



Tuesday, August 8, 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 July 11, 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-4 medium density multifamily dwelling district at 218 South 5th Street.

IV. PLANNING COMMISSION

- a. Consider initiating a public hearing to consider a text amendment to the zoning code regarding storage sheds.
- b. Consider initiating a public hearing to consider a text amendment to the zoning code regarding signage in the C-3, Central Business District.
- c. 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.
- d. 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."
- e. Public Hearing to consider a text amendment to off-street parking in residential areas.

V. DISCUSSION

- a. Comprehensive Plan Update

VI. ADJOURNMENT



**PLANNING COMMISSION ACTION / BOARD OF
ZONING APPEALS MINUTES
CITY OF INDEPENDENCE
August 8, 2023**

Department

Prepared By Lydia Collins

AGENDA ITEM Consider approving minutes of the July 11, 2023 Planning Commission/Board of Zoning Appeals Meeting.

SUMMARY RECOMMENDATION

SUPPORTING DOCUMENTS

1. July 11, 2023 Planning and Zoning Minutes - Draft Revised

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's July 11, 2023 Meeting

I. Call to Order

Present: Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith, Michelle Anderson

Absent: Mary Jo Meier

Guests: Jesse Lazzers; Mary Bottenberg; David Schwenker; Jessica Jaimes; Stephanie Harris; Jennifer Christensen; Janet Mayes; Melody Kikkert; Ken Brown; Chere Parker; Judi Harris; Lori Kelley

Tim Haynes, Chairperson, called the meeting to order.

II. Minutes

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

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission approved the minutes of the June 6, 2023 Planning Commission/Board of Zoning Appeals meeting.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith

Nay: None

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.

Jessica Jaimes explained her request for a carport in her backyard and the setback variances she requested.

Lisa Richard asked if the neighbors had any problem with the request.

Jessica Jaimes stated that the neighbors had no issue with the variance request.

Motion:

On the motion of Scott Smith, seconded by Rachel Lyon the Commission approved 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'.

Aye: Michelle Anderson, Tim Haynes, Rachel Lyon, Lisa Richard, Anthony

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's July 11, 2023
Meeting**

(Tony) Royse, Scott Smith

Nay: None

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.

Megan Bottenberg, Director of Government Affairs for Cox Communications, presented an overview of Cox Business's plan for building a fiber network. This would require a utility substation built in a central location and Cox is looking at 401 N. 10th Street. Megan stated that Cox believes in doing the right thing and in conservation and working with the community. Concerns were raised about how this will look and the company is going to work with a local nursery to make

Lisa Richard asked about landscaping around the substation and whether the plants would be tall enough to cover the fence.

Megan Bottenberg said the plants would be self-sustaining and the company would work with a local nursery, but she wasn't sure how tall they would be.

Andy McClenon asked who actually owns the property at 401 N. 10th Street.

Kelly Passauer said the City owns the property and is leasing it to Cox through an Agreement signed by the City Commissioners.

Rachel Lyon asked what the proposed fencing would be made of.

Jesse Lazzers said it is a metal fence with a decorative screening that is hard vinyl.

Lisa Richard asked about how close the houses are and whether the sound would be heard by the property owners.

Megan Bottenberg explained that the on-site generator is required to meet FCC compliance of 95% reliability. Powered by natural gas, it is at a decibel rating of 66.5 dba at 24 inches. At 24 inches you would have to put your ear to the fence in order to hear it and it would be at a conversational level. The noise from the generator cycles. It is not constant unless there is a power interruption.

Tony Royse asked if the city-owned property is used for parking and why the extra parking spaces were necessary.

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's July 11, 2023 Meeting

Kelly Passauer explained that the City has been asked about putting in additional parking.

Jennifer Christensen, 308 E Maple St, not within the 200-foot notification, wanted to know how the sight was chosen. She felt like if it would benefit businesses, it should be in the business area. She asked what the footprint is, why the taxpayers were not allowed to be involved and how it would affect property taxes.

Lisa Richard said that the committee has the opportunity to set conditions on the conditional use permit and could factor in the concerns of the neighbors.

Janet Mayes, 1219 N 5th St, not within the 200-foot notification, asked if the substation would only benefit businesses, why it could not be placed closer to the business district.

Megan Bottenberg said it will benefit residents by having the business function when they are there. The fiber must be centrally located. Cox is currently running the numbers on whether to bring fiber to residences.

Janet Mayes said the City would benefit from this service, so what kind of additional construction would be needed to expand.

Megan Bottenberg said that Cox has looked to see how the company could expand but there are no plans right now.

Stephanie Harris, 317 N 10th St, within the 200-foot notification area, lives across the street from the lot where the substation is being proposed. She opposed the substation going in at 401 N 10th St and also opposed four parking spaces being put in. She felt the substation would devalue her house and was upset at not being consulted about the project and not being given enough time for researching her rights. She asked what a conditional use is. Stephanie also sent an email to Kelly Passauer, objecting to the substation being located in the middle of town in a residential section. She felt it would be an unsightly eyesore and would affect surrounding property values and desirability.

Kelly Passauer explained a conditional use permit.

Chere L Parker, 1117 N 11th St, not within the 200-foot notification, said that Stephanie posted on Facebook that she was vehemently opposed to the substation. Chere stated that her husband was also opposed and she felt that

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's July 11, 2023 Meeting

the substation would create a driver's blind spot.

Lori Kelley, Broadband Enhancement Committee Chairperson, not within the 200-foot notification area, explained the need for broadband and for creating competition to help drive down prices for services. The need to support entities that partner with the City to provide services is very important.

Ken Brown, 500 E Maple St, not within the 200-foot notification, said that the location is threatening to historic homes. He stated he would be furious if he lived where Stephanie lives with this proposal. If this would be the best benefit of the downtown it ought to be downtown.

Randy Beeman, 1201 N Park Blvd, not within the 200-foot notification, sent an email to Kelly Passauer that said he would not want a substation in his residential neighborhood and that it should be established in an industrial part of town already zoned as commercial.

Nancy Smith, 316 N 11th St, within the 200-foot notification, sent an email to Kelly Passauer stating her concerns about the noise, upkeep of the area and house and property value. She is not in favor of the substation going in at 401 N 10th St and felt that it should be placed somewhere not so close to residential and school zone areas.

Lois Loomer Williams, formerly an Independence resident, sent an email to Kelly Passauer to say that a substation should not be placed in a residential area.

James Schaid, no address given, not within the 200-foot notification, sent an email to Kelly Passauer stating that this project will have a negative impact on property values of the adjacent and nearby home owners. He stated that the screen fence is like what you might see in an industrial district and is the cheapest solution.

Lisa Richard wants a detailed explanation of why the site was chosen.

Jesse Lazzers said that when these substations are built we have to ascertain where power can be tied in.

Megan Bottenberg said this plan had been routinely evaluated and revised over a three-year period.

Andy McLenon said the company has to hook into a fiber and the fiber runs

Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's July 11, 2023 Meeting

down 10th Street.

Tony Royse asked if the meeting could be adjourned to the August meeting so that these questions could be answered.

Lisa Richard said the board can recommend conditions to the City Commission so the vote would not have to be postponed. She did not agree with adjourning the meeting.

Scott Smith wants to know exactly how the substation will sound and what kind of shrubs will be considered.

Tim Haynes wants to know the other areas that were considered and details about the sound levels.

Rachel Lyon wanted to know if it had to be open air.

Jesse Lazzers said that there is a cooling fan.

Rachel asked if a structure could be built around the substation to blend in better.

Motion:

On the motion of Anthony (Tony) Royse, seconded by Brent Littleton the Commission moved to adjourn the public hearing 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 to August 8, 2023 at 5:30 p.m. to allow Cox to visit with property owners within 200 feet, to take into our considerations on the landscaping, noise concern, site plan and give them the opportunity to present that to us.

Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith

Nay: None

- 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 that City staff needs time to work with the City Attorney on the proposed text amendment language and recommended that the hearing be adjourned.

Motion:

On the motion of Tim Haynes, seconded by Rachel Lyon the Commission

**Minutes of the Planning and Zoning Commission/Board of Zoning Appeals's July 11, 2023
Meeting**

**adjourned the public hearing to consider a text amendment to Article B;--
Zoning regarding cargo shipping containers to August 8, 2023 at 5:30 p.m.**

**Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith**

Nay: None

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

**Kelly Passauer explained that the City had not had the opportunity to put
together the text amendment concerning off-street parking in residential
areas and recommended that the hearing be adjourned.**

Motion:

**On the motion of Tim Haynes, seconded by Brent Littleton the Commission
adjourned 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 p.m.**

**Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith**

Nay: None

V. Discussion

Kelly Passauer let the Commission know that the Comprehensive Plan is out
for proposal.

VI. Adjournment

Motion:

**On the motion of Anthony (Tony) Royse, seconded by Tim Haynes the
Commission adjourned the meeting.**

**Aye: Michelle Anderson, Tim Haynes, Brent Littleton, Rachel Lyon, Andy
McLenon, Lisa Richard, Anthony (Tony) Royse, Scott Smith**

Nay: None

Tim Haynes, Chairperson

Anthony (Tony) Royse, Secretary



**REQUEST FOR PLANNING COMMISSION ACTION
VARIANCE
CITY OF INDEPENDENCE
AUGUST 8, 2023**

Department Admin

Prepared By Lydia Collins

AGENDA ITEM Public Hearing to receive comments on a variance request to reduce setbacks in an R-4 medium density multifamily dwelling district at 218 South 5th Street.

SUMMARY RECOMMENDATION Approve the variance request to reduce setbacks in an R-4 medium density multifamily dwelling district at 218 South 5th Street.

BACKGROUND Donna Dean wants to put a carport on her driveway in front of her garage. The existing garage is nonconforming and is 1 foot off the alley so she will need a 9 foot variance from the alley in order to align the carport with the garage. The garages in the neighborhood are similarly built 1 foot off the alley. Staff found that a variance of 7 feet is also needed for the street side as the carport will be less than 25 feet from the property line.

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 garage was built one foot off the alley and a variance is needed to put in a carport that will line up with the garage.*
- 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 carport to protect her vehicle she will need a variance for the setback.*
- 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 9 foot variance request to reduce the setback to 1 foot off the alley and the 7 foot variance request to reduce the setback to 18 feet off the property line.

SUGGESTED MOTION I move to approve a variance to reduce the setback on the street from 25' to 18' and a variance to reduce the setback at the rear of the property from 10' to 1'.

