meeting**

the August meeting date.

VI. Adjournment

Motion:

**On the motion of Tim Haynes, seconded by Scott Smith the Commission
adjourned the meeting.**

**Aye: Michelle Anderson, Tim Haynes, Lisa Richard, Anthony (Tony) Royse,
Scott Smith**

Nay: None

Tim Haynes, Chairperson

Anthony (Tony) Royse, Secretary



**REQUEST FOR BOARD OF ZONING APPEALS ACTION
VARIANCE - SETBACKS
CITY OF INDEPENDENCE
JULY 11, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a variance request to reduce setbacks in an R-2 single-family dwelling district at 1013 North 10th Street.

SUMMARY RECOMMENDATION Approve the variance request to reduce setbacks in an R-2 single-family dwelling district at 1013 North 10th Street.

BACKGROUND Jessica Jaimes is buying the property at 1013 North 10th Street on contract from Marvin Jones. There is a gravel driveway coming off the alley where she would like to build a pre-fab single car carport with storage. She would like to put the carport with storage on the north side of the property, two feet off the property line. She will need a variance of 6 feet. The neighbor's garage and fence is 2 feet off the property line to the north. She also wants the carport to extend to 2 feet off the alley. She will need a variance of 8 feet. The north neighbor has a fence two feet off the alley.

601.2. Accessory buildings: In a residential district, any accessory building shall not exceed more than 12 feet or one story in height unless said accessory building is located within the main building setback area permitted under this ordinance. (See also section 602.6.)

602.6. Accessory structures: No accessory structures shall be erected in any required front or side yard, and no detached accessory structure shall be erected closer than five feet to any other structure. Accessory structures may be located in the rear yard, but shall not be closer than ten feet to the rear lot line and shall not be closer to the side lot line than the required minimum side yard setback of the district except that if the structure is a parking garage with a vehicular alley entrance, the sum of the width of the alley and the setback of the structure shall not be less than 25 feet.

607.0. - Accessory uses.

Accessory uses are permitted in any zoning district in connection with any principal use which is permitted.

607.1. Definitions: An accessory use is a structure or use which shall conform to all of the below:

- a. Is subordinate to and serves a principal building and principal use;
- b. Is subordinate in area, extent or purpose to the principal building or buildings served;
- c. Contributes to the comfort, convenience or necessity of occupants, business or industry in the principal building or principal use served;
- d. Is located on the same lot or contiguous lot as the principal building or principal use served.

607.2. Permitted accessory uses: Any structure or use that complies with the definition of section 607.1 may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following list of examples:

- a. Private garages or carports, not to exceed the following capacity:
 1. For single-family residence: Four cars.
 2. For multifamily residence: Two cars per dwelling unit.
- b. A structure for storage incidental to a permitted use, provided no such structure that is

accessory to a residential building shall exceed 200 square feet in gross floor area.

Exception: Parking garages.

c. A child's playhouse.

d. A private swimming pool and bathhouse.

e. A guesthouse or rooms for guests in accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units.

f. Statuary, arbors, trellises, barbecue stoves, wood piles for home use, flagpoles, fences, walls, hedges and radio and television antennas.

g. Fallout shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.

h. Signs.

i. Off-street parking and loading spaces as regulated by article VII of these regulations.

j. Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, shall be at the rear of the premises if there is access thereto, or if there is not access to the rear premises, then such recreational vehicles may be parked in the private driveway of the premises, at the side thereof, or at some other inconspicuous location thereon. In no event, however, shall such recreational vehicles be parked on public property, streets, or thoroughfares for longer than 72 hours.

k. Restaurants, drugstores, gift shops, swimming pools, tennis courts, clubs and lounges and newsstands when located in a permitted hotel, motel or office building.

l. Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.

m. Offices for permitted business and industrial uses when said office is located on the same site as the business or industry to which it is an accessory.

n. Retail sales for permitted industrial uses when located on the same site as the industrial use.

o. The storage of retail merchandise when located within the same building as the principal retail business.

p. Any wholesale or retail sales activity may also include accessory service or repair activity for goods which are sold on the premises.

q. A hobby shop may be operated as an accessory use by the occupant of the premises for personal equipment, amusement or recreation; provided that articles produced or constructed are not sold on the premises.

r. Accessory uses for any agriculturally oriented activity, which is subordinate and incidental to the principal permitted agricultural activity, shall be permitted in the A-1 district.

s. A tiny house for use by the property owner's family.

BOARD OF ZONING APPEALS CONSIDERATIONS Acceptance of a variance must be based on the following factors:

A) Unique condition to the property in question which is not ordinarily found in the same zone and is not created by any action of the property owner. *The north neighbor's garage is 1 foot off the property line and the south neighbor has a fence encroaching 2 feet over the property line. The applicant wants to utilize as much yard space as possible.*

B) The variance will not adversely affect the rights of adjacent property owner. *The variance will not adversely affect the rights of the adjacent property owners who also are non-conforming to the City code.*

C) The strict enforcement of the regulations would cause an unnecessary hardship. *In order for the applicant to have a yard for her child to play in, she will need to utilize as much of the property as possible.*

D) The variance would not adversely affect public health, safety and morals. *The variance does not appear to affect public health, safety and morals.*

E) The variance will be in keeping with the general intent and spirit of the zoning regulations.
The variance will be in keeping with the general intent and spirit of the zoning regulations and will fit in with the adjacent property owners.

STAFF RECOMMENDATION Staff recommends approving the 6 foot variance request to reduce the setback to 2 feet to the north and the 8 foot variance request to reduce the setback to 2 feet off the alley to the west.

SUGGESTED MOTION I move to approve a variance to reduce the setback on the north from 8' to 2' and a variance to reduce the setback at the rear of the property from 10' to 2'.

SUPPORTING DOCUMENTS

1. Public Hearing Notice 1013 N 10th Setbacks
2. 1013 N 10th Variance App and Pmt
3. 1013 N 10th Variance Jaimes Photos

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Board of Zoning Appeals will conduct a public hearing on:

Tuesday, July 11, 2023 at 5:30 p.m.

To receive comments on a variance request to reduce setbacks in an R-2 single-family dwelling district at 1013 North 10th Street.

Common Address:

1013 North 10th Street

Legal Description:

Lot 8 Block 5, Matthews Addition to the City of Independence, Montgomery County, Kansas.

Applicant/Owners:

Jessica Jaimes

Marvin Jones

Case Number:

2023/VAR/08

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

APPLICATION TO BOARD OF ZONING APPEALS

CITY OF INDEPENDENCE, KANSAS

1. Date: 06/12/2023

2. Name, Address and Telephone Number of Property Owner:

Jessica Jaimes
1013 N 10th, Independence KS 67301
620-779-5057

3. I appoint the following person as my agent during consideration of my request:

Name: Same
Address:
Telephone:

4. Common Address of Land Involved:

1013 N 10th

5. Legal Description of Land Involved:

Lot 8 Block 5 Matthews Addition

6. Describe what you wish to do which the zoning code prohibits:

Build single car carport with storage (prefab). Want to build 2 ft off property line to neighbor north of and 2 ft off the alley.

7. The following condition(s), which were not created by the owner's actions, are unique to the property in question and are not commonly found in the same zone or district:

My neighbor to the north has a garage 2 ft off the property line and the neighbor to the south has a fence two foot onto my property line.

8. The proposed development would not adversely affect the rights of the adjacent property owners or residents because:

The proposed development would not adversely affect the rights of the adjacent property owners or residents because the north neighbors have a garage and fence two foot off the property line and the south neighbor has a fence two foot onto my property line.

9. The literal enforcement of the zoning regulations will result in the following unnecessary hardships:

If I can't have the variance to put my carport to the north side of the backyard I won't have any room for a backyard for my child to play.

10: The proposed development will not be contrary to the public health, safety, morals, or general welfare because:

I am building a carport with space for storage to keep my car safe and keep my yard clean.

11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

The south neighbor has encroached two foot onto my property and the north neighbor has a fence and garage one foot from the property line and alley. My carport will fit in with the neighborhood.

12: Please attach a site plan showing the dimensions of the lot, the location of building (both existing and proposed), and the location of existing buildings on adjacent property.

If the space provided is not sufficient, the applicant may attach additional pages. The applicant also may submit any other pertinent information including photographs, drawings, maps, statistics, legal documents, and letters of support.

Signature of Property Owner:


MARVIN JONES

Case Number: _____

Date Filed: _____

Fee Received: _____

Present Zoning: _____

CITY OF INDEPENDENCE

REC#: 01235179 6/12/2023 3:35 PM
OPER: JESS TERM: 001
REF#:

ACCT #: XXXX-XXXX-XXXX-6643
AUTH #: 925235
TRAN #: 000000812733

TYPE: PURCHASE
APP NAME: MasterCard
ENTRY MODE: CHIP

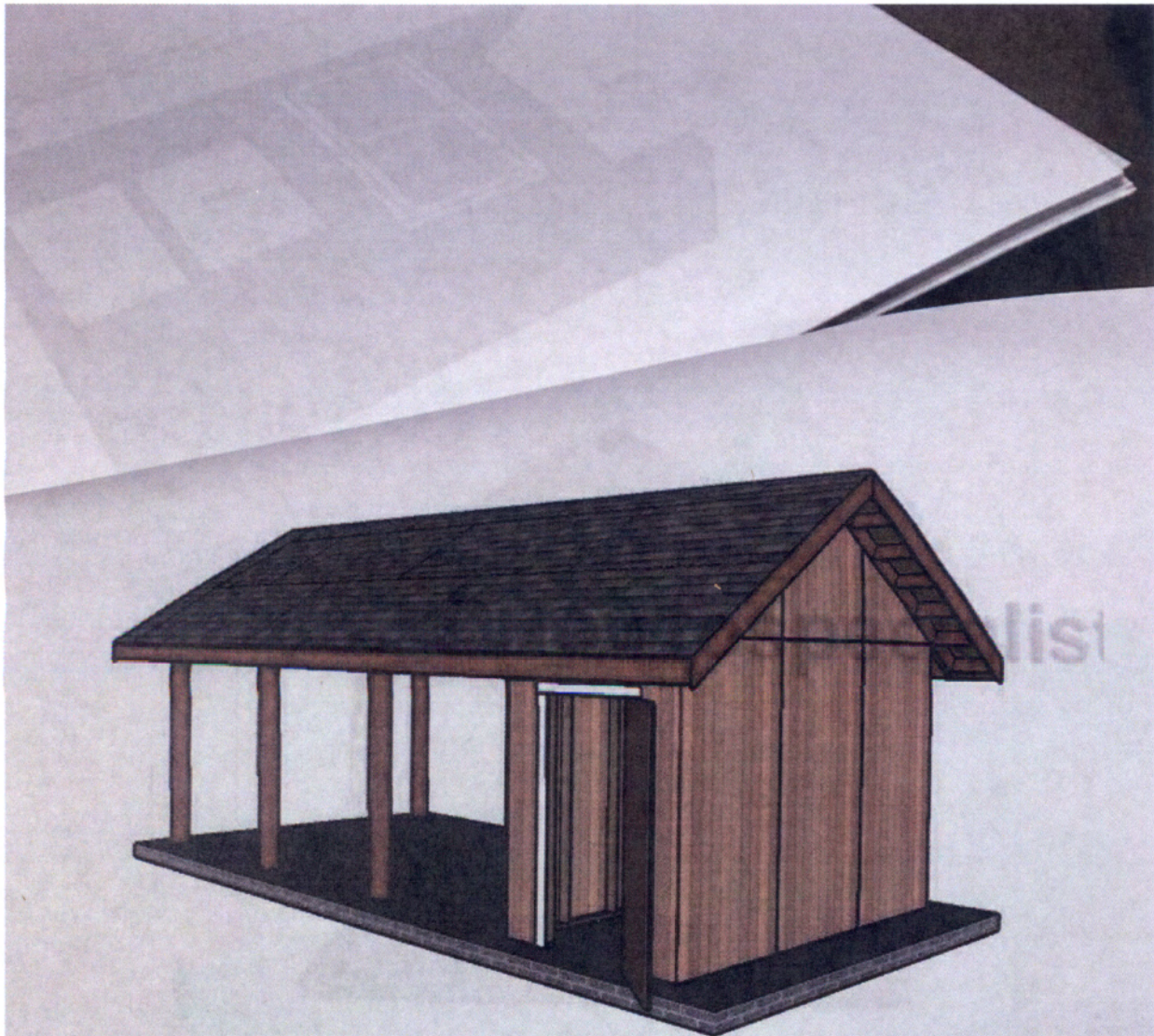
AMOUNT USD\$ 100.00

EMV DETAILS:
AC: 6762910FB9174845

TRAN: 1.9000 PLANNING AND ZONING
1013 N 10TH
VARIANCE 100.00CR

TENDERED: 100.00 CREDIT CARD
APPLIED: 100.00-

CHANGE: 0.00



Single car carport with storage plans

After assembling the carport with storage, you need to take care of the finishing touches. Fill the holes with wood putty and then smooth the surface with 120-220 grit sandpaper. Apply a few coats of paint and stain over the components to enhance the look of the carport and to protect the components from decay.