SUPPORTING DOCUMENTS

1. VAR 0923 Public Hearing Notice 218 S 5th Setbacks
2. 218 S. 5th Variance App and Pmt
3. 218 S 5th Picture
4. 218 S 5th Street Alley Picture

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, August 8, 2023 at 5:30 p.m.

To receive comments on a variance request to reduce setbacks in an R-4 medium density multifamily dwelling district at 218 South 5th Street.

Common Address:
218 South 5th Street

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

Applicant/Owners:
Donna Shelton Dean

Case Number:
2023/VAR/09

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:+17852894727) 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: 06/26/23

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

Donna Dean
218 S 5th St
Independence KS 67301
620-330-1591

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

Name:

Address:

Telephone:

4. Common Address of Land Involved:

218 S 5th Street

5. Legal Description of Land Involved:

Lot 6; S 15' Lot 7, Block 69 Orig Plat

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

Attach carport to existing garage. Garage is approximately one foot off the alley. I want to align the carport with the garage so I need to place it one foot off the alley. The carport is 11 feet wide and 16 feet long. The zoning code calls for a minimum rear yard of 10 feet off the alley. I need a 9 foot setback variance to line up with my already existing garage.

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:

The existing garage is grandfathered in as non-conforming. In order to have a functioning carport I need a variance for the alley setback. The garage is too small for my car and I want to park it off the street, under protection of the carport.

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

All of the garages are one foot off the alley in this neighborhood so no adjacent property owner will be adversely affected.

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

I will not be able to install a carport without being given a variance to align the carport with my garage

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

The proposed development will not be contrary to the public health, safety, morals, or general welfare because it will be a simple carport on private property.

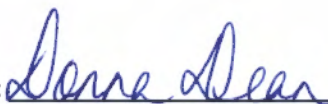
11: The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because:

The proposed development will not be contrary to the general spirit and intent of the zoning ordinance because several other houses have garages one foot off the alley in the neighborhood and the carport will enhance the garage.

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:



Case Number: _____
Date Filed: _____
Fee Received: _____
Present Zoning: _____

CITY OF INDEPENDENCE

REC#: 01236631 6/26/2023 11:32 AM
OPER: JESS TERM: 001
REF#:

ACCT #: XXXX-XXXX-XXXX-8034
AUTH #: 023449
TRAN #: 000000019015
TYPE: PURCHASE
ENTRY MODE: MANUAL

TRAN: 1.9000 PLANNING AND ZONING
DONNA DEAN 218 S 5TH
VARIANCE 100.00CR

TENDERED: 100.00 CREDIT CARD
APPLIED: 100.00-

CHANGE: 0.00

12:21

74%

Hi, Donna



\$1,562.94



Images







**REQUEST FOR PLANNING COMMISSION ACTION
INITIATE A PUBLIC HEARING TO CONSIDER A
TEXT AMENDMENT.
CITY OF INDEPENDENCE
AUGUST 8, 2023**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Consider initiating a public hearing to consider a text amendment to the zoning code regarding storage sheds.

SUMMARY RECOMMENDATION Initiate a public hearing to consider a text amendment to the zoning code regarding storage sheds.

BACKGROUND We have received a request from a couple requesting that storage sheds be allowed on a vacant lot for maintenance purposes. This couple purchased a large lot and maintains a garden on the lot. They purchased a shed to house their lawn mower and other items to maintain the lot. City staff recently received a complaint because storage sheds are only allowed in residential zones as an accessory use, and there is no primary structure on the lot. In addition, the permitted and conditional use table only allows storage and warehousing in certain zones, which excludes residential. The couple is requesting the Planning Commission consider modifying the code to allow a maintenance shed as a conditional use permit.

Suggested Motion: I move to initiate a public hearing to consider a text amendment to the zoning code regarding storage sheds and any additional modifications.

SUPPORTING DOCUMENTS

1. Public Hearing Notice Text Amendment 06 Storage Sheds

City of Independence, Kansas

NOTICE TO THE PUBLIC

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

Tuesday, September 5, 2023 at 5:30 p.m.

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

Case Number:

2023/ZA/06

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



**REQUEST FOR PLANNING COMMISSION ACTION
INITIATE A PUBLIC HEARING TO CONSIDER A
TEXT AMENDMENT.
CITY OF INDEPENDENCE
AUGUST 8, 2023**

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Consider initiating a public hearing to consider a text amendment to the zoning code regarding signage in the C-3, Central Business District.

SUMMARY RECOMMENDATION City staff recommends initiating a public hearing for a text amendment to the zoning code regarding signage in the C-3 Central Business District.

BACKGROUND Staff recently discovered a section in the City code regarding the review of historical restorations or reproductions in the Central Business District by the Main Street Committee for recommendation to the City Commission. This section of the code predated the Independence Historic Preservation and Resource Commission, which currently reviews all signs within the Downtown Historic District. The Downtown Historic District is within the C-3, Central Business District. However, not all of the C-3, Central Business District is included in the Downtown Historic District.

Suggested motion: I move to initiate a public hearing to consider a text amendment to the zoning code regarding signage in the C-3, Central Business District.

SUPPORTING DOCUMENTS

1. C-3 Sign Regulations
2. 2023.07-24 Signage in C-3 District

802.6. District C-3, central commercial district:

a. Permitted signs:

1. [Generally:] Signs permitted in the C-3 district shall be illuminated signs, nonilluminated signs, marquee signs, temporary signs, wall signs and projecting signs with the exception that no sign shall be mounted, painted or affixed to any surface extending above the transom or storefront beam whichever is higher.
2. Wall signs: One sign per face of building not to exceed 50 square feet or five percent of the total area, whichever is smaller.
3. Corner buildings: One sign equal to standards above for each wall.
4. Multiuse signs: Total sign area for all uses not to exceed above standards.
5. [Signs hanging from awnings or mounted to storefronts:] Signs hanging from awnings or mounted to storefronts may not exceed five square feet per face.
6. [Freestanding buildings:] Freestanding buildings shall be permitted one freestanding sign not to exceed 80 square feet per face or 160 square feet total of all faces in the sign area. The top of the sign shall not be higher than 25 feet above ground level.
7. Historical restorations or reproductions: Historically significant or reproduced signs shall be referred to the Main Street Committee for recommendation to the city commission who may authorize such installation.
8. [Rear wall signs:] One rear wall mounted sign not to exceed 18 inches by 36 inches for business identification.

b. [Poster panels and billboards:] Poster panels and billboards shall not be permitted in the C-3 zone.

c. Signs on awnings, canopies, and marquees:

1. There shall not be more than one sign exceeding an aggregate gross surface area of such awning, canopy or marquee of ten percent of the gross area for each principal building.
2. The gross surface area of a sign shall not exceed 50 percent of the gross surface area of the awning, canopy or marquee to which the sign is fixed.

d. General standards:

1. Any awning, canopy, marquee or projecting sign shall not be less than seven feet above the surface of the grade of any street or sidewalk.
2. Awnings and canopies shall be no closer than four feet from the public street curb and in no case extend more than 12 feet from the property line.
3. Marquees shall be no closer than two feet from the property line.

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE ZONING CODE WITH REGARD TO REVIEW OF
SIGNAGE IN THE C-3 CENTRAL BUSINESS DISTRICT

Be it ordained by the governing body of the City of Independence, Kansas:

Section 1. Section 802.6 District C-3, Central Commercial District, Subsection a, Subsection 7, is amended to read as follows in its entirety:

802.6. District C-3, Central Business District:

a. Permitted Signs:

.....

7. Signage in Downtown Historic District: Permanent signs to be placed in the Downtown Historic District, which is contained within the C-3, Central Business District, must receive a certificate of appropriateness from the Independence Historic Preservation and Resource Commission before being otherwise approved for installation. Such signs located outside the Downtown Historic District, but are within the C-3, Central Business District will not require approval by the Independence Historic Preservation and Resource Commission unless they are to be erected on a structure that is listed on a local, state or national register of historic properties.

Section 2: Effective Date. This ordinance shall take effect upon its publication in the official city newspaper.

Adopted by the governing body of the City of Independence on the _____ day of _____, 2023.

Louis Ysusi, Mayor

ATTEST:

DRAFT



**REQUEST FOR PLANNING COMMISSION ACTION
CONDITIONAL USE PERMIT
CITY OF INDEPENDENCE
AUGUST 8, 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 Adjourn the hearing until September 5, 2023 at 5:30 PM

BACKGROUND This hearing was adjourned at your last meeting to August 8, 2023 at 5:30 PM. Based on comments from the last Planning Commission meeting, Cox is reviewing alternative solutions. It is recommended that the hearing be adjourned to September 5, 2023 at 5:30 PM to allow them more time to formalize other potential solutions.

STAFF RECOMMENDATION City staff recommends the hearing be adjourned to September 5, 2023 at 5:30 PM.

SUGGESTED MOTION I move to adjourn the public hearing until September 5, 2023 at 5:30 PM.

SUPPORTING DOCUMENTS

1. Cox Letter Requesting the Public Hearing Be Adjourned
2. 07/11/2023 Staff Report with Attachments



August 4, 2023

Planning Commission/Board of Zoning Appeals
City of Independence, KS
811 West Laurel St.
Independence, KS 67301

RE: Public Hearing for the Conditional Use Permit for 401 N. 10th Street

Dear Chairman Tim Haynes and members of the Planning Commission/Board of Zoning Appeals:

Thank you for your time last month to consider a Conditional Use Permit for 401 N. 10th Street for Cox Communications. Due to overwhelming concerns by residents and wanting to be a good corporate partner with the community, Cox is requesting to adjourn the conditional use permit hearing for this location. Cox is exploring other options in the community to place a fiber cabinet.

Cox looks forward to serving business of Independence in the future and being part of the community. Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Megan Bottenberg".

Megan Bottenberg
Director, Government Affairs



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:+17852894727) 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

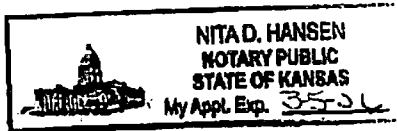
STATE OF KANSAS)
Sedgwick)
MONTGOMERY COUNTY) SS:

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

These Links May Require Adobe Acrobat Reader, Click [here](#) to Download it.

[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						

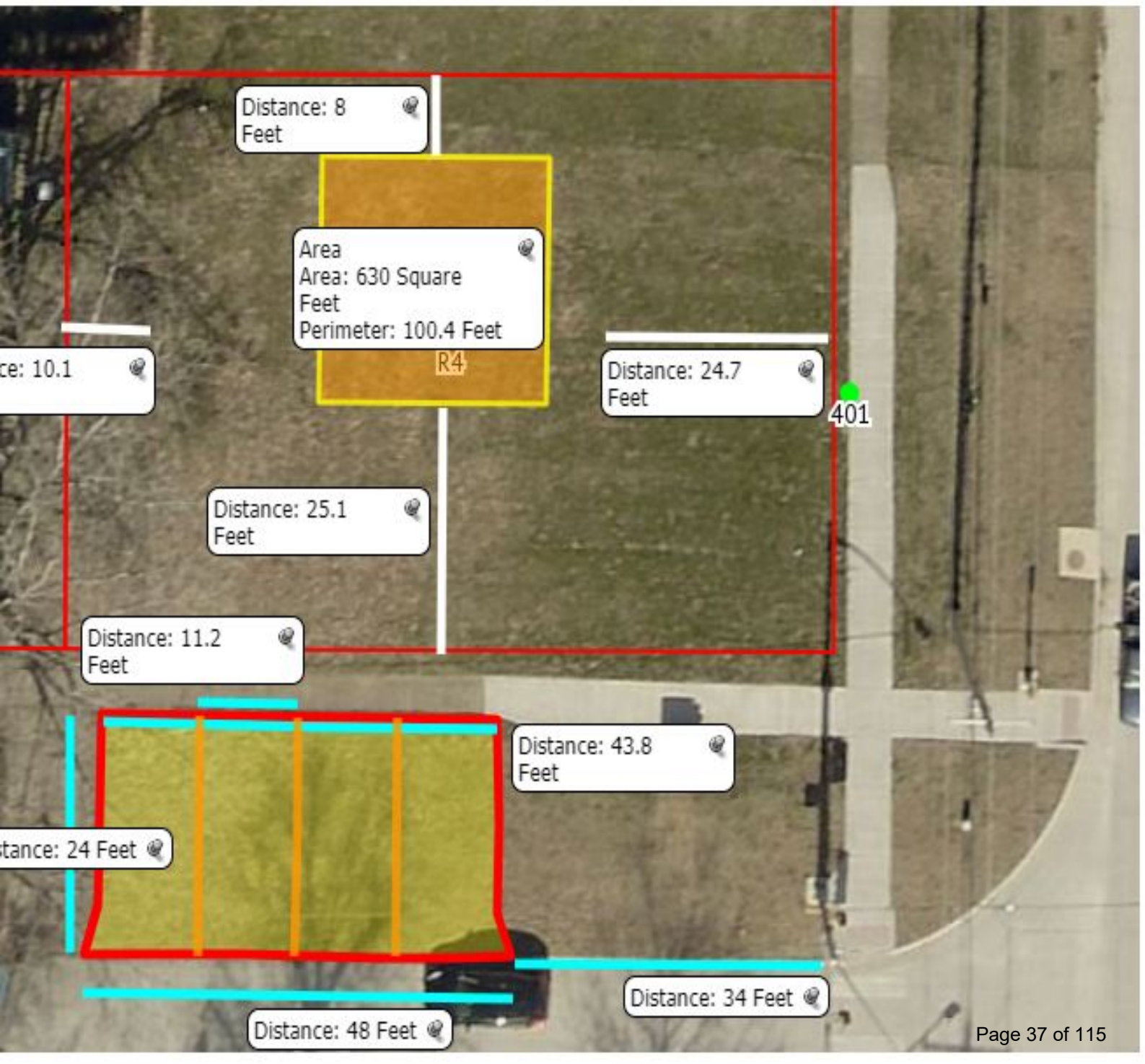
Market Land Information

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: 10.1 Feet

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:

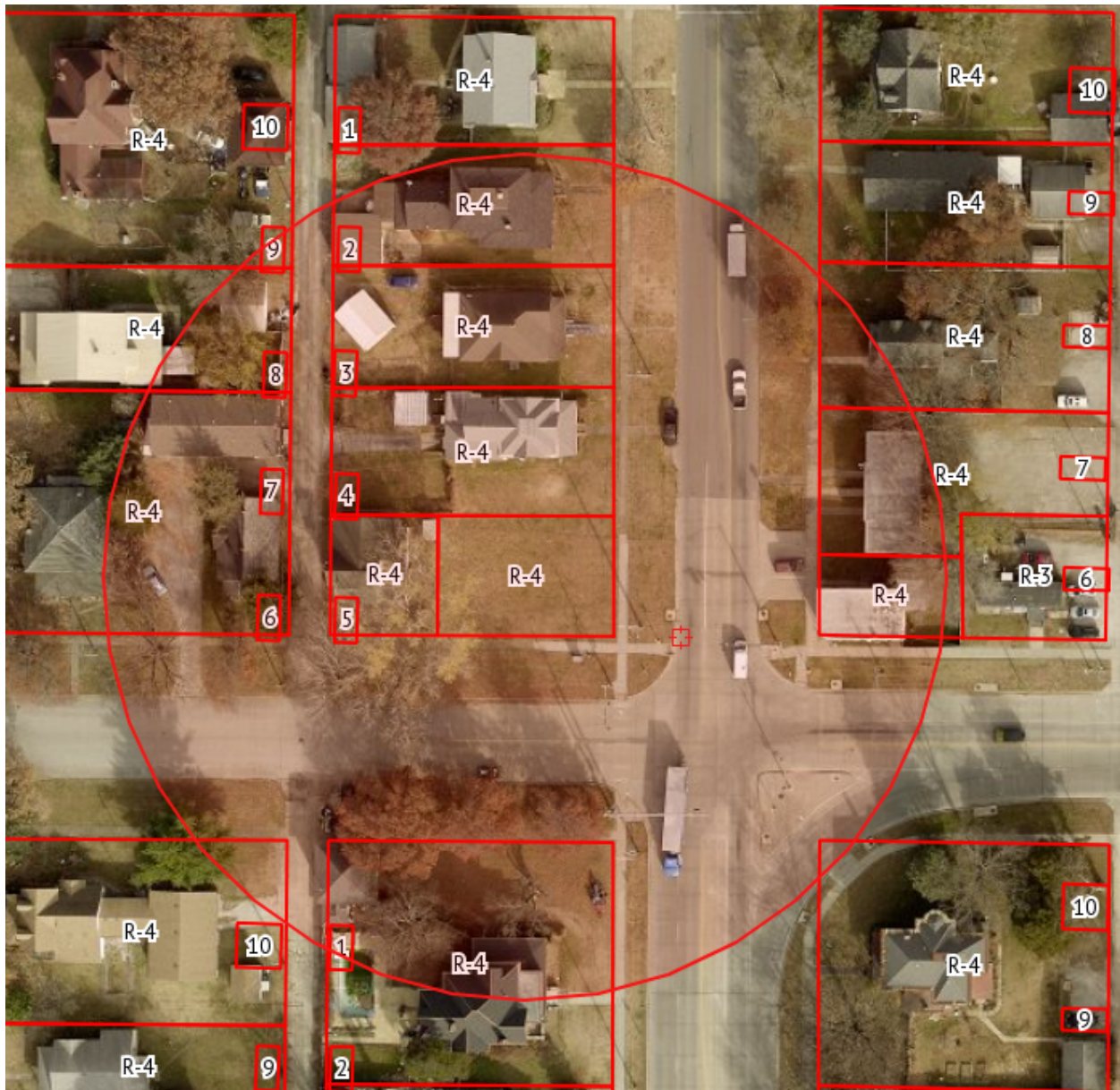
Chairman

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
AUGUST 8, 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 The City's college intern, Jude Stafford, has worked on proposed changes to the code and would like to review them with the Planning Commission for feedback. The changes are highlighted in the attached document. Once feedback is received, we will ask the City Attorney to review further and provide the final recommended amendment back to the Planning Commission. After reviewing this agenda item and providing feedback, it is recommended to adjourn this hearing until September 5, 2023 at 5:30 PM.

STAFF RECOMMENDATION After providing feedback on the proposed modifications, City staff recommends adjourning the public hearing to September 5, 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 September 5, 2023 at 5:30 pm.

SUPPORTING DOCUMENTS

1. Shipping Containers Draft Amendment
2. 06062023-PZ Staff Report Conex Containers
3. June 6, 2023 Planning CommissionBoard of Zoning Appeals Minutes

CITY OF INDEPENDENCE, KS

ORDINANCE NO. _____

AN ORDINANCE AMENDING THE INDEPENDENCE ZONING ORDINANCE PERTAINING TO REGULATIONS FOR SHIPPING CONTAINERS; AMENDING AND REPEALING EXISTING SECTIONS 403.0 AND 607.0 AND ADOPTING NEW SECTION 613.0 OF THE INDEPENDENCE ZONING ORDINANCE.

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

SECTION 1: Existing Section 403.0 of the Independence Zoning Ordinance is hereby amended to read as follows:

403.0. – Definitions.

For the purpose of this zoning ordinance, certain terms or words used herein shall be interpreted or defined as follows, unless the context clearly indicates otherwise:

Accessory building: A subordinate building which serves a function customarily incidental to that of the main building, which is located on the same lot as the main building. Customary accessory buildings include garages, carports, and small storage sheds.

Accessory use: A subordinate use which serves an incidental function to that of the main use of the premises, which is located on the same lot as the main use. Customary accessory uses include tennis courts, swimming pools, air conditioners, barbecue ovens, and fireplaces.

Accessory use/Communication Tower: A subordinate use which serves an incidental function to that of the main use of the premises which is located on the same lot as the main use. An accessory use/communication tower shall be limited to a communication antenna installed, maintained and used by governmental units, public schools and public colleges on property owned by such entities and for purpose of supporting related uses and/or the principal activity of such entities. The placement of the communication tower or communication antenna shall comply with the submission requirements and performance standards otherwise applicable to such use as set forth in Section 1014.0 of the Code.

Agriculture: The use of land for agricultural purposes, including farming, dairying, pasturage, agriculture, horticulture, floriculture, viticulture and animal and poultry husbandry and the necessary accessory uses for packing, treating, or storing the produce; provided, however, that the operation of any such accessory uses shall be secondary to that of the normal agricultural activities. The operation of commercial feedlots or pens, sales yards and auction yards for cattle or hogs shall be deemed an industrial and not an agricultural use.

Apartment house: See *Dwelling, multifamily*.

Alley: A dedicated public right-of-way, other than a street, which is used primarily for vehicular service access to the back or side of properties otherwise abutting on a street.

Alteration: Alteration, as applied to a building or structure, is a change or rearrangement in the structural parts of an existing building or structure. Enlargement, whether by extending a side, increasing in height, or the moving from one location or position to another shall be considered an alteration.