REQUEST FOR PLANNING COMMISSION ACTION CONDITIONAL USE PERMIT CITY OF INDEPENDENCE JULY 11, 2023

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a request for a conditional use permit for "utility substations not elsewhere listed" in an R-4, medium density multifamily dwelling district at 401 North 10th Street.

SUMMARY RECOMMENDATION Approve the conditional use permit with conditions.

BACKGROUND Cox Communications Kansas is planning to construct a utility substation on City property at 401 North 10th Street. A 25' x 25', 625 square foot concrete slab will be laid with screened chainlink fencing around the perimeter, and four parking spots will be added along Chestnut Street (parking required in the Agreement for Use of Property).

		Permitted Zoning District													
Land Use Category	Code	A-1	R-1	R-2	R-3	R-4	R-5	O/P	C-1	C-2	C-3	C-4	M-1	M-2	
Utility substations not elsewhere listed		C	C	C	C	C	C		C	P	P	P	P	P	

POLICY EXPLANATION 901.0. - Purpose and authority.

901.1. Purpose: Conditional uses are those types of uses which are considered by the city to be essentially desirable, necessary, or convenient to the community but which by their nature or operation have (1) a tendency to generate excessive traffic, (2) a potential for attracting a large number of persons to the area of the use, thus creating noise or other pollutants, (3) a detrimental effect upon the value of or potential development of other properties in the neighborhood, or (4) an extraordinary potential for accidents or danger to the public health or safety. Such conditional uses cannot be allowed to locate as a "right" on any parcel of land within certain districts without consideration of existing conditions at the proposed location and of properties neighboring upon the specific site considered, nor without adequate and sufficient safeguards, when necessary, to lessen the impact of adverse factors.

901.2. Authority to grant permits: The governing body shall have the authority to grant conditional use permits, subject to such conditions of design and operation safeguards and time limitations as it may determine for all conditional uses specified in appendix "A" of this ordinance and for all permitted uses for which the planning and zoning commission has found that by their nature or in their operation have characteristics listed in clauses (1), (2), (3) and (4) of section 901.1 of this article, **provided, however, that said conditional use permits for permitted uses shall not establish standards or conditions that are less restrictive than those set out in the district regulations for the district in which said use is located.**

(Ord. No. 3863, § 1, 12-20-01)

902.0. - Processing procedure.

902.1. Application of conditional use permit: Application for conditional uses, as designated in appendix "A" of this ordinance shall be on forms obtained from the city clerk's office. The application shall be filed with the zoning administrator at least 30 days prior to the regular city planning and zoning commission meeting at which the proposed conditional use will be considered. As determined by the zoning administrator, the application shall include any or all of the following items deemed relevant by the zoning administrator, plus any other information or materials not listed below which the zoning administrator deems relevant:

- a. Statement of intended use of the property.
- b. Site plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting.
- c. Existing and proposed topography, drawn at appropriate contour intervals as specified by the zoning administrator.
- d. Location of, and proposed connections to, existing water supply and sanitary sewer systems.
- e. Description of architecture and exterior materials to be utilized.
- f. Names of the landowner, developer and firm preparing the plan.
- g. Legal description of the tract.
- h. North point, scale and date.

The Planning Commission has the authority to place additional conditions on the site that they deem necessary to protect the best interests of the City, the surrounding property and to achieve the objectives of the ordinance.

In considering those types of uses which may be desirable, necessary or convenient to the community, the Commission should review and make recommendations based in part on 901.1.

Additionally, the decision of the Planning Commission to recommend approval or denial of the proposed conditional use shall be based on the following criteria (902.2):

- a. The proposed conditional use complies with all applicable provisions of these regulations, including intensity of use regulations, yard regulations and use limitation. *The City and Cox have signed an agreement of use of property that was approved by the City Commission.*
- b. The proposed conditional use at the specified location will contribute to and promote the welfare or convenience of the public. *The utility substation will initially contribute to the broadband options for businesses, with a potential for residential in the future.*
- c. The proposed conditional use will not cause substantial injury to the value of other property in the neighborhood in which it is to be located. *The substation will be on City property, and a fence will secure the substation.*
- d. The location and size of the conditional use, the nature and intensity of the operation involved in or conducted in connection with it, and the location of the site with respect to streets giving access to it are such that the conditional use will not dominate the immediate use of the neighboring property in accordance with the applicable zoning district regulations. In determining whether the conditional use will so dominate the immediate neighborhood, consideration shall be given to:
 1. The location, nature and height of buildings, structures, walls and fences on the site, and
 2. The nature and extent of landscaping and screening on the site.
- e. Off-street parking and loading areas will be provided in accordance with the standards set forth in these regulations (article VII). *No off-street parking is required by the zoning code for the substation. However, the lease with the City requires the construction of four new off-street parking areas to serve the neighborhood.*
- f. Adequate utility, drainage, and other such necessary facilities have been or will be provided. *The surrounding grass area should absorb any run off from the concrete pad.*
- g. Adequate access roads or entrance and exit drives will be provided and shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys. *If any future access drives are planned they shall be required to meet this criteria.*

ACTION BY THE PLANNING COMMISSION Any recommendations regarding a conditional use permit for the subject properties shall be based on Section 902.2 previously outlined in this report. After considering any public comments the Planning Commission may either approve or deny the requests. Following your action, the application and your recommendation will be forwarded to the City Commission at which time they will have 30 days to adopt, modify or deny the Planning Commission's recommendation.

STAFF RECOMMENDATION City staff recommends granting the conditional use permit with the following conditions:

1. The applicant shall be in compliance with the Agreement for Use of City Property previously approved by the City Commission.
2. The utility substation shall be screened by fencing around the perimeter.
3. Any future access drives shall be so designed to prevent traffic hazards and to minimize traffic congestion in public streets and alleys.
4. The applicant shall be in compliance with all other applicable laws or regulations.

SUGGESTED MOTION I move to recommend the City Commission authorize a conditional use permit for a utility substation not elsewhere listed in an R-4, medium density multifamily dwelling district at 401 North 10th Street with the conditions as recommended by City staff.

SUPPORTING DOCUMENTS

1. Public Hearing Notification 401 N 10th Cox Utility Substation
2. Use of City Property - 401 N 10th - Fully Executed
3. 401 N 10th City Ownership
4. 401 N 10th Diagram
5. 401 N 10th Street CUP Application
6. 401 N 10th Street 200 foot Notification
7. 401 N 10th Notification Area
8. 401 N 10th Receipt

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, July 11, 2023 at 5:30 p.m.

To receive comments on a request for a conditional use permit for “utility substations not elsewhere listed” in an R-4, medium density multifamily dwelling district at 401 North 10th Street.

Legal Description:

E 100’ Lt 5 Blk 10, Orig Plat to the City of Independence, Montgomery County, Kansas.

Common Address:

401 North 10th Street

Applicant/Owners:

Cox Communications Kansas L.L.C.
City of Independence

Case Number:

2023/CUP/05

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator’s office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

AGREEMENT FOR USE OF CITY PROPERTY

This Agreement is entered into between the **City of Independence, Kansas**, hereafter City, and Cox Communications Kansas, LLC, hereafter Company.

Whereas, City owns the following described real estate:

The East 100 feet of Lot 5, Block 10, Original City of Independence,
Montgomery County, Kansas (commonly known as 401 North 10th
Street, Independence, Kansas)

And Whereas, Company desires to construct a communications structure on City's property in conjunction with Company's providing of certain communication services to the residents of the City of Independence.

Now Therefore, in consideration of the mutual covenants and agreements hereinafter contained, the parties agree to the following:

1. **Company's Use of City Owned Property:** Company shall have permission to use City's above-described property for the purpose of constructing a structure approximately 25 feet x 25 feet on a concrete slab within the confines of the above-described property. The structure shall be used by Company for the purpose of providing communications services to the residents of the City of Independence.

2. **Conditions:** Company shall comply with the following conditions:

- a. Company must obtain approval from the City as to its site plan and building specifications.
- b. All improvements requested in the preceding paragraph shall be at the sole expense of Company.
- c. Company shall construct and maintain four (4) parking spaces along Chestnut Street in a manner approved by City.
- d. Company shall reimburse City for any taxes or assessments levied against the property as a result of Company's use and occupancy thereof.
- e. Company shall be in compliance with all requirements of any franchise or right-of-way agreement entered into with City and all applicable City ordinances including the obtaining of a conditional use permit for the use intended.

3. **Term:** This agreement shall be for a term of one year and shall thereafter automatically renew on an annual basis until notice of termination is given as hereinafter provided.

4. **Termination:** Either party may terminate this agreement for any reason upon one hundred eighty (180) days' written notice to the other. In the event Company violates the terms and conditions of this agreement, the City may terminate this agreement upon ten (10) days' written notice to Company.

5. **Duty Upon Termination:** Upon termination of this agreement for any reason, City, at its sole option, may notify and require Company to restore the property to its original condition. Upon receiving such notice, Company shall have thirty (30) days within which to restore the property to its original condition. Any improvements remaining after expiration of such period shall become the property of City without compensation to Company or, at City's sole option, the City may restore the property to its original condition and Company shall reimburse the City for the cost of restoration.

6. **Maintenance:** Company shall maintain the property in good condition, free of accumulation of trash and debris including the mowing of grass. In the event it is necessary for the City to repair or maintain utilities that cross the property, the City shall have the authority to make such repairs or maintenance as may be required. The City's maintenance shall be deemed to include repairs or improvements to utilities performed either by the City or an independent utility company. In the event of such repairs or improvements, regardless of the entity making the repairs or improvements, neither the City nor the party making the repairs or improvements shall have any obligation to Company to restore the property to its prior condition or to compensate Company for damage to improvements made by Company on the property.

7. **Indemnification:** Company shall indemnify and hold harmless the City from any and all claims arising in any way from the use of the above-described property by Company, its agents and employees, or its customers and invitees. Included in Company's indemnification requirement is that Company indemnify City for any ad valorem taxes assessed against the property due to Company's use of the property.

8. **Insurance:** Company shall secure and maintain continuously in force a policy of comprehensive general liability insurance with policy limits of at least \$500,000 per occurrence and shall name the City as an additional insured.

9. **Binding Effect:** This agreement shall constitute a covenant running with the land and shall be binding upon the heirs, successors and assigns of the parties hereto.

CITY OF INDEPENDENCE, KANSAS

By: Louis Ysusi
Louis Ysusi, Mayor

ATTEST:

David W. Schwenker
David W. Schwenker, City Clerk

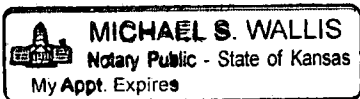
COX COMMUNICATIONS KANSAS, LLC

By: Coleen Jennison
Name: COLEEN JENNISON
Title: MARKET VICE PRESIDENT

STATE OF KANSAS)
) SS:
MONTGOMERY COUNTY)

BE IT REMEMBERED, That on this 25th day of MAY, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared **Louis Ysusi**, Mayor, and **David W. Schwenker**, City Clerk, of the **City of Independence, Kansas**, who are personally known to me to be the same persons who executed the above and foregoing instrument of writing on behalf of the **City of Independence**, and such persons acknowledged the execution of the same to be the act and deed of said **City of Independence, Kansas**.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year last above written.