Area, project:

1. *Gross project area:* Total project area.
2. *Net project area:* Total project area less land allocated to public street right-of-way, private streets, parking areas and any land allocated to specified non-project uses such as schools and churches when determining the "net residential project area" to be used as a basis for calculating the number of permitted dwelling units for a planned unit development.

Area of shallow flooding: Means a designated AO or AH zone on a community's flood insurance rate map (FIRM) with a one percent or greater annual chance of flooding to an average depth of one to three feet where a clearly defined channel [does not exist, where the path of flooding] is unpredictable and where velocity flow may be evident. Such flooding is characterized by ponding or sheet flow.

Area of special flood hazard: Is the land in the floodplain within a community subject to one percent or great chance of flooding in any given year.

Attention-attracting device: Any flasher, blinker, animation, banner, or other object designed or intended to attract the attention of the public to an establishment or to a sign, except that any sign whereon the primary use is current time, temperature, and/or community service information is indicated by intermittent lighting shall not be deemed as an attention-attracting device.

Awning: A structure made of cloth, metal, or other material affixed to a building in such manner that the structure may be raised or retracted to a position against the building.

Banner: A sign intended to be hung with or without a frame, possessing characters, letters or illustrations applied to paper, plastic or fabric of any kind, excluding flags, emblems and insignia of political, professional, religious, educational, or corporate organizations with the exception of logos for the city or organizations endorsed by the city, and which are displayed for noncommercial purposes, excluding community celebrations that are officially endorsed by the city.

Base flood: Means the flood having one-percent change of being equaled or exceeded in any given year.

Basement: A portion of a building which is wholly or partly below grade, the ceiling of which is less than four feet above grade, which shall not be included as a story for the purpose of height regulations.

Beer means a beverage containing more than 3.2 percent alcohol by weight, obtained by alcoholic fermentation of an infusion or concoction of barley, or other grain, malt, and hops in water and includes beer, ale, stout, lager beer, porter, and similar beverages having such alcoholic content.

Bed and breakfast: An owner-occupied residence furnishing accommodations to overnight guests, including a breakfast meal.

Billboard: See *Sign*.

Board of zoning appeals: The board that has been created by the governing body having jurisdiction and which has the statutory authority to hear and determine appeals, exceptions, and variances to the zoning regulations.

Buffer strip: A strip of land located between incompatible land uses, which is subject to private use restrictions, or a negative easement, or is dedicated to public use as open space, for the purpose of protecting the built environment of a subdivision or to enhance a street right-of-way, or both.

Building, accessory: See *Accessory building*.

Canopy: A structure other than an awning, made of cloth, metal, or other material with frames affixed to a building and carried by a frame (which may be supported by the ground).

Children's home: Any place, home or institution providing 24-hour nonsecure care licensed by the state for five or more children under the age of 18 years for compensation in which such children are under the custody of a state agency; provided, however, this definition shall not include children placed in family care in a family foster home, public and private schools organized, operated or approved under the laws of the state, children related by blood or marriage to the provider, caring for children within an institutional building while their parents or legal guardians are attending services, meetings or classes or engaged in church activities.

City or community: The City of Independence, Kansas.

Common open space: An area of land or water or combination thereof planned for passive or active recreation, which does not include areas utilized for streets, alleys, driveways, private roads, off-street parking, or loading areas. However, the area of recreational activities such as swimming pools, tennis courts, shuffleboard courts, etc., may be included as common open space.

Communication antenna: An antenna or array of antennas at one location intended to broadcast and receive signals as part of a wide-area, communications system such as

cellular telephone systems, pager systems, or wireless computer networks, but excluding short-wave radio antennas operated primarily as a hobby.

Communication facility: A land use facility supporting antennas and microwave dishes that sends and/or receives radio frequencies signals. Communication facilities shall include structures or communication towers, antennas, associated structures, and accessory buildings.

Communication tower: A ground mounted or self-supported, guyed, lattice or monopole tower, constructed as a free-standing structure or in association with a building, other permanent structure or equipment, constructed to support one or more antennas; provided that, for purposes of this ordinance, the term "communication tower" shall not include any tower that is under 70 feet in height and is owned and operated by a federally-licensed amateur radio station operator or is used exclusively for receive only antennas.

1. *Guyed tower:* A communication tower that is supported, in whole or in part, by guy wires and ground anchors.
2. *Lattice tower:* A guyed or self-supporting three or four sided, open, steel frame communication tower.
3. *Monopole tower:* A communication tower consisting of a single pole, constructed without guy wires and ground anchors.

Communication tower height: The vertical distance measured from the base of the communication tower at grade to the highest point of the communication tower. If the communication tower is on a sloped grade, then the average between the highest and lowest grades shall be used in calculating the communication tower height.

Comprehensive plan: The official adopted comprehensive plan for future growth of Independence, Kansas and any amendments relating thereto.

Conditional use: A use that is permitted, but only by application to the building inspector as designated in each specific instance, and after a determination by the planning commission and city commission that all regulations and standards of this ordinance applying to the specific use in the particular location will be met, along with such additional conditions or safeguards as the city commission may prescribe in the specific case and circumstances, in order to prevent harm or injury to adjacent uses, the neighborhood, and/or in order to improve the public health.

Condominium dwelling house: A building containing two or more dwelling units, which dwelling units are separated by a party wall and which dwelling units are designed and intended to be separately owned in fee under the condominium statutes of the State of Kansas.

Day care facility: Any place, home or institution which receives four or more children under the age of 18 years for any part of the 24-hour day for compensation; provided,

however, this definition shall not include public and private schools organized, operated or approved under the laws of the state, custody of children fixed by a court of competent jurisdiction, children related by blood or marriage, to the day care provider, caring for children within an institutional building while their parents or legal guardians are attending services, meetings or classes or engaged in church activities.

Dedication: Intentional transfer by the developer to the public of ownership of or an interest in land for a public purpose. Dedication of land, by formal deed of conveyance, or by any other method recognized by the laws of the State of Kansas.

District: A section or section of the zoning area for which these regulations governing the use of land, the height of buildings, the size of yards, and the intensity of use are uniform.

Dog: Any canine species over six months of age.

Drive-in establishment: Any restaurant, financial institution, or product-vending enterprise where the patron does not enter and remain within a building during the transaction of his business. Food vending establishments, where the food is not normally consumed within a building or where facilities are provided for eating outside a building, shall be included in this definition.

Dwelling: A building or portion thereof, not including mobile homes, which is designed and used exclusively for residential purposes.

Dwelling, condominium: See *Condominium dwelling house*.

Dwelling, single-family: A residential building having accommodations for and occupied exclusively by one family.

Dwelling, two-family: A residential building having accommodations for and occupied exclusively by two families independently.

Dwelling, three-family: A residential building having accommodations for and occupied exclusively by three families independently.

Dwelling, multiple: A residential building having accommodations for and occupied exclusively by more than one family, independently.

Dwelling, elderly: A residential building having accommodations for and occupied exclusively by residents who are at least 62 years old.

Dwelling unit: A separate, independent living quarter consisting of one or more connected rooms with permanently installed bathroom and kitchen facilities, occupied by a family group or single person (or vacant quarters normally so occupied).

Employees: All persons, including proprietors, working on the premises during the largest shift at peak season.

Engineer: A professional engineer registered in the State of Kansas.

Family: One or more persons related by blood, marriage, or adoption, living together as a single housekeeping unit; or a group of not more than four unrelated persons living together as a single housekeeping unit; plus, in either case, usual domestic servants. A family shall under no circumstances be construed as a boardinghouse, fraternity or sorority house, club, lodging house, motel, or commune.

Family foster home: A childcare facility that is a private residence, including any adjacent grounds, in which the resident(s) provide family care for 24 hours a day for one or more children in foster care and for which a license is required by the state.

Feedlot: See *Agriculture*.

Fence, sight-obscuring: A fence or evergreen planting arranged in such a way as to obstruct vision.

Flood insurance rate map (FIRM): Means an official map of a community, on which the flood insurance study has delineated the flood hazard boundaries and the zones establishing insurance rates applicable to the community.

Flood insurance study: Is the official report provided by the Federal Emergency Management Agency. The report contains flood profiles, as well as the flood boundary floodway map and the water surface elevation of the base flood.

Floodway or regulatory floodway: Means the channel of a river or other watercourse and the adjacent land areas that must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

Floodway fringe: Is that area of the floodplain, outside of the floodway, that on average is likely to be flooded once every 100 years (i.e., that has a one-percent chance of flood occurrence in any one year).

Floor area: For commercial business and industrial building or buildings containing mixed uses, the sum of the gross horizontal areas of the several floors of the building measured from the exterior faces of the exterior walls, but not including:

1. Attic space providing headroom of less than seven feet;
2. Easement space not used for retailing;
3. Accessory water and cooling towers.

For residential buildings, the gross horizontal areas of the several floors of a dwelling exclusive of garages, basements and open porches measured from the external faces of the exterior walls.

Freestanding building: A single building not sharing a common wall.

Freestanding sign: A sign standing on the ground. Such signs are usually, but not necessarily, supported from the ground by one or more poles or posts on similar uprights with or without braces.

Frontage: The length of the property abutting on one side of a street measured along the dividing line between the property and the street right-of-way.

Garage, private: An accessory building or portion of a main building used for the parking or temporary storage of vehicles or used by occupants of the main building.

Garage, public: A building other than a private garage used for the care and repair of motor vehicles or where such vehicles are parked or stored for compensation, hire or sale.

Gas pressure control station: A facility commonly known as a "town border station." This term shall not include isolated regulator valves.

Gasoline service station: A service station shall consist of a building or group of buildings and surfaced area where automotive vehicles may be refueled and serviced; self-service pumps without buildings shall also be included. Such service shall not include tire recapping, body repairs, or major overhaul. For the purposes of this definition any business that sells or dispenses retail motor vehicle fuels shall be considered a service station.

Governing body: The mayor and city commission of Independence, Kansas.

Grade: The average level of the finished surface of the ground adjacent to the exterior walls of the building or structure.

Height of buildings and structures: The height of a building or structure shall be the vertical distance measured from a ground reference point (as described below) to the highest point of any permanent part of the structure. The ground reference point for said measurement shall be the highest of any of the following levels:

1. The street curb level.
2. The established or mean street grade in case the curb has not been constructed.
3. The average finished ground elevation across the front of the building (measured at the front building wall) where the building or structure sets back from the street.

The height of buildings shall be measured to the level of the highest point of the roof beams of flat roofs or roofs including not more than one inch to the foot and to the highest point of the roof of a building for other roofs, excluding chimneys, antennas and other appurtenances.