Michael S. Wallis
NOTARY PUBLIC

My commission expires: 7/29/25

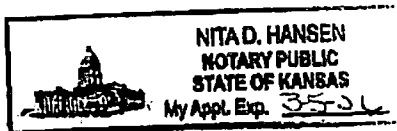
STATE OF KANSAS)
Sedgwick)
MONTGOMERY COUNTY) SS:

BE IT REMEMBERED, That on this 23rd day of May, 2023, before me, the undersigned, a Notary Public in and for the County and State aforesaid, personally appeared Coleen Jennison, as Market Vice Pres of **Cox Communications Kansas, LLC**, who is personally known to me to be the same person who executed, as such officer, the above and foregoing instrument of writing on behalf of the **Cox Communications Kansas, LLC**, and such person acknowledged the execution of the same to be the act and deed of said **Cox Communications, LLC**.

IN WITNESS WHEREOF, I have hereunto set my hand and seal the day and year last above written.

Nita D. Hansen
NOTARY PUBLIC

My commission expires: 3-5-26



Print Page

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[View Sketch](#) --- [Back to Search Page](#) --- [Home](#)

The Parcel Number for this Property is 063-087-25-0-40-28-007.00-0

Quick Ref ID: 3411

Owner Information

Owner Name	INDEPENDENCE CITY OF
Address	811 W LAUREL ST INDEPENDENCE, KS 67301

Property Situs Address

Address	401 N 10TH ST, Independence, KS 67301
---------	---------------------------------------

Land Based Classification System

Function	Residential highest and best use
Activity	Residential activities
Ownership	City
Site	Developed site - no buildings and no improvements

General Property Information

Prop Class	Exempt - E
Living Units	
Zoning	
Neighborhood	108.A
Tax Unit Group	108

Property Factors

Topography	Level - 1
Utilities	All Public - 1
Access	Paved Road - 1 Alley - 7
Fronting	Residential Street - 4
Location	Neighborhood or Spot - 6
Parking Type	On and Off Street - 3
Parking Quantity	Adequate - 2
Parking Proximity	On Site - 3
Parking Covered	
Parking Uncovered	

2023 Appraised Value

Class	Land	Building	Total
Exempt - E	10,030	0	10,030
Total	10,030	0	10,030

Tract Description

ORIG PLAT, S25, T32, R15, 4972 SQUARE FEET, E 100' LT 5 BLK 10; Lot Width: 100.0 Lot Depth: 060.0 Plat Book/Page 1 /6&7 Deed Book/Page 460 /457 457 /189 456 /382 443 /076 440 /267 439 /111 438 /128 388 /469 240 /055

Deed Information

Book1	Page1	Book2	Page2	Book3	Page3	Book4	Page4
460	457						

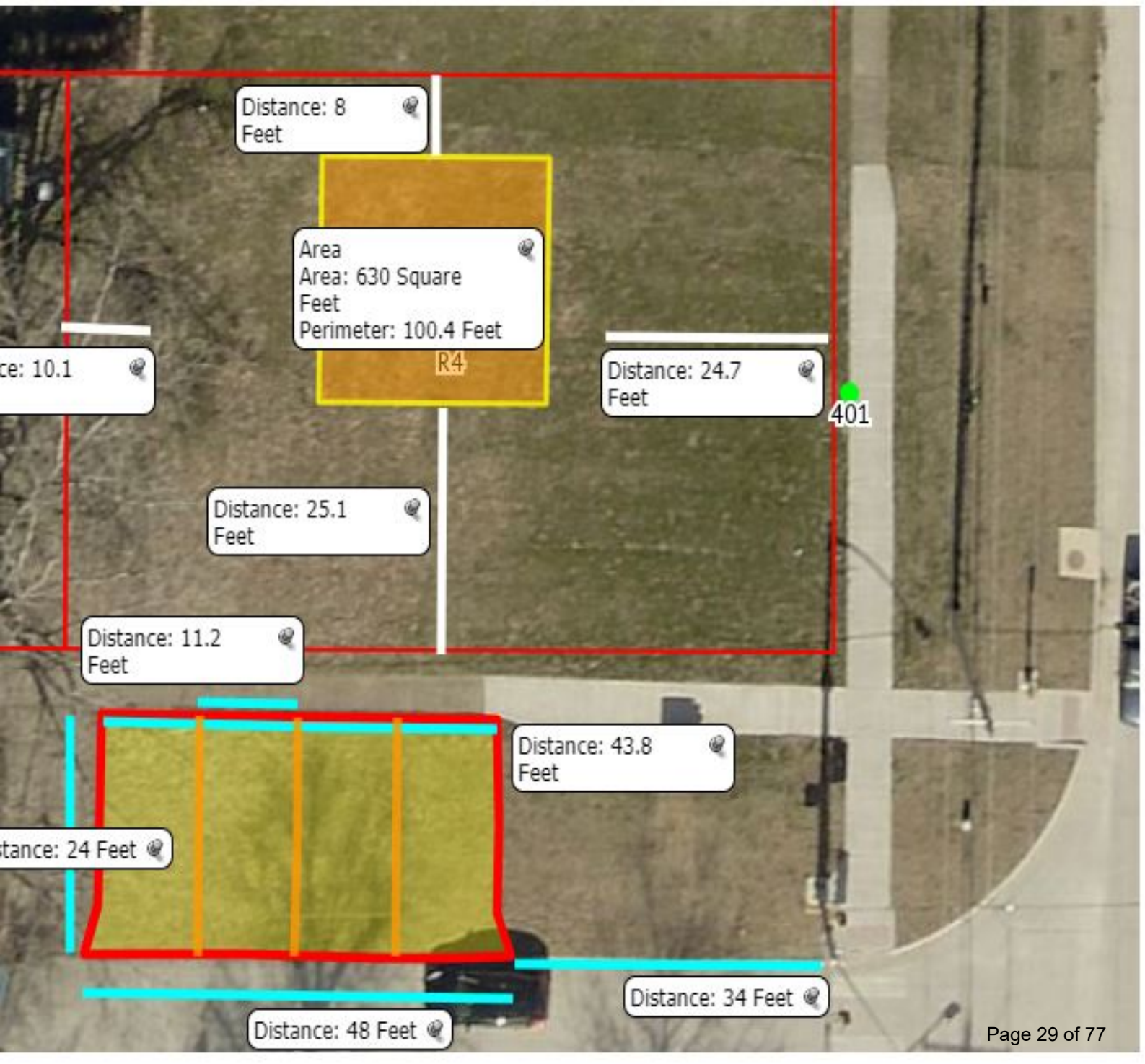
Market Land Information

Method	Type	AC/SF	Eff FF	Depth	D-Fact	Inf1	Fact1	Inf2	Fact2	Ovrd	Class	Value Est
Sqft	Primary Site - 1	4792										10,030

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Parcel Search powered by  **Aumentum™**
TECHNOLOGIES



Distance: 8
Feet

Area
Area: 630 Square
Feet
Perimeter: 100.4 Feet

R4

Distance: 24.7
Feet

401

Distance: 25.1
Feet

Distance: 11.2
Feet

Distance: 43.8
Feet

Distance: 24 Feet

Distance: 34 Feet

Distance: 48 Feet

APPLICATION FOR CONDITIONAL USE PERMIT
PLANNING AND ZONING COMMISSION

DATE FILED _____
\$200 FEE PAID _____

NAME AND ADDRESS OF PERSON MAKING APPLICATION:

Michael Clingan LUC Agent 901 S George Washington Blvd Wichita, KS 67211

Cox Communications Kansas L.L.C c/o Cox Enterprises Inc. 6205 Peachtree Dunwoody Road Atlanta, Georgia 30328

LEGAL DESCRIPTION OF LAND INVOLVED:

The East 100 feet of Lot 5, Block 10, Original City of Independence, Montgomery County, Kansas

Parcel ID : 0630872504028007000

COMMON ADDRESS OF SAID LAND:

401 North 10th Street, Independence, Kansas 67301

PRESENT ZONING CLASSIFICATION: R-4 C

STATEMENT OF INTENDED USE OF PROPERTY:

Cox Communications plans to construct a utility substation

DESCRIPTION OF ARCHITECTURE & EXTERIOR MATERIAL TO BE USED:

25X25 625 square foot concrete slab with screened chainlink fencing around the perimeter. As required four parking spots will be added along Chestnut St

On the reverse side, please provide the following information: (1) Site Plan, drawn at appropriate scale, showing existing and proposed building location, parking areas, interior drives, and location and type of outdoor lighting; (2) Existing and proposed topography, drawn at appropriate contour intervals as specified by the Zoning Administrator; (3) Location of, and proposed connections to, existing water supply and sanitary sewage system; (4) North point, scale and date; (5) Names of landowner, developer and firm preparing the plan.

5/31/2023

Date

Michael Clingan

Signature of Applicant

Digitally signed by Michael Clingan
Date: 2023.05.31 15:57:14 -0500

I hereby certify that I have personally verified the dimensions as shown on the attached drawing and find them to be a correct representation of the conditions.

Date

Signature of Building Inspector

Action of Planning and Zoning Commission:

(Approved, Denied --- Date)

Comments:

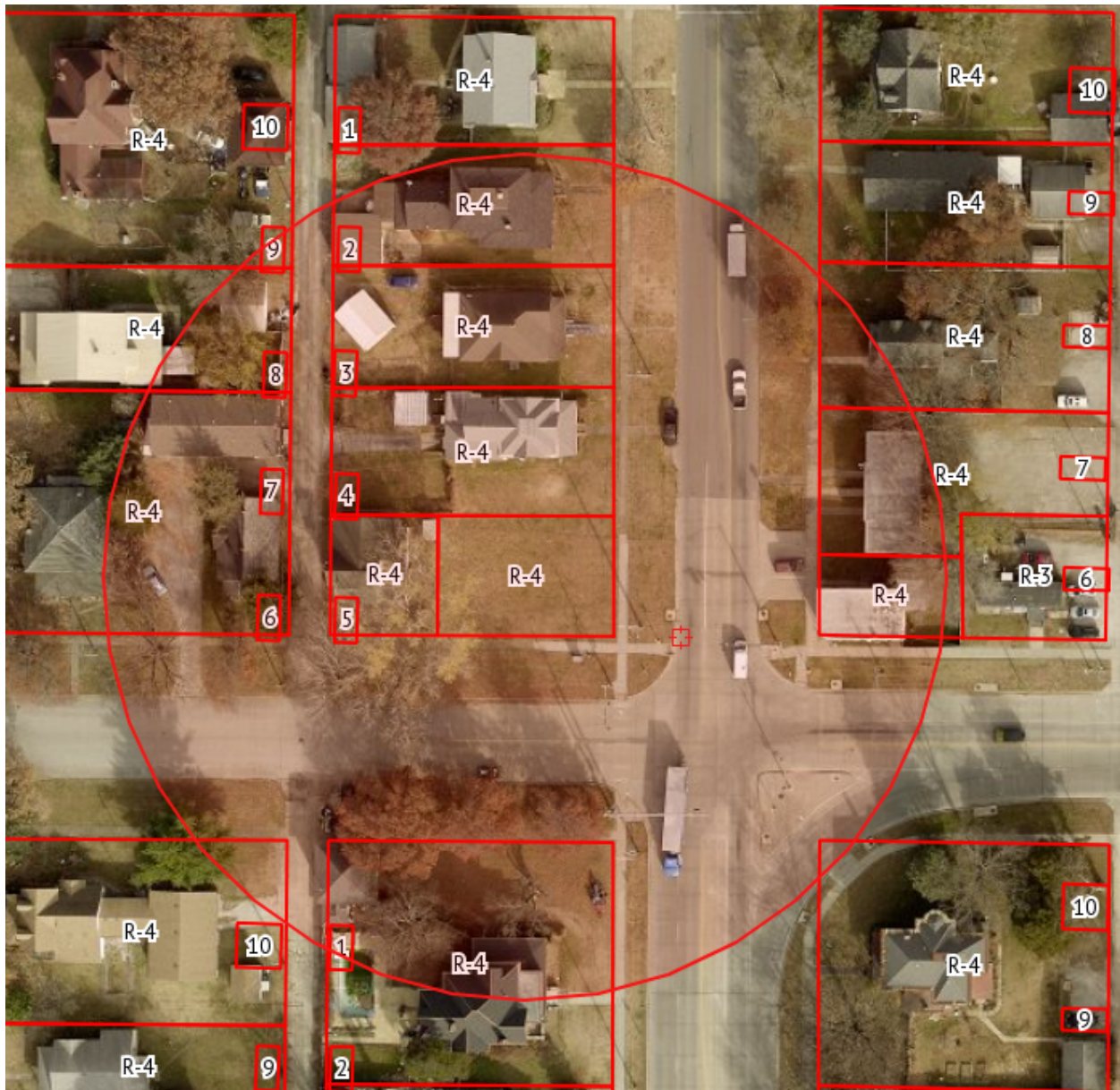
Chairman

Vice Chairman

Secretary

Owner	Situs Address	Quick Ref #	Mailing Address	
BRUCE, BILLIE JO	418 W CHESTNUT ST, Independence, KS 673	R3409	FARLOW, CLAYTON W & CLARA M FARLOW LIV TRST 11/2/94	533 N PENNSYLVANIA AVE, INDEPENDENCE KS 67301
GOODSON, PHILLIP DEAN	405 N 10TH ST, Independence, KS 67301	R3412	GOODSON, PHILLIP DEAN	405 N 10TH ST, Independence, KS 67301
SMITH, BARTON E & NANCY I	316 N 11TH ST, Independence, KS 67301	R3532	SMITH, BARTON E & NANCY I	316 N 11TH ST, Independence, KS 67301
HARRIS, LEE E & STEPHANIE	317 N 10TH ST, Independence, KS 67301	R3531	HARRIS, LEE E & STEPHANIE	317 N 10TH ST, Independence, KS 67301
HANN, IRVIN M & MARION D REV LIV TRST 11/7/03	408 W CHESTNUT ST, Independence, KS 673	R3410	HANN, IRVIN M & MARION D REV LIV TRST 11/7/03	205 S CHAUTAUQUA, SEDAN KS 67361
GREEN, REGINAL J	410 N 11TH ST, Independence, KS 67301	R3408	GREEN, REGINAL J	410 N 11TH ST, Independence, KS 67301
HINDLE, PHILIP A & STEPHANIE A	411 N 10TH ST, Independence, KS 67301	R3413	HINDLE, DONALD & JANIS	411 N 10TH ST, INDEPENDENCE KS 67301
GRAY, ELIZABETH A & ROBERT & CHAILLE E	415 N 10TH ST, Independence, KS 67301	R3414	GRAY, ELIZABETH A & ROBERT & CHAILLE E	3868 CR 3900, INDEPENDENCE KS 67301
SHIPLEY, FREDIE C	419 W LOCUST ST, Independence, KS 67301	R3407	SHIPLEY, FREDIE C	950 WOODROW RD, MCALESTER OK 74501
CHICKADONZ, ELIZABETH J	316 N 10TH ST, Independence, KS 67301	R6340	LOPEZ, ROMAN M & KEELY	316 N 10TH ST, INDEPENDENCE KS 67301
YOUNIQUE LLC	400 N 10TH ST, Independence, KS 67301	R6334	YOUNIQUE LLC	PO BOX 222, INDEPENDENCE KS 67301
CLUBINE, JIM L	402 N 10TH ST, Independence, KS 67301	R6333	ELSHABASSY, OMAR	PO BOX 222, INDEPENDENCE KS 67301
SHIPLEY, FREDIE C	410 N 10TH ST, Independence, KS 67301	R6332	SHIPLEY, FREDIE C	950 WOODROW RD, MCALESTER OK 74501

200 Foot Notification Area for 401 N. 10th Street





Your payment was successfully processed.

Confirmation number

6FV7RYMYK4

Payer Contact Info

jesse.lazzers@cox.com

Payment Method

*****6377

Conditional Use

Name

Jesse Lazzers

Property Address

401 N 10th St, Independence, KS 67301

Phone

316-833-6681

Base price \$200.00

Convenience Fee \$1.25

Municipal Online Payments Fee \$1.25

Total \$202.50



**REQUEST FOR PLANNING COMMISSION ACTION
TEXT AMENDMENT
CITY OF INDEPENDENCE
JULY 11, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public hearing to consider a text amendment to the zoning code regarding cargo shipping containers, also known as "Conex containers" or "portable steel storage containers."

SUMMARY RECOMMENDATION Adjourn the public hearing to August 8, 2023 at 5:30 pm.

BACKGROUND Staff needs to work with the City Attorney on the proposed text amendment language. Therefore, it is recommended to adjourn this hearing until August 8, 2023 at 5:30 PM.

STAFF RECOMMENDATION The City has not had the opportunity to put together the text amendment concerning "Conex containers" or "portable steel storage containers". Staff recommends adjourning the public hearing to August 8, 2023 at 5:30 pm.

SUGGESTED MOTION I move to adjourn the public hearing to consider a text amendment to Article B. -- Zoning regarding cargo shipping containers to August 8, 2023 at 5:30 pm.

SUPPORTING DOCUMENTS

1. 06062023-PZ Staff Report Conex Containers



**REQUEST FOR PLANNING COMMISSION ACTION
TEXT AMENDMENT
CITY OF INDEPENDENCE
JUNE 6, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public hearing to consider a text amendment to the zoning code regarding cargo shipping containers, also known as "Conex containers" or "portable steel storage containers."

SUMMARY RECOMMENDATION Public hearing to consider a text amendment regarding portable steel storage containers.

BACKGROUND Steel storage containers are becoming popular around the United States for accessory storage uses and to create dwellings or commercial structures. While the building code addresses the structural integrity and safety of the structures, it does not address where the structures can be located. If the Planning Commission is concerned about this, then they may wish to consider a text amendment relating to these structures. Such text amendment could limit these structures as accessory uses or allow them to be used for housing or commercial purposes, determine what zones they can or cannot be located in, and whether or not a conditional use permit would be required. A conditional use permit would provide an opportunity to require additional conditions, including any aesthetic concerns.

Staff did participate in a session at the National Planning Conference regarding "Shipping Containers for Housing," which is included in your packet; however, the presentation seemed to be geared more toward investors than planners.

Below are the current permitted accessory uses:

607.2. Permitted accessory uses: Any structure or use that complies with the definition of section 607.1 may be allowed as an accessory use or structure. Accessory structures and uses include, but are not limited to, the following list of examples:

- a. Private garages or carports, not to exceed the following capacity:
 1. For single-family residence: Four cars.
 2. For multifamily residence: Two cars per dwelling unit.
- b. A structure for storage incidental to a permitted use, provided no such structure that is accessory to a residential building shall exceed 200 square feet in gross floor area.
Exception: Parking garages.
- c. A child's playhouse.
- d. A private swimming pool and bathhouse.
- e. A guesthouse or rooms for guests in accessory building, provided such facilities are used for the occasional housing of guests of the occupants of the principal building and not as rental units for permanent occupancy as housekeeping units.
- f. Statuary, arbors, trellises, barbecue stoves, wood piles for home use, flagpoles, fences, walls, hedges and radio and television antennas.
- g. Fallout shelters, provided that they shall not be used for any principal or accessory use not permitted in the zoning district.

- h. Signs.
- i. Off-street parking and loading spaces as regulated by article VII of these regulations.
- j. Storage of major recreational equipment, such as boats, boat trailers, camping trailers, converted buses or trucks, house trailers, shall be at the rear of the premises if there is access thereto, or if there is not access to the rear premises, then such recreational vehicles may be parked in the private driveway of the premises, at the side thereof, or at some other inconspicuous location thereon. In no event, however, shall such recreational vehicles be parked on public property, streets, or thoroughfares for longer than 72 hours.
- k. Restaurants, drugstores, gift shops, swimming pools, tennis courts, clubs and lounges and newsstands when located in a permitted hotel, motel or office building.
- l. Employee restaurants and cafeterias when located in a permitted business or manufacturing or industrial building.
- m. Offices for permitted business and industrial uses when said office is located on the same site as the business or industry to which it is an accessory.
- n. Retail sales for permitted industrial uses when located on the same site as the industrial use.
- o. The storage of retail merchandise when located within the same building as the principal retail business.
- p. Any wholesale or retail sales activity may also include accessory service or repair activity for goods which are sold on the premises.
- q. A hobby shop may be operated as an accessory use by the occupant of the premises for personal equipment, amusement or recreation; provided that articles produced or constructed are not sold on the premises.
- r. Accessory uses for any agriculturally oriented activity, which is subordinate and incidental to the principal permitted agricultural activity, shall be permitted in the A-1 district.
- s. A tiny house for use by the property owner's family.

St. Charles, MO had a request for a shipping container used as a home and did not have any zoning regulations in place. They have since put regulations in place, permitting shipping container homes in a mobile home park (where a manufactured/modular home would be allowed) and as a conditional use in a single-family residential district, provided: the structure complies with all applicable provisions of the International Building Code; the structure is completely enclosed with vinyl, wood, cement board or brick siding and the structure has a pitched roof constructed of wood or metal.

The City of Independence code allows residential design manufactured homes in the agricultural and single-family residential districts that could be applied to shipping container homes.

611.0. - Residential design manufactured homes.

Residential design manufactured homes are permitted in the agricultural and single-family residential districts subject to the following architectural and aesthetic standards so as to ensure their compatibility with site-built housing in those districts:

[611.1.] R-1 Large lot single-family dwelling districts lying in the unincorporated area of Montgomery within three miles of the city limits of the City of Independence, and A-1 Agricultural districts and R-2 Single-family dwelling districts: All residential design manufactured homes shall have:

- (A) Minimum dimensions of 22 feet of body width.
- (B) A minimum roof pitch of 2.5 inches in height to 12 running inches.
- (C) Siding material shall be wood, masonry, composition board or finished aluminum lap siding, or other materials normally found on site-built homes.

- (D) Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile or slate.
- (E) The home shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.
- [611.2.] R-1 Large lot single-family dwelling districts lying within the city limits of the City of Independence:* All residential design manufactured homes shall have:
- (A) Minimum dimensions of 26 feet in body width.
- (B) A minimum roof pitch of three inches in height to 12 running inches.
- (C) Siding material shall be wood, masonry, composition board, finished aluminum lap siding or other material normally found on site-built homes. Not less than 40 percent of the front facade of the home shall be faced with brick or stone.
- (D) Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile or slate.
- (E) The home shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.
- (F) On level sites the main floor shall be no greater than 20 inches above finished grade at the foundation. On sloping or irregular sites the side nearest the grade level shall not be greater than 20 inches above finished grade at the foundation.
- (G) A garage constructed in compliance with the Independence Building Code shall [be] attached to the residential design manufactured home.
- (Ord. No. 3693, § 2, 5-4-95)

POLICY EXPLANATION 1601.2. Proposal of amendments: Amendments may be initiated by the governing body, the planning commission, or upon application by the owners of the property affected.

1602.3. Disposition of amendment proposals: Upon receipt of the proposed amendment from the zoning administrator, the planning commission shall hold a public hearing on the proposed amendment, and forward to the governing body its findings and recommendations with respect to the proposed amendment.

1604.2. Amendments to text: When a proposed amendment would result in a change in the text of these regulations but would not result in a change of zoning classification of any specific property, the recommendation of the planning commission shall contain a statement as to the nature and effect of such proposed amendment and determinations as to the following items: a. Whether such change is consistent with the intent and purpose of these regulations; b. The areas which are most likely to be directly affected by such change and in what way they will be affected; and c. Whether the proposed amendment is made necessary because of changed or changing social values, new planning concepts, or other social economic conditions in the areas and zoning districts affected.