The height of buildings when measured by stories shall include:

1. That part of a building included between [the surface of a floor and] the surface of the floor next above, or if there is no floor above, that part of the building which is between the surface of a floor and the ceiling next above.
2. An attic shall be considered as a story when the main line of the eaves is above the middle of the interior height of such story.
3. The first story shall be considered as a half story when 50 percent or more of the area of its exterior walls are exposed to outside light and air entirely above grade and which exterior walls contain windows or doors permitting the entrance of daylight and outside air and, in the case of multiple-family dwellings, may be occupied by a resident.
4. When less than 50 percent of the area of the walls of the first story is exposed to outside light and air entirely above grade, that story shall be classed as a basement and in the case of multiple-family dwellings may not be occupied as a resident by other than a caretaker or manager.

Home occupation: An occupation carried on within a dwelling by members of the family occupying the dwelling with no servant, employee, or other person being engaged, provided the residence character of the building is maintained and the occupation is conducted in such a manner as not to give an outward appearance nor manifest any characteristic of a business in the ordinary meaning of the term nor infringe upon the right of neighboring residents to enjoy the peaceful occupancy of their homes.

Homes association: An incorporated nonprofit organization operating under recorded land agreements through which (a) each lot or homeowner in a planned district or other described land area is automatically a member, and (b) each lot is automatically subject to a charge for a proportionate share of the expenses for the organization's activities, such as maintaining a common property, and (c) the charge if unpaid becomes a lien against the property.

Hotel: A building or portion thereof, or a group of buildings, used as a transient abiding place which may or may not serve meals regardless of whether such establishments are designated as a hotel, inn, automobile court, motel, motor inn, motor lodge, motor court, tourist cabin, tourist court, or other similar designation.

Indoor firing range: An indoor area or facility designated or operated primarily for the use of firearms.

Kennel: A lot or building in which four or more dogs or cats at least four months of age are kept commercially for board, propagation, or sale.

Loading space: A space within the main building or on the same lot, providing for the loading or unloading of trucks, with a minimum of 14 by 50 feet and a vertical clearance of 18 feet.

Lot: A parcel of land occupied or to be occupied by one main building, or unit group of buildings, and the accessory buildings or uses customarily incident thereto, including such open spaces as are required under these regulations, and having its principal frontage upon a public street. A lot as used herein may consist of one or more plated lots, or tract or tracts as conveyed, or parts thereof.

Lot, corner: A lot abutting upon two or more streets at their intersection.

Lot coverage: Lot coverage shall include the total area of all principal and accessory buildings as measured along the outside wall at ground level or above as viewed from above and includes all projections other than open porches, fire escapes, canopies or the first three feet of a roof overhang. Roads, driveways, parking lots and swimming pools shall not be included in the maximum lot coverage requirement. The percentage of lot coverage shall be computed as follows:

Percent of lot coverage	=	Square feet of ground coverage of all ground coverage of all principal and accessory buildings divided by total square feet of lot area
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Lot, depth of: The mean horizontal distance between the front and the rear lot lines.

Lot, double frontage: A lot having a frontage on two nonintersecting streets, as distinguished from a corner lot.

Lot, interior: A lot whose sidelines do not abut upon any street.

Lot lines: The line bounding a lot as defined herein.

Lot line, front: The boundary between a lot and the street on which it fronts.

Lot line, rear: The boundary line which is opposite and most distant from the front street line; except that in the case of uncertainty the building inspector shall determine the rear line.

Lot line, side: Any lot boundary line not a front or rear line thereof. A sideline may be a party lot line, a line bordering on an alley or place or a side street line.

Lot of record: A lot, which is a part of a subdivision, the plat of which has been recorded in the office of the register of deeds or a lot described by metes and bounds, the description of which has been recorded in the office of the register of deeds prior to the original adoption of subdivision regulations by the city.

Lot width: The horizontal distance between sidelines measured at the front building line.

Lot, zoning: A parcel or tract of land used, developed, or built upon as a unit under single ownership or control. Said parcel or tract may consist of one or more lots or record, one or more portions of a lot or lots of record, or any combination thereof.

Machine shop: A workshop, including tool and die shops, that turns, shapes, planes, mills, or otherwise reduces or finishes by machine-operated tools.

Marquee: A permanent roof-like structure extending from part of the wall of a building but not supported by the ground, and constructed of durable material such as metal, glass, or other fire-retardant material.

Medical clinic: Any building designed for use by one or more persons lawfully engaged in the diagnosis, care, and treatment of physical or mental diseases or ailments of human beings, including, but not limited to, doctors of medicine, dentists, chiropractors, osteopaths, optometrists, podiatrists, and in which no patients are lodged overnight, but which may include an apothecary.

Microbrewery means a brewery licensed by the director to manufacture, store, and sell domestic beer.

Mobile home: A detached single-family dwelling unit designed for transportation, after fabrication, on streets or highways on its own wheels or on flatbed or other trailers and arriving at the site where it is to be occupied as a dwelling complete and ready for occupancy except for minor and incidental unpacking and assembly operations, location on jacks or other temporary or permanent foundations, connections to utilities, and the like and needing no further installation of a heating system or materials. Provided further that this ordinance shall not apply to those prefabricated or "modular units" transported over highway only for location at a permanent construction site. In no instance shall a "travel trailer," as defined in this ordinance, be considered as a mobile home.

Mobile home park: Any plot of ground containing four acres or more which is equipped as required for support of mobile homes and used or intended to be used by four or more occupied mobile homes, but under no circumstances shall the mobile home spaces be sold or offered for sale individually. The term mobile home park does not include sales lots on which unoccupied mobile homes, whether new or used, are parked for the purposes of storage, inspection, or sale.

Mobile home space: A plot of ground within a mobile home park, which can accommodate one mobile home and provides the necessary utility services for water, sewerage, and electricity.

Motel: A building or group of buildings on the same parcel of ground containing guest units with separate entrances from the building exterior and consisting of individual sleeping quarters, detached or in connection [sic] rooms, with or without cooking facilities, for rental to transients.

Nightclub: See *Tavern*.

Nonconforming use, building or yard: A use, building or yard existing legally at the time of the passage of this ordinance or any amendment thereto which does not, by reason of design, use or dimensions, conform to the regulations of the district in which it is situated.

Nursery school: A prekindergarten school for children primarily between the ages of three and five.

Nursing homes or convalescent homes: An institution or agency licensed by the state for the reception, board, care, or treatment of three or more unrelated individuals, but not including facilities for the care and treatment of mental illness, alcoholism, or narcotics addiction.

Overlay district: Is a district in which additional requirements act in conjunction with the underlying zoning district(s). The original zoning district designation does not change.

Parking space, off-street: A permanently surfaced dust free area (concrete, asphaltic concrete, or other comparable surface), 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 *Vehicle storage lot*.)

Planned development: A tract of land under single ownership or control which is to be developed in accordance with a plan adopted by ordinance and the boundaries of which are established by the zoning district map.

Planning commission: The Independence, Kansas, planning commission.

Private club: A profit or nonprofit association of persons who are bona fide members paying annual dues. It shall be permissible to serve food and meals on such premises providing adequate dining room space and kitchen facilities are available. The sale of alcoholic beverages to members and their guests shall be allowed, provided that such sale of alcoholic beverages is in compliance with the applicable federal, state and municipal laws.

Public utility: Any firm or organization duly authorized to furnish to the public, under state or municipal regulations, electricity, gas, steam, communications, telegraph, transportation or water.

Residential design manufactured homes: A structure which is subject to the federal manufactured home construction and safety standards established pursuant to 42 U.S.C. 5403, and which has a minimum dimension of 22 feet of body width, a pitched roof and siding and roofing materials which are customarily used on site-built homes. Residential design manufactured homes are subject to the standards set forth in Section 611.0 of these zoning regulations.

Restaurant: A public eating establishment at which the primary function is the preparation and serving of food.

Restaurant, drive-in: An establishment whose primary purpose is the sale, dispensing or serving of food, refreshments or beverages in automobiles, including those establishments where customers may serve themselves, except that this shall not be construed as to include what is commonly called a cafeteria.

Right-of-way: The land opened, reserved, or dedicated for a street, sewer, water line, walk, drainage course or other public purpose.

Roominghouse: A roominghouse is a building other than a hotel where lodging is provided for three or more persons for compensation pursuant to previous arrangements but not open to the public or transients.

Screening: See *Fence, sight-obscuring*.

Setback: Farthest projection of a structure from the property line.

Shipping Container: A “shipping container” (also, “cargo container,” “MOD,” “POD,” “Conex box,” etc.) is a movable and enclosed structure typically made of durable materials like metal. It is designed for temporary storage of personal, commercial, or industrial goods and possessions. These containers come in standard sizes: 10 feet, 20 feet, or 40 feet in length, and 8 feet in width, and 8.5 feet in height. They are secure and weather-resistant, making them versatile for various applications, including relocation, construction sites, and retail storage.

Shopping center: A group of retail stores, planned and developed for the site upon which they are built and owned and managed as a unit with off-street parking provided on the property.

Short term rentals not elsewhere listed: A property or space offered for rent to a transient guest(s) for overnight stays consisting of 30 consecutive days or less that is not located in a hotel, tourist court, or motel.

Sign: Any words, numerals, figures, devices, designs, or trademarks by which information is made known to the public outside a building and including, but not limited to, the following:

1. *Detached sign:* Any sign located on the ground or on a structure located on the ground and not attached to a building. Multiple signs on one detached structure not attached to a building shall be considered one sign.
2. *Electronic sign:*
 - a. *LED/Reader Board (Electronic Changeable Copy) Sign:* A sign in which the copy is changed electronically, uses changing lights to form the message or text form wherein the sequence of messages and rate of change is electronically programmed and modified.

- b. *Electronic Display Center (Video Display Sign)*: A sign that displays an electronic image or video, which may or may not include text. This definition includes television screens, plasma screens, digital screens, flat screens, LED screens, video boards and holographic displays.
3. *Illuminated sign*: Any sign which has characters, letters, figures, designs, or outlines illuminated directly, such as spotlights, or by electric lights or luminous tubes as a part of the sign proper.
4. *Nonilluminated sign*: Any sign which is lighted by natural sunlight only.
5. *Marquee sign*: Any sign attached flat against a marquee.
6. *Portable sign*: A sign not permanently affixed to the ground or to a building or structure, such as signs mounted on vehicles, wheels, or any type of support not permanently attached to a structure or to the ground.
7. *Poster panel or billboard*: An illustration of approximate dimension of 12 feet by 24 feet or multiples thereof mounted on a semipermanent structure and depicting information not directly related to the property upon which it is placed.
8. *Projecting sign*: Any sign extending more than one foot from the face of the building to which it is attached. A time and temperature instrument mounted on the face of the building shall be included in the definition.
9. *Roof sign*: Any sign erected, constructed and maintained wholly upon or over the roof of a building and having the roof as a principal means of support.
10. *Temporary sign*: Any sign, banner, pennant, valance, or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames, intended to be displayed for a short period of time, not to exceed 30 days.
11. *Wall sign*: Any sign attached to and erected parallel to and within one foot of the face or wall of a building, including signs painted on the walls of buildings.