STAFF RECOMMENDATION Staff recommends providing direction to City staff, who will prepare a text amendment to be considered at a future meeting. Some questions that would assist staff include:

1. Do you want to regulate the location of cargo containers within the City?
2. Do you want to differentiate cargo containers when used for storage from other accessory storage buildings?
3. Do you want different regulations for cargo containers used for storage verses housing?
4. Do you wish to restrict the location of cargo containers to certain zones?
 - a. If so, which zones and what level of restriction; i.e. permitted, not permitted, permitted with a conditional use permit?
 - i. Residential

- ii. Commercial
 - iii. Office and Professional
 - iv. Industrial
 - v. Agricultural
5. If you wish to require a conditional use permit in any of the above zones, do you want to include any additional conditions that would apply to all conditional use permits for cargo containers? For example, in St. Charles Missouri shipping containers are allowed in residential zones with a conditional use permit which must meet the following:
- a. It complies with the building code.
 - b. The structure will be completely enclosed with siding.
 - c. It will have a pitched wood or metal roof.

The exception was that they allowed shipping container homes within mobile home parks as a permitted use with no conditions.

SUGGESTED MOTION: I move to adjourn the public hearing to consider a text amendment to Article B. -- Zoning regarding cargo shipping containers to July 11, 2023 at 5:30 PM.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Text Amendment 03 Cargo Shipping Containers
2. Shipping Containers Article
3. Portable Steel Storage Containers Photo
4. Using Cargo Shipping Containers to Create Housing
5. City of St Charles Shipping Containers
6. Sample ordinance regarding shipping containers -- Canton Texas
7. Sample Ordinance for Storage Containers - Orange City Iowa

City of Independence, Kansas

NOTICE TO THE PUBLIC

The Independence, Kansas, Planning Commission will conduct a public hearing on:

Tuesday, June 6, 2023 at 5:30 p.m.

To consider a text amendment to modify Appendix B - Zoning of the City Code relating to cargo shipping containers and any additional modifications.

Case Number:
2023/ZA/03

The hearing will be conducted in the Civic Center, Memorial Hall, Penn/Locust, Independence, Kansas, and will begin at 5:30 p.m. All interested persons should attend, and they will be heard. You may also participate via conference call: [+1 785-289-4727](tel:+1785-289-4727) Conference ID: 652 632 373# Persons wishing to comment, but who cannot attend this hearing, should provide their written comments to:

Kelly Passauer
Zoning Administrator
811 W Laurel Street
Independence, KS 67301
(620) 332-2506

Information regarding this application is available in the Zoning Administrator's office. If special accommodation is required, please inform the Zoning Administrator.

Kelly Passauer, Zoning Administrator

Shipping-Container Homes Pose Zoning Challenges for Municipalities



Zach Smithey's shipping container home may still be a work in progress, but it sparked the city council of St. Charles, Missouri, to rule definitively on how future structures will be zoned. Photo by Kristin Baird Rattini.

Shipping-container homes are frequently touted as low-cost and eco-friendly alternatives to traditional construction. But as the concept has slowly expanded beyond novelty use — for remote beach homes and art installations, for example — and into housing, municipalities are grappling with where this new form of construction should fall within building and zoning regulations.

St. Charles, Missouri — a St. Louis suburb of about 69,000 residents — faced just such a challenge last summer. When resident Zack Smithey, an artist, applied for a building permit for a 3,100-squarefoot home to be made of eight 40-foot shipping containers, neighbors objected and city council members expressed deep reservations.

"We have an obligation to existing home owners to make sure that buildings in the area are consistent and don't hurt property values," says council member Dave Beckering.

Planning May 2017

But the St. Charles planning and zoning commission found itself at a loss. "We didn't have anything in our building code to prevent it, so we had to [grant] a permit," says Bruce Evans, AICP, the director of community development. "It caused us to take a hard look at our zoning."

Covering new ground

Following the issuing of the permit, the St. Charles city council considered a bill that would have restricted all future shipping-container homes to areas zoned for modular and mobile homes. The bill was unanimously rejected by the planning and zoning commission, who said the restriction would limit architectural creativity and was an unnecessary regulation against a construction method that had not yet been deemed inappropriate. The city council subsequently voted down the bill.

In researching alternatives, Evans enlisted the American Planning Association's Planning Advisory Service for help finding existing ordinances. "There's not much out there," Evans says, "so we came up with what works for St. Charles."

In December, the city council passed an ordinance requiring shipping container homes planned for residential areas to meet three conditions to receive a conditional use permit: 1) It complies with the building code; 2) the structure will be completely enclosed with siding; and 3) it will have a pitched wood or metal roof. In areas zoned for mobile or modular homes, shipping container homes will be a permitted use, with no conditions.

"I think it's a good compromise," Evans says. "The conditional-use process gives the planning and zoning commission and city council more options to place appropriate conditions on a project. It notifies neighbors and gives them a say in the process. We recognize this is a trend in the country; we may well have more individuals who want this kind of home. This ordinance allows us to say, 'Before you go forward, we want you to do a few things to protect city aesthetics.'"

— *Kristin Baird Rattini*

Baird Rattini is a St. Louis-based freelance writer who has contributed to such national publications as National Geographic, People, and American Way.

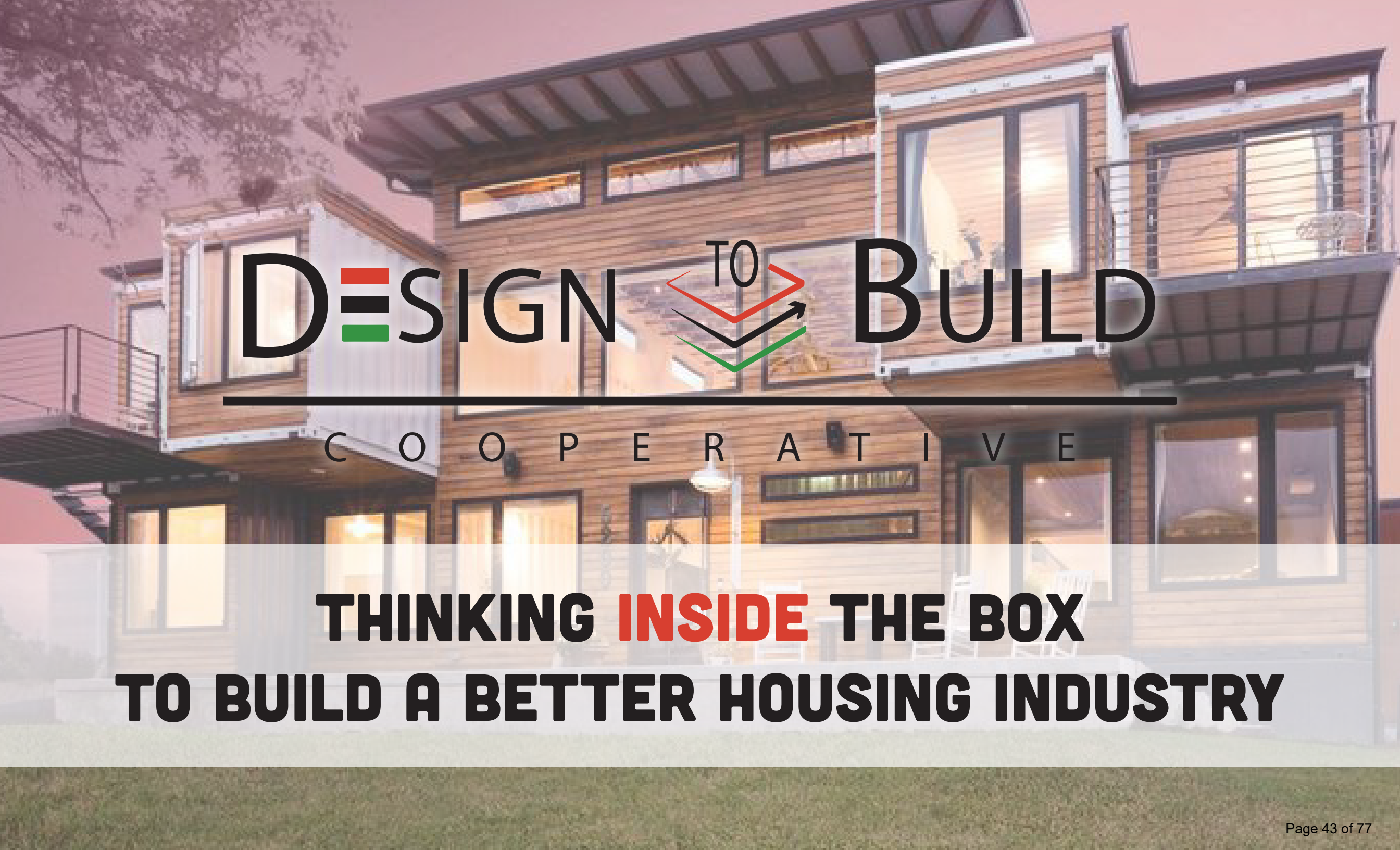


YMLU 490320

ZCSU 251391 2

YMLU 498236 3

YMLU 494380 8



DESIGN BUILD

C O O P E R A T I V E

**THINKING INSIDE THE BOX
TO BUILD A BETTER HOUSING INDUSTRY**

HOME OWNER PROBLEM

MORE THAN 50% OF AMERICANS CAN NOT AFFORD TO BUY A HOME



LESS THAN 10% OF NEW HOMES BEING BROUGHT INTO THE INVENTORY ARE STARTER HOMES



IF ALL EXISTING HOMES IN AMERICA WERE REDEVELOPED AND READY TO MOVE INTO, WE WOULD BE SHORT 3.8M HOMES FOR FAMILIES.



CONSTRUCTION INDUSTRY PROBLEM



CONSTRUCTION INEFFICIENCY ACCOUNTS FOR 3% OF THE GLOBAL GDP



AMOUNT OF TIME TO BUILD A HOME IS 6.8 MONTHS. **THIS HAS BEEN THE SAME FOR 50 YEARS**



BANKS AND MUNICIPALITIES HAVE SLOWED THE PROCESS WITH **RED TAPE** OVER THE YEARS

OPPORTUNITY



ALIGNMENT WITH PRESIDENTIAL AND FEDERAL DEPARTMENT OF HOUSING AND URBAN DEVELOPMENTS (HUD) GOVERNMENTAL STRATEGY FOR REVITALIZING THE HOUSING INDUSTRY

NEW LOAN PRODUCTS NOT BASED ON STANDARD FICO SCORE MAKE IT EASIER FOR PEOPLE TO BUY STARTER HOMES

POLICY CHANGES HAVE MADE **ACCESSORY DWELLING UNITS** (ADUS) MORE ACCESSIBLE

CONSUMER INTEREST IN SHIPPING CONTAINER HOMES IS AT AN ALL TIME HIGH



1. SPEED & AGILITY



MANUFACTURING SPEED



ECONOMY OF SCALE



INDIFFERENT TO THE WEATHER CONDITIONS



AGILE MANUFACTURING

2. DURABILITY

10X MORE NATURAL DISASTERS SINCE 1960



SHIPPING CONTAINER BUILDINGS WITHSTAND ALMOST ALL DISASTERS

3. INDUSTRY VERSATILITY & MODULARITY



ALL BUILDINGS CAN EVOLVE AND ARE EASILY UPGRADABLE

COMPETITIVE ANALYSIS

	OFFSITE CARGOTECTURE™	ONSITE STICK BUILD	MOBILE HOMES	STRUCTURALLY INSULATED PANELS
COST/SQ FT	B	B	A	A
SPEED	A	D	B	B
DURABILITY	A	C	F	C
GOVERNMENT BACKING	B	A	F	C
TRENDING	A	B	D	C
SUSTAINABILITY	A	C	D	C
OVERALL	A-	C+	D+	C+

GO TO MARKET STRATEGY



THE GLOBAL CONTAINER HOMES MARKET SIZE IS PROJECTED TO REACH \$73.07 BILLION BY 2025

UP FROM \$44.76 BILLION IN 2017.



FLAGSHIP MODEL – 80%

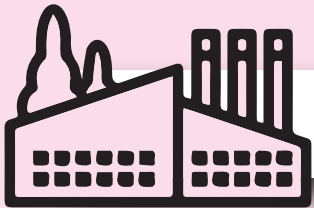
**3BR 2BATH – \$150K
EFFICIENCY – SIMILAR TO TESLA**



CUSTOM DEVELOPMENT – 20%

**PRIVATE DEVELOPERS, GOVERNMENT CONTRACTS
AND SMALL BUSINESS OWNERS**

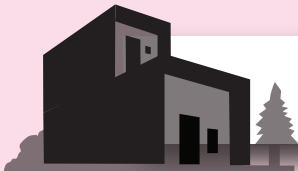
TRACTION



ACQUIRED 50K SQUARE FEET MANUFACTURING FACILITY ON 5.5 ACRES



CONTRACT WITH CLIENT IN NORTH CAROLINA TO BE EXCLUSIVE BUILDER FOR 10 YEARS



DESIGNS FROM CARGO-TECTURE THOUGHT LEADER/AUTHORITY IN THE SPACE



COMMUNITY REINVESTMENT ACT (CRA) BANK INTEREST IN OUR SOLUTIONS



ROAD MAP

HIRING

UPDATE
BRAND

3 UNITS/
MONTH
CAPACITY

11 UNITS/
MONTH
CAPACITY

NOW

JANUARY
2023

FEBRUARY
2023

MARCH
2023

JUNE
2023

SEPTEMBER
2023

DECEMBER
2023

MARCH
2024

ACQUIRE
EQUIPMENT

**1ST UNIT
MODEL HOME CREATED
GRAND OPENING**

7 UNITS/
MONTH
CAPACITY

17 UNITS/
MONTH
CAPACITY

UNIT ECONOMICS

1 UNIT

MATERIALS /
LABOR

\$75K

SALE
PRICE

\$150K

GROSS
PROFIT

\$75K

\$117K / MONTHLY EXPENSES (MARKETING + OPERATIONS)

YEAR 1 UNIT ECONOMICS

10 UNITS
PER
MONTH

X

\$75K GROSS
PROFIT

=

\$750K

GROSS
PROFIT
PER
MONTH

—

\$117K MONTHLY
OPERATING
EXPENSES

=

\$633K NET PROFIT
PER MONTH

YEAR 2 UNIT ECONOMICS

20 UNITS
PER
MONTH

X

\$75K GROSS
PROFIT

=

\$1.5M

GROSS
PROFIT
PER
MONTH

—

\$117K MONTHLY
OPERATING
EXPENSES

=

\$1.38M NET PROFIT
PER MONTH

Revenue



Revenue	2023	2024	2025	2026	2027
ISBU Residential / Commerical / Industrial	\$16.1M	\$35.5M	\$45M	\$75M	\$150M
Unit Sales	107	237	300	500	1,000
Unit Prices	\$150,000	\$150,000	\$150,000	\$150,000	\$150,000
Totals	\$16.1M	\$35.5M	\$45M	\$75M	\$150M

Direct Costs



Direct Costs	2023	2024	2025	2026	2027
Material (Raw Containers + Build-Out)	\$8M	\$17.8M	\$22.5M	\$37.5M	\$75M
Direct Labor	\$560,030	\$811,440	\$852,012	\$894,627	\$939,338
Salaries and Wages	\$466,692	\$676,200	\$710,010	\$745,522	\$782,782
Skilled Laborers (9.17)	\$163,350	\$294,000	\$308,700	\$324,140	\$340,340
CDL Operators (Drivers + Heavy Equipment) (12.57)	\$303,342	\$382,200	\$401,310	\$421,382	\$442,442
Employee-Related Expenses	\$93,338	\$135,240	\$142,002	\$149,105	\$156,556
Totals	\$8.6M	\$18.6M	\$23.4M	\$38.4M	\$75.9M

PROJECTIONS

INVESTMENT THESIS

**WORKER OWNED COOP
CURRENT ROUND: DEBT FINANCING**

**\$250K
RAISE**

**YEAR LEASE
EQUIPMENT
DEMO MODEL**

**\$16M REVENUE
YEAR 1**

PAYOUT

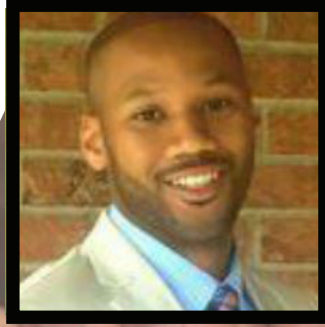
**7% OF REVENUE YEARLY UNTIL
YOU RECEIVE 1.25X YOUR CONTRIBUTION**

TEAM



KEMO A'AKHUTERA
CEO/BIZ DEV MANAGER

SERIAL ENTREPRENEUR
REAL ESTATE INVESTOR
COMMUNITY LEADER



GREGORY WIMBERLY
COO/PROJECT MANAGER

CONSTRUCTION MANAGEMENT
HOSPITAL CONSTRUCTION
SPRINGFIELD REGIONAL MEDICAL



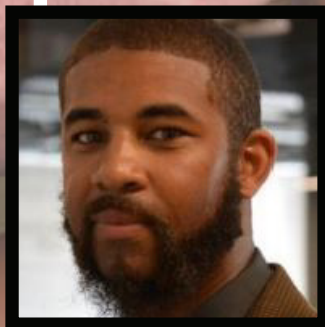
JOEL EGAN
CDO/DIR. OF FABRICATION

ARCHITECT
SPECIALIZATION IN MODULAR
SHIPPING CONTAINER HOMES



JOMO FAULKS
CIO/MILLWORK ENGINEER

URBAN DESIGN
SPATIAL PLANNER
SANDS/PALACE HOTEL AND CASINO



SHAWN THOMAS
CSO/ARCH DESIGNER

PERMITTING/ZONING
HISTORIC HOME DESIGN &
RENOVATIONS



JUNIOR IVENSO
CTO/MECH ENGINEER

SOFTWARE ENGINEER
WEB DEVELOPMENT
MECHANICAL ENGINEER



DESIGN BUILD

C O O P E R A T I V E

CONTACT US:

DESIGN TO BUILD FIRM

KEMO@DTBFIRM.COM

937.414.6649

@DESIGN.TO.BUILD.FIRM

PUBLIC HEARING: Text Amendment: 9. Case No. TA-2016-7. (City of St. Charles) An application to amend Chapter 400 of the Code of Ordinances by amending §400.050, §400.150, §400.180, §400.240 and §400.530 of the Code of Ordinances to add: Definitions of “Shipping Container”, “Shipping Container Home” and “Shipping Container Structure”; Shipping Container Home as a Conditional Use in the R-1C, R1D, R-1E Single-Family Residential District; Shipping Container Homes as a Permitted Use in the R-M Manufactured/Modular Residential District; Shipping Container Structures as a Permitted Use in I-1 Light Industrial District; Shipping Container Structure as a Permitted Accessory Building.

Bill 12074 An Ordinance Amending Sections 400.050, 400.150, 400.180, 400.240 and 400.530 of the Code of Ordinances to Add: Definitions of “Shipping Container” “Shipping Container Home” and “Shipping Container Structure”; Shipping Container Home as a Conditional Use in the R-1C, R-1D, R-1E Single Family Residential Districts; Shipping Container Homes as a Permitted Use in the R-M Manufactured/Modular Residential District; Shipping Container Structures as a Permitted Use in the I-1 Light Industrial District; Shipping Container Structure as a Permitted Accessory Building (Sponsor: Dave Beckering)

Definitions:

SHIPPING CONTAINER

A portable storage container designed and manufactured according to specifications from the International Standards Organization (ISO) as a standard, reusable vessel intended to be loaded on a truck, rail car or ship, used primarily for shipping goods.

[Ord. No. 16-266 § 1, 12-20-2016]

SHIPPING CONTAINER HOME

A dwelling constructed of one (1) or more shipping containers that have been modified for residential use.

[Ord. No. 16-266 § 1, 12-20-2016]

SHIPPING CONTAINER STRUCTURE

A structure constructed of one (1) or more shipping containers.

[Ord. No. 16-266 § 1, 12-20-2016]

As a conditional use

Shipping container homes, provided:

(1) The structure complies with all applicable provisions of the International Building Code;

(2) The structure is completely enclosed with vinyl, wood, cement board or brick siding; and

(3) The structure has a pitched roof constructed of wood or metal.

Section 400.180 "**R-M" Manufactured/Modular Residential District. [1]**

[R.O. 2011 § 400.180; R.O. 2009 § 156.029; CC 1981 § 30-31; Ord. No. 77-31, 7-5-1977; Ord. No. 92-302, 12-16-1992; Ord. No. 98-209, 5-15-1998; Ord. No. 10-74 § 1, 4-22-2010; Ord. No. 10-244 § 1, 11-18-2010]

A. Purpose. The purpose of the "R-M" Manufactured/Modular Residential District is to provide for well designed mobile home parks in areas where public utilities are available and to establish basic standards which will determine the character of this land use and its effect on surrounding properties.

B. Permitted Uses. A building or land in the "R-M" District shall be used only for the following purposes:

- 1.** Mobile home parks.
- 2.** Public buildings, parks and open space.
- 3.** Places of worship.
- 4.** Public and private schools.
- 5.** Placement of a telecommunication antenna on an existing telecommunication tower (co-location) where no expansion or enlargement of the existing tower enclosure is required.
- 6.** Shipping container homes.

[Ord. No. 16-266 § 3, 12-20-2016]

Section 400.530 **Accessory Buildings. [1]**

[R.O. 2011 § 400.530; R.O. 2009 § 156.100; CC 1981 § 30-51; Ord. No. 77-31, 7-5-1977; Ord. No. 98-209, 5-15-1998; Ord. No. 10-143 § 2, 7-8-2010; Ord. No. 10-244 § 1, 11-18-2010; Ord. No. 16-266 § 5, 12-20-2016; Ord. No. 17-151 § 4, 7-28-2017; Ord. No. 18-231, 10-16-2018]

A. Residential Accessory buildings, where permitted, shall be subject to the following regulations. See Figure 1 following Section **400.050**.

- 1.** Use. No accessory building shall be used for a dwelling.
- 2.** A detached accessory building shall not be erected in a required front yard, except on a double frontage lot. Accessory buildings located on double frontage lots may be placed in the yard space at the rear of the building, provided no portion of the frontage along the same street where the accessory building is proposed to be located is utilized as the principal entrance for the main building of any lot in the block.

7. Maximum size shall not be equal to or greater than the base area of the principal building.

8. The total square footage of all accessory buildings shall not exceed the square footage of the ground floor of the principal building.

9. Shipping container structures may be used as accessory buildings, provided all other requirements of this Section are met and, provided further, that the conditions enumerated in Section **400.150(D)(1)(q)** are met.

10. The accessory building shall comply with the maximum lot coverage requirement of the zoning district.

B. There shall be no limit to the number of accessory buildings within non-residential zoning districts, provided the district's minimum design standards are met.

ORDINANCE NO. 2018-08

AN ORDINANCE OF THE CITY OF CANTON, TEXAS, ESTABLISHING REGULATIONS FOR THE USE OF CARGO, SHIPPING CONTAINERS OR STORAGE CONTAINERS AND ACCESSORY BUILDINGS WITHIN THE CITY OF CANTON; REQUIRING A PERMIT FOR THE PLACEMENT OF SUCH CONTAINERS; PROVIDING STANDARDS FOR USE AND DEVELOPMENT OF STORAGE CONTAINERS; REPEALING ALL ORDINANCES OR SECTIONS IN CONFLICT THEREWITH; PROVIDING A SEVERABILITY CLAUSE; PROVIDING FOR A PENALTY OF FINE NOT TO EXCEED THE SUM OF TWO HUNDRED DOLLARS (\$200.00) FOR EACH OFFENSE; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, cargo containers, shipping containers, MODS/PODS, Conex boxes and similar containers are becoming more common additions to cities as homeowners and businesses acquire those containers as temporary or permanent accessory buildings; and

WHEREAS, these types of containers have a useful and valid purpose when properly used and situated; and,

WHEREAS, the improper use and location of these types of containers, including their uses as accessory storage structures can be unsightly, dangerous and inappropriate so as to negatively affect municipal aesthetics and impact property values and the overall health, safety and welfare of the City of Canton; and

WHEREAS, the City Council desires proper and appropriate regulations for these types of containers, with the goals of both allowing a unified standard for these types of containers and allowing for ease of compliance for its citizens; and,

WHEREAS, the City of Canton desires to regulate and accommodate the proper use of these types of containers in order to protect the health, safety and welfare of the City of Canton; and

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF CANTON, TEXAS:

SECTION 1. SCOPE

The purpose of this Ordinance is to regulate the use of cargo, shipping or storage containers and accessory structures on real property in the City of Canton.