Sign area: That area within a line including the outer extremities of all letters, figures, characters and delineations or within a line including the outer extremities of the framework or background of the sign, whichever line includes the larger area. The support for the sign background, whether it be columns, a pylon, or a building or part thereof, shall not be included as a part of the sign area.

Storefront beam: The structural beam that supports the upper facade.

Story: See *Height*.

Street: A right-of-way, dedicated to public use, which provides vehicular and pedestrian access to adjacent properties.

Street network:

1. *Principal arterial:* A street which provides fast and efficient movement of large volumes of traffic between areas and does not provide a land service function.
2. *Minor arterial:* A street which provides for through traffic movement between and around areas, with restricted access to abutting property and subject to necessary control of entrances and exits.
3. *Collector:* A street which provides for traffic movement between thoroughfares and residential streets, with direct access to abutting property.
4. *Local:* A street which provides access to abutting land and local traffic movement in residential areas.

Street right-of-way line: A dividing line between a lot, tract, or parcel of land and the contiguous street.

Structural alterations: Any change in the supporting members of a building, such as bearing walls or partitions, columns, beams, or girders, or any complete rebuilding of the roof or the exterior walls. For the purpose of this regulation, the following shall not be considered a structural alteration:

1. Attachment of a new front where structural supports are not changed.
2. Addition of fire escapes where structural supports are not changed.
3. New windows where lintels and support walls are not materially changed.
4. Repair or replacement of nonstructural members.

Structures: Anything constructed or erected on the ground, or which is attached to something on the ground. Structures include buildings, radio and TV towers and receiving disks, sheds and permanent signs. Excluded are wing walls attached to and extending from the building where use of such wing walls is for decorative or landscaping purpose and provided said wing walls are not used to support roof structures. Also excluded are sidewalks, pavement, fences and public improvements such as utility poles, streetlight fixtures and street signs.

Tavern: An establishment in which the primary function is the public sale and serving of alcoholic and cereal malt beverages for consumption on the premises, including establishments commonly known as cocktail lounges and nightclubs.

Tiny House: A dwelling that is 400 square feet in floor area or less, excluding lofts, and anchored to a permanent foundation.

Townhouse: A single-family dwelling unit attached by common walls (usually sidewalls) to other dwelling units to form a "row house" arrangement with no other dwelling units located above or below. Townhouses usually have at least one walkup floor above grade.

Trailer: See *Travel trailers* or *Mobile home*.

Transom: The opening above the doors or windows of the storefront. Normally, the upper portion of the ground floor.

Travel trailers: Including automobile tent trailers, recreational vehicles, or house cars, designed to provide temporary mobile housing for highway and recreational travelers. Such use shall be considered equivalent to a hotel, tourist court, or motel for zoning purposes.

Variance: The granting of permission by the board of zoning appeals to allow the development of a lot or tract for uses allowed within the zoning district in a manner which exceeds maximum limits or is less than minimum limits established by these regulations and where such limits prohibit use of the land in a manner equivalent to the abutting similarly zoned properties.

Vehicle storage lot: An area for the overnight storage or long-term warehousing of vehicles under one ownership. Vehicle storage lots shall be exempt from the minimum off-street parking regulations and landscaping requirements contained in this ordinance as they apply to the interior of said lot. However, vehicle storage lots shall meet all exterior setback and screening requirements of the district in which they are located.

Yard: A space on the same lot as a main building, open, unoccupied, and unobstructed by buildings or structures from the ground upward.

Yard, front: A yard extending across the full width of the lot, the depth of which is the minimum distance allowed between the street right-of-way and the main building or structure.

Yard, rear: A yard extending across the full width of the lot, the depth of which is the minimum distance allowed between the rear lot line and the main building or structure.

Yard, side: A yard extending from the front yard, or front lines where no front yard is required, to the rear yard, the width of which shall be the minimum distance allowed between the side property line and the main building or structure.

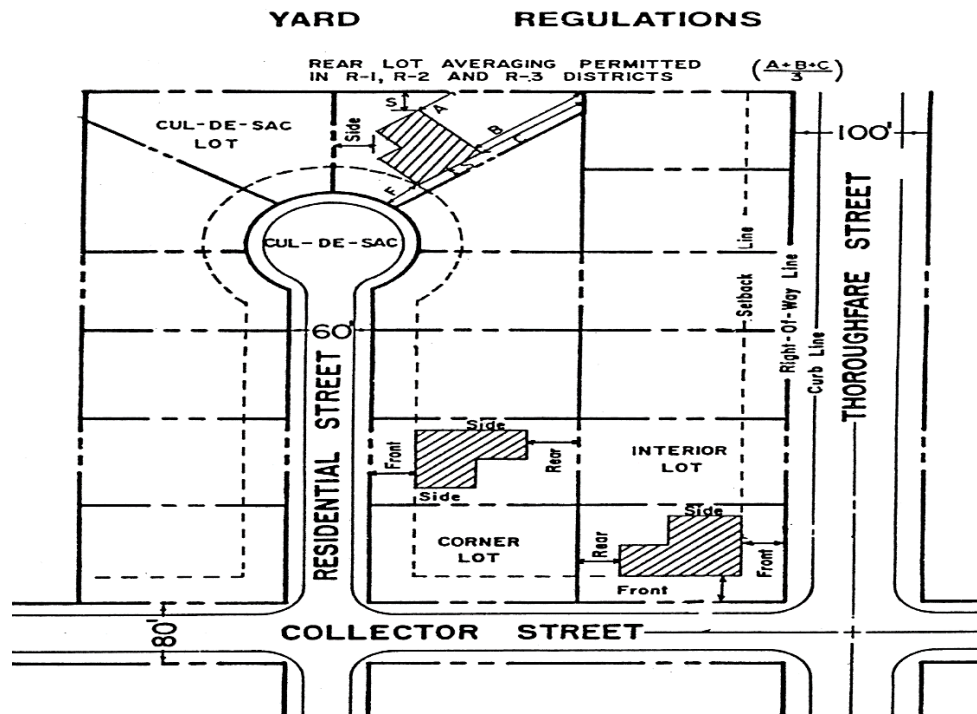
Zero lot line dwelling unit: A development approach in which a freestanding building is sited on one or more lot lines with no yard on the zero-lot line side in order to increase the amount of usable open space on the remaining area of the lot. Zero lot line dwellings are designed with no windows facing the zero-lot line side and are internally oriented to an enclosed, private courtyard or patio.

Zone or district: A section of the zoning area for which uniform regulations governing the use, height, area, size, and intensity of use of buildings, land, and open space herein established.

Zoning administrator: The person or persons authorized and empowered by the city manager having jurisdictions to administer the requirements of these zoning regulations.

Zoning area: The area to be zoned as set out on the official zoning map filed of record.

Zoning regulations: The term zoning regulations or this or these regulations shall mean the requirements stipulated in the regulations herewith attached.



SECTION 2. Existing Section 607.0 of the Independence Zoning Ordinance is hereby amended to read as follow:

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 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.
- t. Shipping containers for use as storage in M-1 and M-2 industrial districts. In these districts, shipping containers are not authorized to be used as dwellings.

607.3. [Storage of trucks, trailers or buses:] Outdoor storage or overnight parking on any public streets in any residential district of trucks, trailers or buses having a hauling capacity of more than one ton is prohibited. Trucks, trailers or buses having a hauling capacity of more than one ton shall only be permitted to be parked on private property in residential districts when there is adequate space on such private property and if the vehicle, truck or trailer does not contain volatile, noxious or hazardous materials and when such vehicle is parked so as not to create a nuisance to adjoining property owners.

607.4. Accessory uses permitted by conditional use: The following accessory uses shall only be permitted upon approval of a conditional use application:

- a. Television receiving tower exceeding district height limitations (see section 601.1).
- b. Amateur radio tower exceeding district height limitations (see section 601.1).

- c. Salvage storage yards, scrap and waste material storage yards when provided as an accessory use for any manufacturing or wholesale use (see additional requirements in section 1010.0).
- d. A tiny house for *short term rentals not elsewhere listed*.
- e. Shipping containers as dwellings in R-1, R-2, R-3, R-4, and R-5 residential districts; shipping containers as storage in C-1, C-2, C-3 commercial and business districts; shipping containers as storage in O&P districts; shipping containers as dwellings in A-1 agricultural districts; and shipping containers as storage in A-1 agricultural districts.
- f. Shipping containers for temporary storage/office on construction sites in all districts.

607.5. *Height, yard and area requirements for accessory uses:* See sections 601, 602 and 603.

SECTION 3. New Section 613.0 is hereby added to the Independence Zoning Ordinance to read as follows:

613.0. – Shipping containers.

613.1. Context: A "shipping container" (also, "cargo container," "MOD," "POD," "Conex box," etc.) is a movable and enclosed structure typically made of durable materials like metal. These containers have become a more common addition to cities as homeowners and businesses acquire those containers as accessory buildings and dwellings. These containers have a useful and valid purpose when properly used and situated. The improper use and location of these containers is dangerous and inappropriate.

613.2. Shipping containers as dwellings: Shipping containers may be permitted as dwellings in the R-1, R-2, R-3, R-4, R-5, and A-1 districts with a conditional use permit. All shipping container dwellings shall have:

- a. Minimum area of 400 square feet (if this qualification is not met, see Section 612.0 on tiny homes). Multiple units may be combined to form a larger dwelling.
- b. Siding material shall be wood, masonry, composition board, or finish aluminum lap siding, or other material normally found on site-built homes.
- c. Roof may be a flat or pitch roof design meeting IRC design requirements. A minimum roof pitch of 2.5 inches in height to 12 running inches for a pitched roof.
- c. Roofing materials shall be wood shingles, asphalt shingles, composition shingles, fiberglass shingles, clay or concrete tile, slate, metal, or TPO or rolled roofing.

- d. The dwelling shall be permanently mounted on a foundation or basement that complies with the Independence Building Code.
- e. All other interior *and* exterior conditions must be in compliance with dwelling requirements and the Independence Building Code.
- f. In a construction site, shipping containers may be used as temporary offices, but they must be removed within 30 days after a certificate of occupancy is issued.