The provisions of this Ordinance shall apply to all shipping/storage/cargo containers and accessory buildings, as those terms are defined herein, within the corporate limits of the City of Canton.

SECTION 2. DEFINITIONS

- A. **Accessory Storage Building**: a building originally constructed for use as an accessory building for the storage of materials and equipment accessory to a primary use located on the property. For purposes of this Ordinance, cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles and similar

prefabricated items and structures originally built for purposes other than primary use as a dedicated accessory storage building are not accessory storage buildings.

- B. Cargo / Shipping/ Storage Container (hereinafter referred to as "Cargo Container"): Any metal or primarily metal container designed or constructed to ship, store, or handle bulk goods or items, or which appears substantially similar to such containers in appearance. Such containers include reusable steel boxes, freight containers, and bulk shipping containers; originally, a standardized reusable vessel that was designed for and used in the parking, shipping, movement, transportation or storage of freight, articles of goods or commodities; generally capable of being mounted or moved on a rail car, truck trailer or loaded on a ship.
- C. Temporary or Portable Storage Container (hereinafter referred to as "Temporary Storage Container"): A portable or moveable, weather-resistant receptacle designed and used for the storage or shipment of household goods, wares, valuables or merchandise (typically known as PODS, MODS, etc.), and which is leased on a short-term basis for temporary storage purposes.

SECTION 3.

I. Accessory Storage Buildings

Accessory Storage Buildings may be installed in all zoning districts and shall adhere to the following restrictions and requirements:

- A. No person shall store, maintain or otherwise keep an Accessory Storage Building on any lot or parcel of property within the City of Canton without first having obtained and possessing an active permit issued by the City of Canton.
- B. Electricity is not required but may be added, if permissible under applicable codes and ordinances. A City of Canton permit must be obtained prior to the addition of any electricity to the Accessory Storage Building.
- C. Any Accessory Storage Building shall meet the setback requirements of the underlying zone.
- D. No Accessory Storage Building shall be placed in a location which may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to the surrounding land use and development.
- E. All Accessory Storage Buildings must conform to the current Minimum Exterior Standards for the City of Canton.
- F. No Accessory Storage Building shall be used as living quarters.

II. Cargo / Storage / Shipping Containers

- A. Cargo Containers are not permitted to be used on property zoned residential or on property the primary use of which is residential. The placement of Cargo Containers as an accessory storage use is limited to the following zoning districts:

1. Local Business District (B-1)
2. General Business District (B-2)
3. General Industrial (GI-1)

B. Cargo Containers for Permanent Storage

When allowed by zoning, Cargo Containers may be permanently placed on the property if all applicable building regulations are followed and the property owner first obtains an active permit from the City of Canton. The following rules shall also apply.

1. Cargo Containers shall not be used for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing.
2. Cargo Containers shall be painted in solid neutral colors (colors which blend into the surrounding area). Any writing or graffiti that may be placed on the Container is the responsibility of the property owner and shall be promptly removed.
3. A solid foundation (road base material or better) is required for permanent accessory storage uses.
4. Cargo Containers shall meet the setback requirements of the underlying zone.
5. Cargo Containers shall not be stacked above the height of a single container device.
6. No electricity or plumbing may be run or connected to a Cargo Container.
7. Cargo Containers must be placed toward the rear half of the property unless screened so as to not be visible from the street and finished in a manner which minimizes its visibility from overhead views from nearby buildings and elevated thoroughfare sections.
8. Cargo Containers shall not be used to store hazardous materials.
9. Cargo Containers shall be in an approved designated area and on the same property as the principal use and be included in the calculation of overall lot coverage.
10. Cargo Containers shall not occupy required off-street parking, fire lanes, loading or landscaping areas.
11. Materials stored within Cargo Containers are subject to review and approval by the fire department and code enforcement.
12. No Cargo Container shall be placed in a location which may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to the surrounding land use and development.

13. All Cargo Containers shall be secured from entry by children and the general public when not attended.
14. No Cargo Container may be used as living quarters.
15. Ventilation is not required.
16. Cargo Containers associated with an approved building construction project shall be permitted to remain on-site until the approval of the project's final building inspection or the expiration of the master building permits' expiration date (180 days), if less.

C. Cargo Containers for Temporary Storage

Businesses with multiple containers for temporary storage must be able to produce for inspection upon request by the City any documentation related to shipping dates for each container on site. No Cargo Container shall be kept on the premises for longer than one year. The following rules shall also apply:

1. Cargo Containers shall meet the setback requirements of the underlying zone.
2. Cargo Containers shall not be stacked above the height of a single container device.
3. No electricity or plumbing may be run or connected to a Cargo Container.
4. Cargo Containers must be placed toward the rear half of the property unless screened so as to not be visible from the street and finished in a manner which minimizes its visibility from overhead views from nearby buildings and elevated thoroughfare sections.
5. Cargo Containers shall not be used to store hazardous materials.
6. Cargo Containers shall be in an approved designated area and on the same property as the principal use and be included in the calculation of overall lot coverage.
7. Cargo Containers shall not occupy required off-street parking, fire lanes, loading or landscaping areas.
8. Materials stored within Cargo Containers are subject to review and approval by the fire department and code enforcement.
9. No Cargo Container shall be placed in a location which may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to the surrounding land use and development.
10. All Cargo Containers shall be secured from entry by children and the general public when not attended.

11. No Cargo Container may be used as living quarters.
13. Ventilation is not required.
14. Cargo Containers associated with an approved building construction project shall be permitted to remain on-site until the approval of the project's final building inspection or the expiration of the master building permits' expiration date (180 days), if less.

III. Temporary or Portable Storage Containers

A. Placement

Temporary Storage Containers may be installed in all zoning districts and shall adhere to the following restrictions and requirements:

1. No Temporary Storage Container may be stacked on top of another or on top of any other object.
2. Temporary Storage Containers shall not be used to store hazardous materials.
3. Temporary Storage Containers shall meet the setback requirements of the underlying zone.
4. No electricity or plumbing may be run or connected to a Temporary Storage Container.
5. Temporary Storage Containers must be placed toward the rear half of the property.
6. Temporary Storage Containers shall not be used for any advertising purpose and shall be kept clean of all alpha-numeric signage and writing.
7. Temporary Storage Containers shall be in an approved designated area and on the same property as the principal use and be included in the calculation of overall lot coverage.
8. Temporary Storage Containers shall not occupy required off-street parking, loading or landscaping areas.
9. Materials stored within Temporary Storage Containers are subject to review and approval by the fire department and code enforcement.
10. No Temporary Storage Container shall be placed in a location which may cause hazardous conditions, constitute a threat to public safety, or create a condition detrimental to the surrounding land use and development.
11. All Temporary Storage Containers shall be secured from entry by children and the general public when not attended.

12. No Temporary Storage Container may be used for living quarters.

C. Time Limit

1. Temporary Storage Containers shall be removed from the property within thirty (30) calendar days from the date of initial installation, delivery and/or construction. Upon request, one extension, not to exceed thirty (30) days, may be approved by the City Building Official. The temporary placement of Temporary or Portable Storage Containers on residentially-zoned properties, or on properties the primary use of which is residential, for the limited purpose of loading and unloading household contents shall be permitted for a period of time not exceeding thirty (30) total days in any one (1) calendar year.
2. In no event shall the continuous or intermittent use of a Temporary Storage Container exceed sixty (60) cumulative days during any twelve-month period.
3. Temporary Storage Containers associated with an approved building construction project shall be permitted to remain on-site until the approval of the project's final building inspection or the expiration of the master building permits' expiration date (180 days), if less.

SECTION 4. Current Violations – Time to Comply

All owners of property within the city shall have 120 days from the effective date of this ordinance to bring the properties which currently contain Cargo Containers, Temporary Storage Containers, or non-compliant Accessory Storage Buildings that are in violation of the terms of this ordinance into full compliance.

SECTION 5. General Provisions

This ordinance shall include all future annexations.

SECTION 6. Violations and Penalties

Any person, firm, or corporation found guilty of violating any of the provisions or terms of this ordinance shall be subject to a fine not to exceed the sum of two hundred dollars (\$200.00) for each offense, together with the costs of such prosecution. Each and every day the offense continues shall be deemed to constitute a separate offense. In addition to and cumulative of all other penalties, the City shall have the right to seek injunctive relief for any and all violations of this Ordinance.

SECTION 7. Effective Date

The City Manager of the City of Canton is hereby authorized and directed to cause a true and correct copy of the caption, penalties, and effective date of this ordinance to be published in a newspaper having general circulation in the City of Canton, Texas prior to its effective date. Following the publication, this ordinance shall be in full force and effect.

SECTION 8. Repeal of Conflicting Ordinances

All ordinances or parts of ordinances conflicting with any of the provisions of this ordinance are hereby repealed.

SECTION 9. Severability Clause

That if any provision or any section of this ordinance shall be held to be void or unconstitutional, such holding shall in no way affect the validity of the remaining provisions or sections of this ordinance, which shall remain in full force and effect.

PASSED, ADOPTED AND APPROVED by a majority of the Canton City Council on this the 15^h day of May, 2018.



Lou Ann Everett, Mayor

ATTEST:


Debra Johnson, City Secretary



ORDINANCE NO. 809

AN ORDINANCE AMENDING THE CODE OF ORDINANCES OF THE CITY OF ORANGE CITY, IOWA, BY THE ADDITION OF ARTICLE 14B, STORAGE CONTAINERS, TO TITLE 11, ZONING ORDINANCES, ARTICLE 14, ADDITIONAL USE REGULATIONS

BE IT ENACTED by the City Council of the City of Orange City, Iowa:

SECTION 1. ADD ARTICLE #14B – STORAGE CONTAINERS. The Code of Ordinances of the City of Orange City, Iowa, is amended by the addition of TITLE 11, ZONING ORDINANCES, ARTICLE #14B, STORAGE CONTAINERS, by adopting the following wording:

Section 1: PURPOSE. The purpose of this chapter is to regulate the use of accessory storage containers in the City, which regulations are adopted to protect the public health, safety, welfare and promote public aesthetics in the City.

Section 2: DEFINITIONS.

- A. An “accessory storage container” is an accessory storage building and, in limited circumstances as set out in Section 2 (C) below, a cargo container.
- B. An “accessory storage building” is:
 - 1. A building originally constructed for use as an accessory building for the storage of material and equipment accessory to a primary use located on the property.
 - 2. For purposes of this chapter, cargo containers, railroad cars, truck vans, converted mobile homes, trailers, recreational vehicles, bus bodies, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not accessory storage buildings.
- C. “Cargo Containers” include standardized reusable vessels that were:
 - 1. Originally designed for or used in the parking, shipping, movement or transportation of freight, articles, goods or commodities; and/or
 - 2. Originally designed for or capable of being mounted or moved by rail, truck or ship by means of being mounted on a chassis or similar transport device. This definition includes the terms “transport containers” and “portable site storage containers” having a similar appearance to and similar characteristics of cargo containers.

Section 3. STORAGE ON RESIDENTIAL USE PROPERTIES.

- A. A zoning permit is required prior to construction of an accessory storage building or the temporary placement of cargo container. The application shall show that the construction of an accessory storage building or the temporary placement of a proposed cargo container is accessory to the permitted use of the property and meets the placement criteria for the zone.
- B. Only accessory storage buildings defined in Section 2 (B) above shall be permitted as accessory storage containers on property in any residential zone of the city, or on any property within the city the primary use of which is residential. Cargo containers, railroad cars, truck vans, converted mobile homes, travel trailers, recreational vehicles, bus bodies, vehicles and similar prefabricated items and structures originally built for purposes other than the storage of goods and materials are not permitted to be used as accessory storage building on property zoned residential or on property the primary use of which is residential.
- C. Notwithstanding the provisions set forth in subsection B of this section, the temporary placement of cargo containers on residentially zoned properties, or on properties the primary use of which are residential, for the limited purpose of loading and unloading household contents shall be permitted for a period of time not exceeding 90 days in any one calendar year without approval for a limited extension from the City's Code Enforcement Officer. Original permit holder is allowed two (2) placements of the-container within the 90 day period when listed on the original permit. Denial of any extension from code enforcement office can be appealed to the Planning and Zoning Board for an extension.
- D. Notwithstanding the provisions set forth in subsection B of this section, All contractors may use cargo containers for the temporary location of an office, equipment and/or materials storage structure during construction which is taking place on the property where the cargo container is located, if the use of the cargo container is authorized pursuant to a city zoning permit. **(Exception: With written approval from Adjacent lot owner at the time of permit application container may be placed on adjacent property during construction).**
- E. Cargo containers shall not occupy required off-street parking or City right-of-ways.
- F. As a condition of placement, cargo container sites shall be required to meet all zoning regulations listed in Title 6, Chapter 2: Nuisances, Article 4 General Provisions.
- G. Material stored within cargo containers are subject to review by fire chief. He/she shall conduct such investigation or inspection and make such recommendations that he/she consider necessary as authorized by Chapter 4: Administrative code – Administration, Article 17 – Fire Chief, Paragraphs 17.02(7) and (8). Failure to timely eliminate any fire hazards as recommended by the Fire Chief shall constitute a municipal infraction.

Section 4. CARGO CONTAINERS – PERMITTED LOCATIONS.

- A. The use of a cargo container as an accessory storage container is limited to the following zoning districts:
 - 1. Highway Commercial (C-2)
 - 2. Light Industrial (I-1)
 - 3. Heavy Industrial (I-2)
 - 4. Agricultural (A-1)
 - 5. Suburban Residential (RS-1)
- B. A zoning permit is required prior to placement of an accessory storage cargo container. The application shall show the proposed cargo container is accessory to the permitted use of the property and meets the placement criteria for the zone. **(Exception: Placement on lessors Property within a zoning district of the above Section 4, A, is permitted without permit).**
- C. The use of a cargo container as an accessory storage container is further limited to properties in the above-identified zones only if the property upon which the cargo container is proposed to be located is not primarily for residential purposes.
- D. Cargo containers shall not be stacked above the height of a single container device, except for placement within the Light Industrial District or Heavy Industrial District.
- E. Cargo Containers shall not be used for off-site advertising and properly maintained, **(Exception: owner/rental company advertising allowed).**
- F. As a condition of placement, cargo container sites shall be required to meet all zoning regulations listed in Title 6, Chapter 2: Nuisances, Article 4 General Provisions.
- G. Cargo containers shall meet the setback requirements of the underlying zone. **(Exception: For temporary placement in setback on construction sites with an approved Building Permit).**
- H. Cargo containers shall be in an approved designated area and on the same property as the principal use and be included in the calculation of overall lot coverage. **(Exception: With written approval from adjacent lot owner at the time of building permit application container may be placed on adjacent property during construction).**
- I. Material stored within cargo containers are subject to review by fire chief. He/she shall conduct such investigation or inspection and make such recommendations that he/she consider necessary as authorized by Chapter 4: Administrative code – Administration, Article 17 – Fire Chief, Paragraphs 17.02(7) and (8). Failure to timely eliminate any fire hazards as recommended by the Fire Chief shall constitute a municipal infraction.

Section 5. CURRENT VIOLATIONS – TIME TO COMPLY.

All owners of property within the City shall have 120 days from the effective date of the ordinance codified in this chapter to bring the properties, which currently contain accessory storage containers that are in violation of the terms of this chapter, into full compliance with the provisions of this chapter.

Section 6. CONFLICTS.

In the event any conflict exists between the provisions of this chapter and other currently existing provisions of the Orange City Municipal Code or other ordinances of the City, the terms and provisions of this chapter shall take precedence and to the extent of any such conflict, the terms and conditions of any existing provisions of the Orange City Municipal Code or other ordinances of the City shall be and hereby are amended insofar as necessary to conform to the provisions of this chapter.

Section 7. VIOLATIONS – PENALTIES.

Violation of this chapter shall be enforced pursuant to the procedures and penalties set forth in Title 11, Article #20 / Violation and Penalty as the same exists now or may hereafter be amended.

SECTION 2. REPEALER. All ordinance or parts thereof in conflict with the provisions of this ordinance are hereby repealed.

SECTION 3. SEVERABILITY CLAUSE. If any section, provision, or part of this ordinance shall be adjudged invalid or unconstitutional, such adjudication shall not affect the validity of this ordinance as a whole or any section, provision or part thereof not adjudged invalid or unconstitutional.

SECTION 4. WHEN EFFECTIVE. This ordinance shall be in effect from and after its final passage, approval and publication as provided by law.

Passed and approved by the City Council of the City of Orange City, Iowa this 18th day December of 2017.

Deb De Haan, Mayor

ATTEST: _____
Janet Brown, City Clerk

1st Reading – November 20, 2017

2nd Reading – December 4, 2017

3rd Reading – December 18, 2017



**REQUEST FOR PLANNING COMMISSION ACTION
TEXT AMENDMENT
CITY OF INDEPENDENCE
JULY 11, 2023**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Public Hearing to consider a text amendment to off-street parking in residential areas.

SUMMARY RECOMMENDATION Adjourn the public hearing to August 8, 2023 at 5:30 PM to allow staff additional time to research this text amendment.

BACKGROUND The Planning Commission was requested by the Beautification Committee to review the current off-street parking regulations in residential zones. Staff is still working on this item, and needs additional time to make a recommendation. It should be noted that the off-street parking regulations were amended in February of 2023, however, that ordinance pertained primarily to industrial areas which is attached for your information.

STAFF RECOMMENDATION The City has not had the opportunity to put together the text amendment concerning off-street parking in residential areas. Staff recommends adjourning the public hearing to August 8, 2023 at 5:30 pm.

SUGGESTED MOTION I move to adjourn the public hearing to consider a text amendment to Article B. -- Zoning regarding off-street parking in residential areas to August 8, 2023 at 5:30 pm.

SUPPORTING DOCUMENTS

1. 06062023-PZ Staff Report Off-Street Parking
2. 4430 - Text Amendments to Off Street Parking Requirements



**REQUEST FOR PLANNING COMMISSION ACTION
INITIATE PUBLIC HEARING.
CITY OF INDEPENDENCE
JUNE 6, 2023**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Consider initiating a public hearing before the Planning Commission regarding off-street parking in residential areas.

SUMMARY RECOMMENDATION Initiate a public hearing before the Planning Commission regarding a text amendment regarding off-street parking in residential areas.

BACKGROUND On May 22, 2023 the Beautification Committee suggested that the Planning Commission review the current off-street parking regulations in residential zones. For the Planning Commission to hold a public hearing, it must be initiated by either the City Commission or the Planning Commission.

The Beautification Committee would like the Planning Commission to consider allowing gravel parking in the rear of residences. This is in response to providing an affordable option to address the issue of vehicles parking in the grass.

SUGGESTED MOTION: I move to initiate a public hearing for July 11, 2023 at 5:30 PM to consider a text amendment to off-street parking in residential areas.

SUPPORTING DOCUMENTS



State of Kansas, Montgomery County
This instrument was filed for
Record on March 2, 2023 10:50 AM
Recorded in Book 723 Page 1258- 1261
Fee: \$0.00 202300662



Marilyn Calhoun
Marilyn Calhoun, Register of Deeds

ORDINANCE NO. 4430

An Ordinance Implementing Text Amendments to the Zoning Code Relating to Off Street Parking Requirements

BE IT ORDAINED by the Governing Body of the City of Independence, Kansas:

Section 1. The following portions of Article IV and Article VII of the Zoning Code are amended to read as set out hereafter. All remaining portions of Article IV and Article VII shall remain as currently stated.

ARTICLE IV. - RULES AND DEFINITIONS

403.0. - Definitions.

ADA: The Americans with Disabilities Act of 1990 and any subsequent revisions and updates as administered by the United States Department of Justice.

Parking space, off-street: A permanently surfaced dust free area (concrete, asphaltic concrete, or other comparable surface), located on property other than a public street, enclosed or unenclosed, to store one automobile, to which an automobile has direct access from a permanently surfaced drive. Such parking space shall meet the minimum "off-street parking standards" contained in article VII of this ordinance. (See also Exceptions to Section 705.1 of the Code, *Vehicle storage lots, and M-1 and M-2 districts*).

ARTICLE VII. - OFF-STREET PARKING AND LOADING REGULATIONS

705.0. - Design requirements.

705.1 Surface material: Areas used for standing or maneuvering of vehicles shall have concrete, asphalt concrete, or asphalt double-

sealed surfaces, maintained adequately for all weather use, and so drained as to avoid flow of water across sidewalks.

Exceptions:

Vehicle storage lots for the overnight storage or long-term warehousing of vehicles under one ownership.

In M-1 and M-2 districts other material may be substituted in lieu of concrete, asphalt concrete, or asphalt double-sealed surfaces for non-ADA off-street parking spaces for new parking areas and expansion of non-hard surfaced parking areas that are grandfathered in. If a business currently has a hard-surfaced parking lot, and needs to expand that parking area, they can expand it using a non-hard surfaced parking material for up to 2 years, at which time they will need to hard surface the expanded parking area [meeting the surface material requirements of 705.1] or remove the expanded parking area.

The exceptions only apply to new or expanded parking areas and do not allow for the removal and replacement of existing concrete, asphalt concrete, or asphalt double-sealed surfaces with other material.

The exceptions shall meet the following requirements:

Non-ADA off-street parking areas shall be graded, paved or otherwise improved with an all-weather, dustless material that is contained in such a manner as to not allow surface material to wash off during heavy rains, and so drained as to avoid flow of water across sidewalks.

ADA compliant parking and accessible paths to an entrance to the facility served by off-street parking shall be hard-surfaced.

705.5. Minimum parking space dimensions:

f. If 90-degree ADA car accessible space,
stall depth-19' 0"
stall width -9' 0" with 5' 0" access aisle
aisle width-25' 0"

g. If 90-degree ADA van accessible parking space,

stall depth-19' 0"
stall width-11' 0" with 5' 0" access aisle
Vertical clearance - 8' 2"
aisle width-25' 0"

705.6. Striping required: Parking spaces for dwellings shall be delineated by pavement striping and must meet minimal parking stall sizes as described above in section 705.5.

Exceptions:

Open parking spaces for one- and two-family dwelling units.

Parking lots meeting an exception in 705.1, except for markings and identifying signage for any required ADA accessible stalls.

705.7. ADA Accessibility:

a. All off-street parking lots or garages shall meet the minimum number of accessible parking spaces as required by the ADA.

b. Accessible parking spaces must be located on the shortest accessible route of travel to an accessible facility entrance.

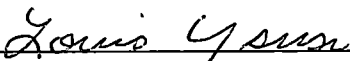
c. Accessible parking spaces shall have markings and identifying signage as required by the ADA.

Exception: Open parking spaces for one- and two-family dwelling units.

Section 2. This Ordinance shall take effect upon its publication in the official City newspaper.

Adopted by the Governing Body of the City of Independence, Kansas, on the 23rd day of February, 2023.




LOUIS YSUSI, Mayor

ATTEST:

A handwritten signature in cursive script, appearing to read "David W. Schwenker", written over a horizontal line.

DAVID W. SCHWENKER, City Clerk