613.3. Shipping containers as storage: Shipping containers are permitted as storage in M-1 and M-2 industrial zones. Shipping containers are permitted in C-1, C-2, C-3, O&P, and A-1 districts with a conditional use permit. Shipping containers can be used as permanent *or* temporary storage. All shipping container storage shall have:

- a. Must be used as accessory building to dwelling in A-1 district.
- b. Complies with Section 607.0 regarding accessory buildings.
- c. Must be in compliance with all of Independence City Code regarding storage and storage structures, both permanent *and* temporary.
- d. In a construction site, shipping containers may be used as temporary storage, but they must be removed within 30 days after a certificate of occupancy is issued.

613.4. Shipping containers in general: Shipping containers are not permitted for use as dwellings or storage in general commercial and industrial districts or floodplain districts. Shipping containers, whether a permitted or conditional use under these regulations, must be installed and renovated in accordance with the then-current version of all applicable codes as adopted by the City, including those more general codes not mentioned in Section 613.0. The Code provided in Section 613.0 *does not* apply to the use of shipping containers in industrial or operational instances; it applies to using shipping containers as structures.

SECTION 4. Existing Sections 403.0 and 607.0 of the Independence Zoning Ordinance are hereby repealed.

SECTION 5. This Ordinance shall take effect and be in force from and after its publication in the official City newspaper.

[Remainder of page intentionally left blank; signature page follows.]

PASSED by the Commission on the ___th day of _____, _____. **APPROVED** by the Mayor.

Louis Ysusi, Mayor

ATTEST:

David Schwenker, City Clerk



**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.

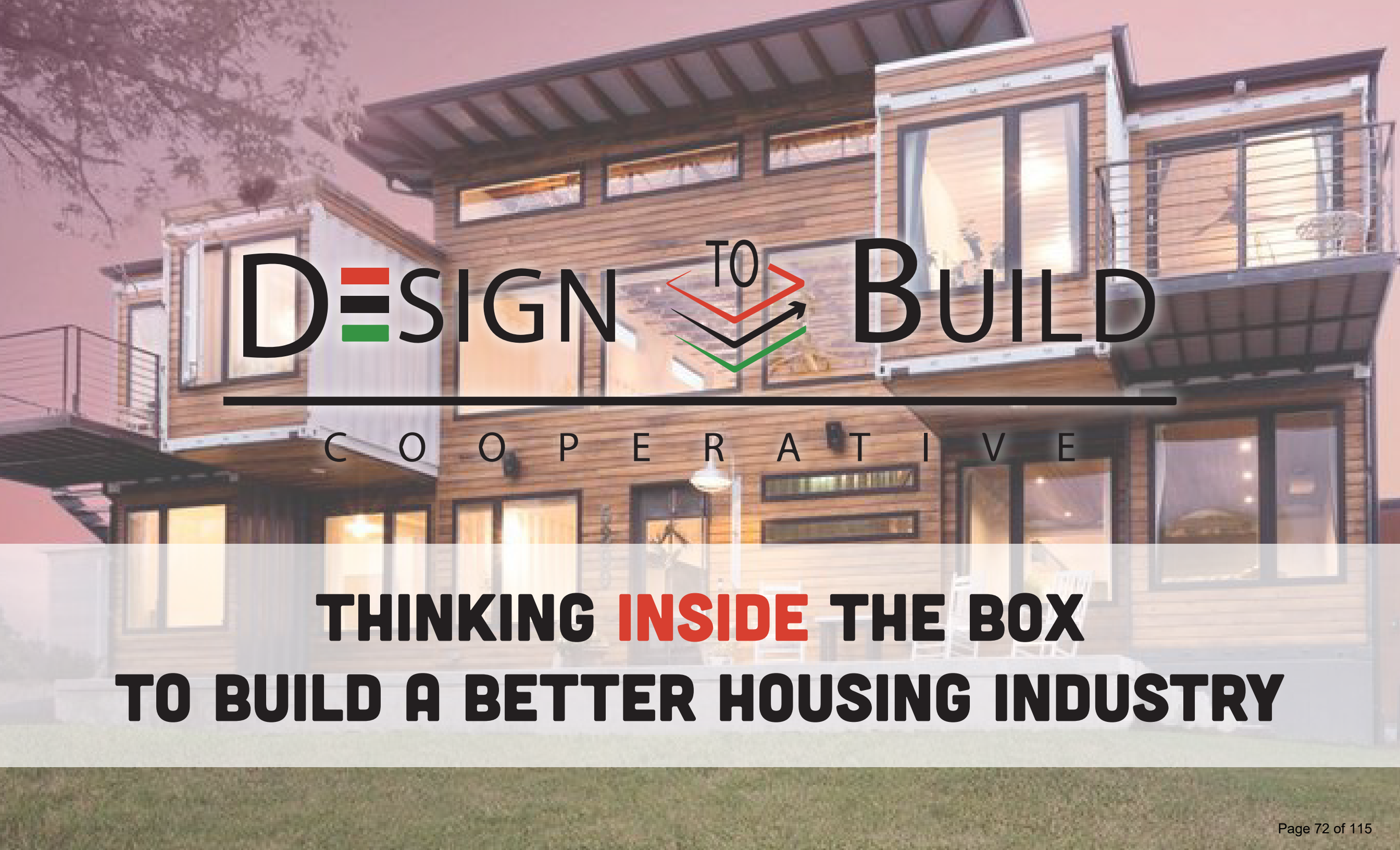


YMLU 490320

ZCSU 251391 2

YMLU 498236 3

YMLU 494380 8

A modern, multi-story house with large windows and balconies, illuminated from within, set against a twilight sky. The house has a mix of wood siding and dark trim.

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%

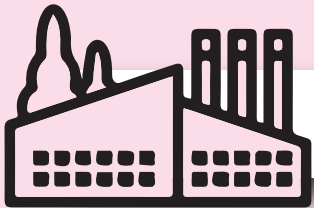
**3BR 2BATH – \$150K
EFFICIENCY – SIMILAR TO TESLA**



CUSTOM DEVELOPMENT – 20%

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

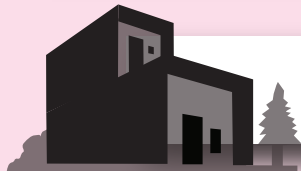
TRACTION



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

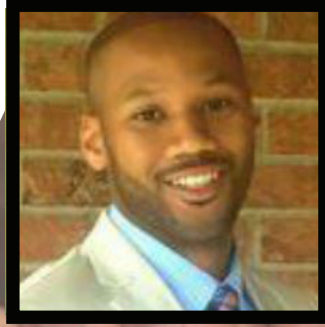
**7% OF REVENUE YEARLY UNTIL
YOU RECEIVE 1.25X YOUR CONTRIBUTION**

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



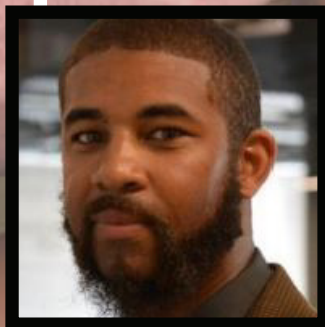
JOEL EGAN
CDO/DIR. OF FABRICATION

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

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:

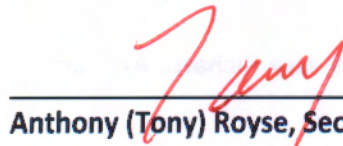
**On the motion of Tim Haynes, seconded by Scott Smith the Commission
adjourned the meeting.**

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

Nay: None



Tim Haynes, Chairperson



Anthony (Tony) Royse, Secretary



**REQUEST FOR PLANNING COMMISSION ACTION
TEXT AMENDMENT
CITY OF INDEPENDENCE
AUGUST 8, 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 hearing.

BACKGROUND There is not an ordinance prohibiting parking in the backyard of a residence off the alley. However, Section 705.1 states that "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." An exception would need to be made to the surface material used to allow gravel parking only in the rear of a residence off of an alley. The Planning Commission would also need to determine if the Planning Commission would prefer gravel driveways (if allowed) to be screened from the street view and the adjoining property. In addition, staff is working on a specification for ribbon driveways as a lower cost and more environmentally friendly solution to solid hard surface driveways that are off the street in residential areas.

ARTICLE VII. - OFF-STREET PARKING AND LOADING REGULATIONS

704.0. - General provisions.

704.1. Determination of required number of spaces:

- a. *Fractional spaces:* When determination of the number of off-street parking spaces required by this regulation results in a requirement of a fractional space, the fraction of one-half or less may be disregarded, and a fraction in excess of one-half shall be counted as one parking space.
- b. *Floor area:* Floor area, when used as a measurement for determining the number of parking spaces for office, merchandising or service uses, shall mean the gross floor area used or intended to be used for service to the public as patrons or patients, including areas occupied by fixtures and equipment used for display or sale of merchandise. It shall not include areas used principally for nonpublic purposes such as storage, processing or packaging of merchandise, show windows, or restrooms or utilities, dressing, fitting or alteration rooms.
- c. *Beds:* Bassinets shall not be counted as beds in determining the number of parking spaces based upon the number of beds.
- d. *Places of assembly:* In stadiums, sports areas, churches and other places of assembly in which patrons or spectators occupy benches, pews or other similar seating facilities, each 20 inches of such seating facilities shall be counted as one seat for determining the number of off-street parking spaces required.
- e. *Mixed uses:* When a building or development contains mixed uses, the off-street parking requirement shall be calculated for each individual use and the total parking requirement shall be the sum of the individual parking requirements.
- f. *Employees:* Employees, when used as a measurement for determining the number of parking spaces for a new or established expanding business, shall be estimated in a manner approved by the governing body.
- g. *Unlisted uses:* Requirements for types of buildings and uses not specifically listed herein

shall be determined by the governing body, after a report and recommendation from the planning commission, based upon the requirements of comparable uses listed.

704.2. Parking for multiple uses: In the event several uses occupy a single structure or parcel of land, the total requirements for off-street parking shall be the sum of the requirements of the several uses computed separately.

704.3. Joint parking: Owners of two or more uses, structures, or parcels of land may agree to utilize jointly the same parking and loading spaces when the hours of operation do not overlap, provided that satisfactory legal evidence is presented to the zoning administrator, in the form of deeds, leases, or contracts, to establish the joint use.

704.4. Use of required parking spaces: Required accessory off-street parking facilities provided for the uses hereinafter listed shall be solely for the parking of motor vehicles in operating condition of patrons, occupants, or employees of such uses and shall not be used for the storage of vehicles, boats, motor homes, campers, mobile homes or materials or for the parking of trucks used in conducting the business or use.

704.5. Location of parking and loading spaces:

a. Off-street parking spaces for dwellings shall be located on the same lot or lots with the dwelling. Other required parking spaces shall be located no farther than 500 feet from the building they are required to serve, measured in a straight line from the building's nearest point to the nearest point of the off-street parking area. Provided, any off-street parking spaces not located on the same lot, as permitted by this ordinance, must be located in the same zone as required for the building or facility it serves.

b. Unless otherwise provided, required parking and loading spaces shall be located in a required front yard, but may be located within a required side or rear yard provided that a four-foot setback be maintained from any property line under separate ownership. (See 705.2, Screening and Buffer Required.)

Exceptions: Parking in conventional residential driveways connecting from the street to private garages or carports may be permitted. Also, short-term parking may be permitted on loop driveway located in the front yard of any public school.

Parking in conventional residential areas shall not be permitted on unimproved areas of the front yard, and will only be permitted when meeting the requirements of this ordinance.

c. Parking space provided in an enclosure or semienclosed structure shall not project beyond any required building line, except as provided in section 602.6, "Accessory Buildings."

704.6. Plan required: A plan, drawn to scale, indicating how the off-street parking and loading requirements are to be fulfilled shall accompany an application for a building permit. The plan shall show all elements necessary to indicate that the requirement is being fulfilled, including the following:

- a. Delineation of individual parking and loading spaces by adequate striping.
- b. Circulation area necessary to serve spaces.
- c. Access to streets and property to be served.
- d. Curb cuts.
- e. Dimensions, continuity, and substance of required screening.
- f. Grading, drainage, surfacing, and subgrading details.
- g. Delineation of obstacles to parking and circulation in finished parking area.
- h. Specification as to signs and bumper guards.
- i. Other pertinent details.

704.7. Completion time for parking lots: Required parking spaces shall be improved as required, and made available for use before the final inspection is completed by the building inspector.

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.

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

705.2. Screening and buffer setback required:

a. Except for parking to serve one- or two-family residential uses, parking and loading areas adjacent to or within residential districts or adjacent to residential uses shall be designed to minimize disturbance of residents by the erection between the uses of a sight-obscuring fence of not less than five feet nor more than six feet in height, except where vision clearance is required.

b. No off-street parking will be permitted within less than four feet of a property line under separate ownership.

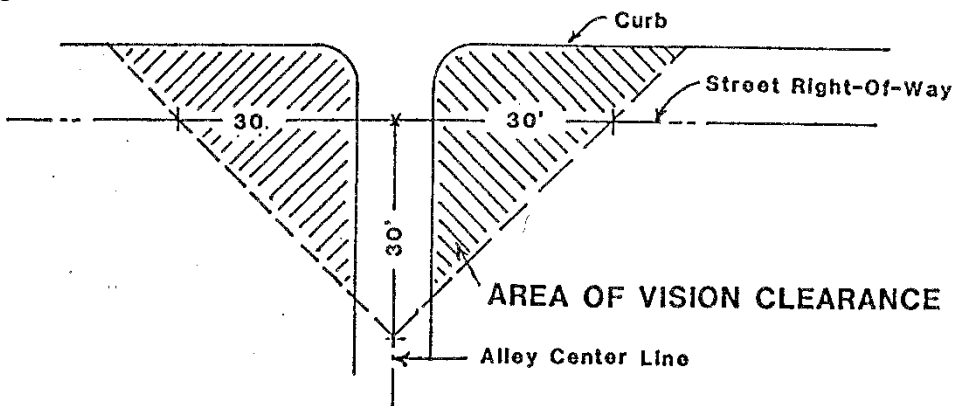
705.3. Lighting: Artificial lighting which may be provided shall be so deflected as not to shine or create glare in any residential district or on any adjacent dwelling.

705.4. Service drives:

a. Service drives to off-street parking areas shall be designed and constructed to facilitate the flow of traffic, provide maximum safety of traffic access and egress, and maximum safety for pedestrians and vehicular traffic on the site. The number of service drives shall be limited to the minimum that will allow the property to accommodate the traffic to be anticipated. Service drives shall not be more than 30 feet in width, nor less than 25 feet for two-way drives, nor less than 16 feet for one-way drives. In the case of a corner lot, service drives shall be located not closer than 30 feet to the intersecting street line. Service drives shall be located not closer than four feet to a side lot line, except that a common service drive of two adjacent properties with width not exceeding 30 feet may be provided at the common lot line.

Exception: Residential service drives connecting from the street to private garages, carports or parking spaces [shall not exceed 24 feet unless approved by the city engineer].

b. Service drives shall have a minimum vision clearance area formed by the intersection of the driveway centerline, the street right-of-way line, and a straight line joining said lines through points 30 feet from their intersection.



c. Service drives shall be from the street to the parking and shall have concrete, asphalt concrete, or asphalt double-seal surfaces, maintained adequately for all-weather use, and so drained as to avoid flow of water across sidewalks.

705.5. Minimum parking space dimensions:

a. If 90-degree parking space,

stall depth—19' 0"

stall width—9' 0"

aisle width—25' 0"

b. If 60-degree parking space,

stall depth—19' 0"

stall width—9' 0"

aisle width—18' 6"

c. If 45-degree parking space,

stall depth—19' 6"

stall width—9' 0"

aisle width—13' 6"

d. If 30-degree parking space,

stall depth—19' 0"

stall width—9' 0"

aisle width—11' 0"

e. If parallel parking space,

stall depth—8' 0"

curb length—23' 0"

aisle width—12' 0", or if adjacent to angle parking, use largest width

705.6. Striping required: Open parking spaces for dwellings (containing three or more dwelling units) shall be delineated by pavement striping and must meet minimal parking stall sizes as described above in section 705.5.

(Ord. No. 4147, § 3, 5-23-13)

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 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 September 5, 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 September 5, 2023 at 5:30 pm.

SUPPORTING DOCUMENTS

1. 4430 - Text Amendments to Off Street Parking Requirements
2. Draft Sample Specification of a Ribbon Driveway
3. 06062023 - Off Street Parking



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.

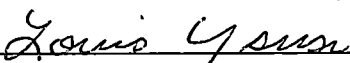
c. Accessible parking spaces shall have markings and identifying signage as required by the ADA.

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.

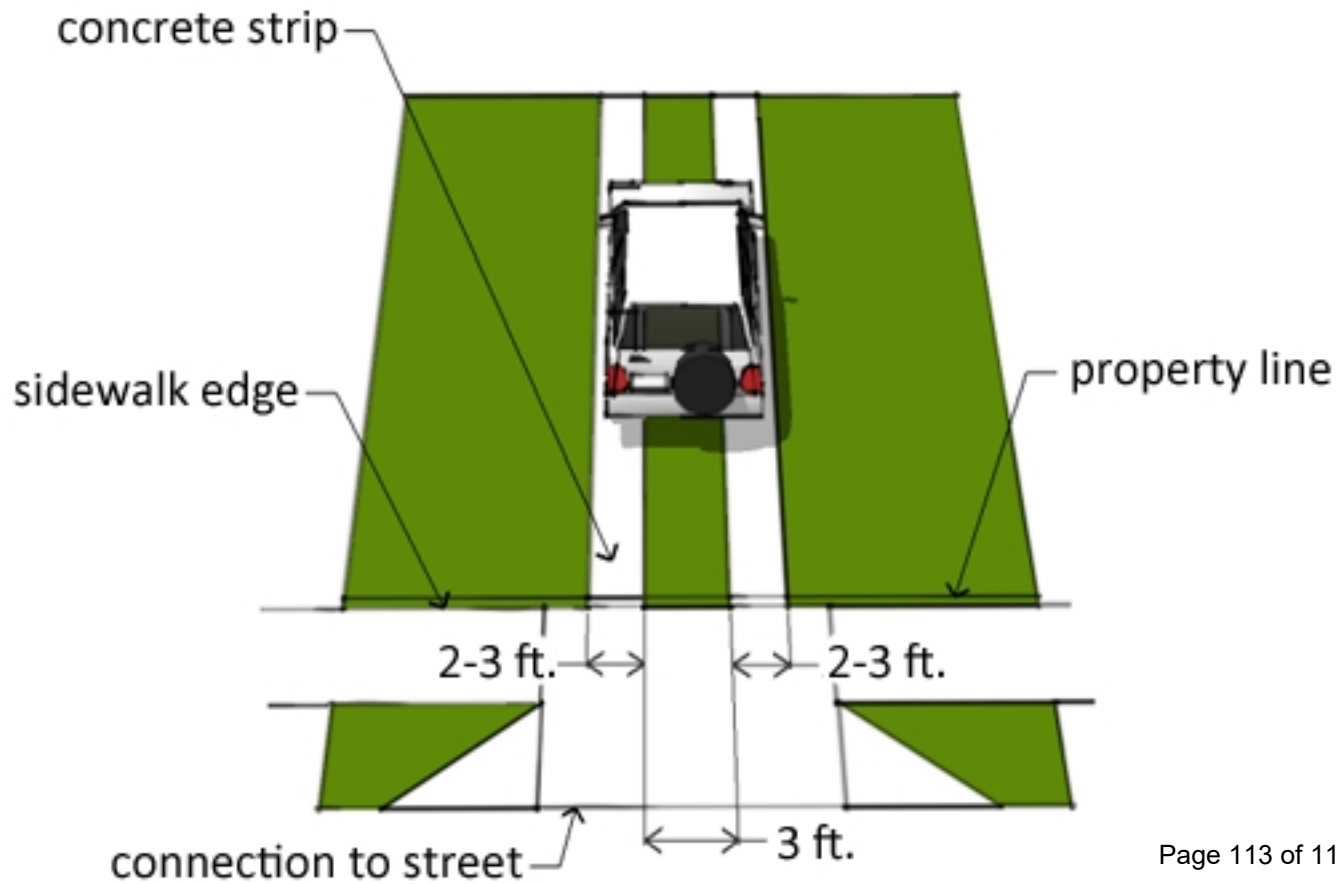



LOUIS YSUSI, Mayor

ATTEST:

A handwritten signature in cursive script, appearing to read "David W. Schwenker", written in black ink.

DAVID W. SCHWENKER, City Clerk





**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



OTHER DISCUSSION
CITY OF INDEPENDENCE
August 8, 2023

Department Admin

Prepared By Kelly Passauer

AGENDA ITEM Comprehensive Plan Update

BACKGROUND The City has received proposals for a Comprehensive Plan Update/Community Development Plan. City staff will report on next steps at the meeting.